

## **Humanitarian Intervention: A Conceptual Analysis**

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*Does a threat to life on the New York subway or in the Sahara desert trigger an international obligation to respond? Is intervention legitimate in these circumstances? The answer is plainly no in these circumstances. Humanitarian intervention is, as Walzer puts it, reserved for extraordinary oppression, not the day-to-day variety. If the threat to life on the New York subway became the systematic killing of all commuters from New Jersey, or the threat to life in the Sahara desert reached famine proportions, in which local governments were implicated by failing to meet their responsibilities, then there might fall to the international community a duty of humanitarian intervention.”\*\**

Defined as forcible action by a state, a group of states or international organizations to prevent or end gross violations of human rights on behalf of the nationals of the target state, through the use or threat of armed force without the consent of the target government, with or without UN Security Council authorization, humanitarian intervention has been one of the controversial topics in international law, political science and moral philosophy. The post-Cold War developments regarding the international protection of human rights reheated this debate; consequently the issue is increasingly covered by international relations discipline as well.

Although the idea of using force for stopping human rights violations seems attractive from a moral point of view, and has been present for centuries in state practice, its application was irregular depending mainly on international norms regulating the use of force. Thus, the place given to humanitarian intervention has changed in accordance with the changing

international system and the consequent shifts in the norms on legality of the use of force within the international community.<sup>1</sup> As such humanitarian intervention poses many dilemmas in our age since it touches upon the traditional norms of sovereignty and nonintervention, the building blocks of the modern international system, embedded in the Charter of the United Nations. Under the UN system, states are forbidden to use military force as an instrument of foreign policy, except in case of self-defense or collective security measures decided by the UN Security Council. Moreover, there is a prohibition on the intervention in domestic affairs. Furthermore, all uses of force are subject to authorization by the SC, which is empowered to maintain international peace and security. Within this perspective, the use of force to enforce international humanitarian norms is severely limited by the international legal and political order although in many cases this situation has created black holes in which gross violations of human rights are carried out without effective international interference. This being so, in the post-Cold War era, the restrictions on the intervention have eased; hence, the erosion of the quasi-sacred principles of sovereignty and non-intervention opening the way for some interventions on humanitarian grounds.

Another development was closely related and had a direct effect on humanitarian intervention as well: The developments regarding the promotion of human rights on international level gained momentum in the post-1945 world, particularly following the demise of the Cold War. There emerged a body of political and legal norms and mechanisms which regulate the governments' treatment of their citizens. As a result, the domestic conduct of the governments came under the scrutiny by domestic and international nongovernmental organizations, other states and international organizations. Yet, similar to the weakness of other international regimes in general, this emerging body of international human rights regime still lacks effective enforcement mechanisms. Despite the fact that there are various non-coercive mechanisms to uphold human rights, in the final analysis, there might be times

where the protection of human rights might be achieved *only* through the use of force by the outsiders. This conventional idea, which constitutes the leitmotiv of the current article, has been further strengthened in the post-Cold War period due to the enhanced opportunities for international cooperation on the one hand, and the formidable challenges which created various situations of human suffering, on the other. Thus, humanitarian intervention came to the fore as one of the possible mechanisms at the disposal of the international community in finding a solution to the crises of the new era.

Against this background, the whole idea of this article is based on the belief that there exists an international community which shares certain basic norms. Following the liberal approach to the norms of sovereignty and human rights, and the solidarist conceptualization of international society, the understanding of humanitarian intervention in this study is based on the underlying recognition that individuals are the true subjects of international law and international relations. Yet, they can enjoy these rights through the agency of the states. A corollary to this is the idea that state sovereignty is built on the respect for individual rights. What follows from this is that when the state violates the rights of the citizens, or itself fails to provide the necessary protection, its claims to sovereignty and domestic jurisdiction become obsolete. Then, there emerges a need that the international community –be it a state, a group of states, or international organizations- steps in so as to enforce the basic rights of the individuals. Consequently, the article is built on the assumption that violations of human rights are matters of international concern and may nullify a government's claims to protection by the principles of sovereignty and non-intervention, thus invite intervention by the international community.

Taking this assumption as the point of departure, the article intends to comprehend and illuminate this controversial issue of the modern international affairs, by developing an analytical framework. First, it deals with the definitional problems of humanitarian

intervention. Having discussed several definitions so as to discern some common points to those different characterizations, which at the same constitute different components of the notion of humanitarian intervention, it develops an operational definition of the concept. Then, it attempts to elaborate a framework for assessment, by discussing a number of general aspects regarding the scope and content of humanitarian intervention in some more detail in order to further clarify the meaning of the concept. Developing our own assumptions on the questions discussed in this section could enable us to establish a framework to assess whether a given case of intervention qualifies as an example of humanitarian intervention as understood here. The assumptions developed here might further provide a point of departure for future attempts to formalize the criteria for humanitarian intervention, which is one of the contemporary endeavours in international discussions on the subject, although it is not the intention in this article to offer a strict set of criteria that may govern a legitimate intervention.

### **Different Definitions of the Term**

Since the issue of humanitarian intervention is related to several disciplines, namely, international law, political science, morality and international relations, one may come across different definitions and categorizations. Adam Roberts defines humanitarian intervention as a “military intervention in a state, without the approval of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants.”<sup>2</sup> For Knudsen, humanitarian intervention is “dictatorial or coercive interference in the sphere of jurisdiction of a sovereign state motivated or legitimated by humanitarian concerns.”<sup>3</sup> According to Finnemore humanitarian intervention is a “military intervention with the goal of protecting the lives and welfare of foreign civilians.”<sup>4</sup> In the words of Parekh, humanitarian intervention is “an act of intervention in the internal affairs of another country with a view to ending the physical suffering caused by the disintegrations or gross misuse of authority of the state, and helping create conditions in which a viable structure of civil authority can emerge.”<sup>5</sup> In a

proper legal sense, according to Verwey, it is understood “as referring only to coercive action taken by states, at their initiative, and involving the use of armed force, for the purpose of preventing or putting a halt to serious and wide-scale violations of fundamental human rights, in particular the right to life, inside the territory of another state.”<sup>6</sup>

### **Components of the Definition**

To proceed with the analysis on the definitional problems, some common points to these different definitions will be discerned, which at the same constitute different components of the definition of humanitarian intervention.

#### *a) ‘Humanitarian’ and ‘intervention’*

To start with, some preliminary attention should be paid to either components of the concept. The terms ‘humanitarian’ and ‘intervention’ refer to a variety of different situations that bringing them together under a single concept does not necessarily solve the problem of definition. Indeed, humanitarian intervention is a unique subset of a wide range of activities that can be described as either humanitarian or interventionist.<sup>7</sup> The adjective humanitarian is used to describe actions aiming to improve the status and well-being of human beings, ranging from the distribution of aid to the victims of disasters to the use of force for upholding certain basic rights. The noun intervention, similarly, has been understood to refer to a continuum of actions, which may range from a simple condemnation of a certain domestic policy to imposing trade quotas against another country. The concept of intervention has been a focus of debate in scholarly writings on the law of nations and international politics, as well as in the conduct of international relations.<sup>8</sup> In order to have an analytically distinct phenomenon, it is therefore essential that an operational definition of humanitarian intervention be developed.<sup>9</sup>

For this reason, as will be elaborated below, in this study, ‘humanitarian’ actions would be understood as those involving the use or threat of force which are taken by the

outsiders to put an end to gross and systematic violations of human rights which cause extreme human suffering. As to ‘intervention’, the most controversial part of the definition, I will borrow Hedley Bull’s classical definition of intervention; “dictatorial or coercive interference, by an outside party or parties, in the sphere of jurisdiction of a sovereign state, or more broadly of an independent country”.<sup>10</sup>

*b. Absence of permission by the target state*

The conceptualization of intervention in this way means that to be counted as intervention, an action must be taken against the consent of the target state.<sup>11</sup> This is the main point which makes such an outside interference a humanitarian ‘intervention’ and distinguishes it from the peacekeeping which is based on the consent of warring parties.<sup>12</sup> Violations of human rights which would warrant humanitarian intervention are political in nature and mostly caused by the state apparatus itself or in the situations of state-collapse where no potent authority is able to exercise effective control over the country. Within this light, external interference of any kind would possibly face with a resistance from the local parties, mainly from the central authority. Yet in practice, especially in cases of failed states, there might be a range of different situations where various factions are competing to gain the control of the country against –or in the absence of- the central authority. Therefore, in our understanding in this article, the absence of permission should not be confined only to the absence of permission by *de jure* government of the target country. Rather, it should also be extended to the absence of permission by main factions or insurgencies which are in *de facto* control in a certain part of the country, as well as the absence of consent by the central authority.

*c. Use of military force*

Furthermore, ‘coercive interference’ is not self-defining, and there is some controversy as to whether it is confined to armed force or extends to other coercive measures, especially

economic coercion. Although some scholars argue for the inclusion of non-forcible actions into the definition of humanitarian intervention,<sup>13</sup> the majority of the scholars exclude such actions from the scope of humanitarian intervention. Since most of the human suffering is caused by situations of armed conflict or political repression where state authorities or warring parties use indiscriminate military power against civilians, their handling mostly needs a military involvement. Therefore, without underestimating the value of non-military alternatives in redressing such situations of human suffering, the notion of coercive interference should be confined to the use or threat of armed force. Accordingly, humanitarian intervention will be covering those activities involving the use or threat of military force undertaken by outsiders (whether by a sovereign state, a group of such states, or an international organization) to terminate the human suffering in the target country.

*d. Agency of intervention*

In this regard, the agent entitled to undertake humanitarian intervention comes to the fore as another problematic issue regarding the definition of humanitarian intervention. Though some confine the term to the interventions by states on their own –self-help-,<sup>14</sup> in the literature the recent tendency is to include the interventions conducted under UN umbrella into the confines of humanitarian intervention. Throughout the Cold War years, the provisions of the UN Charter regarding the use of force was not realized as originally envisaged, thus the issue of humanitarian intervention came to be identified largely with forcible self-help by states acting without a mandate from the UN Security Council. Furthermore, the tendency to confine the term humanitarian intervention to instances of self-help was strengthened by the way the term intervention was used in the classical terminology, which reserved the term to inter-state intervention.

Yet, the post-Cold War conditions made it possible for the SC to follow a more activist policy as regards to violations of human rights, by invoking its powers under Chapter

VII. Within this context, some of its actions were cited as recent examples of humanitarian intervention and eventually the concept was extended to cover UN-authorized cases. Since the powers conferred upon the SC can only be invoked for addressing the threats to international peace and security and the actions of the SC under Chapter VII are exempted from the ban on interference into domestic affairs laid down in Article 2(7), extending humanitarian intervention to cover the UN-authorized actions touches upon the question of whether one can properly call the collective action by the SC as an act of intervention under the light of international law and the UN Charter. Yet, the position taken here is that given the fact that post-Cold War practice of the SC was mainly concentrated on forceful measures which have been undertaken to influence the matters traditionally within the domestic jurisdiction of states allows us to use the term intervention to cover the SC-authorized actions.

*e. Beneficiaries of intervention*

Despite the position taken by some legal scholars to include the interventions to protect a state's own nationals abroad into the scope of humanitarian intervention –especially in the form of rescue operations-, the majority of the academic community tend to put them under self-defence and reserve the term humanitarian intervention to those uses of force which aim at non-nationals.<sup>15</sup>

While intervention for the protection of national involves the injection of military force into the domestic jurisdiction of another state and suggests humanitarian motives, as in humanitarian intervention, the beneficiaries of such interventions are mainly the nationals of the state engaging in the intervention in question. Moreover, there is a recognition that protecting a state's nationals abroad is rested in the self-defence regulated under the Article 51 of the UN Charter. Therefore the use of force as such might be exempted from the prohibition on the intervention in the domestic affairs laid down in the Article 2(7). Furthermore, as will be discussed below humanitarian intervention involves many problems,



such as the need to address underlying sources of conflict, or establishing viable political structures in the target country. Yet, they do not apply to interventions undertaken to protect nationals which are characterized by ‘quick in quick exit’ military operations. Among others, based on the consideration of such factors, interventions undertaken to protect a state’s nationals abroad should be excluded from the definition of intervention as argued here.

For the purposes of this study, under the light of the foregoing account, humanitarian intervention may be defined as forcible action by a state, a group of states or international organizations to prevent or to end gross violations of human rights on behalf of the nationals of the target state, through the use or threat of armed force without the consent of the target government, with or without UN authorization.

To sum up, according to such a conceptualization, at least four situations are not covered by the concept of humanitarian intervention, even if such operations are motivated by humanitarian concerns;

“actions involving the use of armed force on the invitation of the lawful government (including based on agreements);  
actions which occur within the framework of a traditional peacekeeping operation of the United Nations;  
military operations which are undertaken by a state in order to rescue its own nationals abroad from an imminent danger to their lives and/or serious injury;  
coercive actions not involving use of armed force”.<sup>16</sup>

## **A Framework for Assessment**

After this initial enquiry into the components of the concept, a number of general aspects regarding the scope and content of humanitarian intervention should be discussed in some more detail in order to further clarify the meaning of the concept. By discussing these questions, it will be attempted to develop a conceptualization of humanitarian intervention which could constitute the basis of any analysis on the issue of humanitarian intervention. In particular, developing our own assumptions on the questions discussed below could enable us

to establish a framework to reach a better judgement on whether a given case of intervention qualifies as an example of humanitarian intervention.

Such an analysis is not a pure academic endeavour. To the contrary, it is at the same very much of practical relevance. As stated, in the post-Cold War era, humanitarian intervention has come to be one of the widely used concepts. As a result, the debate on humanitarian intervention was no longer confined to legal scholars, which was the case during the Cold War years, but it became a hotly debated topic in international politics, and the literature on international humanitarian action. In scholarly writings on the issue, various authors employed a range of different terms, such as ‘intervention for humanitarian purposes’, ‘intervention on humanitarian grounds’, ‘the law of democratic intervention’, ‘the right to humanitarian assistance’, ‘emergency humanitarian protection and assistance’, and so on.<sup>17</sup> The expanding scope of the term, on the other hand, created a confusion regarding the meaning, scope and the status of humanitarian intervention, and the term humanitarian intervention has been used with a much broader but less precise meaning to refer “major humanitarian action in an emergency situation, not necessarily involving use of armed force, and not necessarily against the will of government.”<sup>18</sup> Yet, our understanding in this study is to stick to a restrictive conceptualization of humanitarian intervention and the analysis hereafter intends to further elaborate a restrictive and parsimonious formulation of the concept in order to complement the clarifications made in the previous section.

In the literature, the matters discussed here are mainly covered within the context of framework criteria offered by different scholars to regulate humanitarian intervention. Although it is not the aim of this article to offer a strict set of criteria that may govern a legitimate intervention, the assumptions developed here might provide a point of departure for future attempts to formalize the criteria for humanitarian intervention. For this reason, delineating the issues discussed here is of utmost importance. It is therefore essential that the

problems and conditions discussed here be seriously elaborated in the future in order to reach a common position within the international community.

*a. Gross and systematic violations of human rights: when there falls a duty of humanitarian intervention to the international community?*

The acceptance that violations of human rights may trigger humanitarian intervention leaves open some essential questions regarding the problem of how to identify a situation in which such violations are present; such as the violation of what rights, and violations to what extent? In the literature on humanitarian intervention, it has been commonly suggested that gross, massive, systemic, large-scale violations of human rights may give grounds for humanitarian intervention. Yet there has been no precise definition of such phrases and there is still a controversy around the issue.<sup>19</sup>

This ambiguity is sometimes used by the opponents of the doctrine as a ground to reject the whole idea of humanitarian intervention. They claim that trying to correct all the wrongdoings would mean nothing but an endless attempt and, in the end it would be an invitation to a situation of disorder in international system.<sup>20</sup>

Yet, there are actually very few proponents of humanitarian intervention who would argue for intervening all around the world to correct all kinds of violations of human rights. Rather, the proponents of the doctrine point out extreme cases of human rights violations to which many opponents would also have few objection. In this regard, the existence of imminent threats to life could be considered as the most acute situation meriting outside involvement.<sup>21</sup> The most obvious and agreed upon example of such a situation seems to be genocide. While some scholars take it as the only situation which warrants humanitarian intervention,<sup>22</sup> the others argue for a wider range of situations which constitute threats to life and therefore qualify as humanitarian emergency.<sup>23</sup> Yet it must be pointed out that despite the

fact that 1948 Convention on the Prevention and Punishment of the Crime of Genocide enables its signatories to take action for the prevention and suppression of acts of genocide, and raise the issue before the relevant UN organs, the very meaning and implications of the term genocide itself is not without any controversy. As observed by Smith, states are reluctant to employ the term even when they act to do something in such situations, out of a concern that applying the term may create a demand for concerted action. The parties to a conflict, on the other hand, may misuse the concept since they have a stake in whether a given conflict is or is not called one of genocide.<sup>24</sup>

According to the latter view, despite the mechanisms provided by the Genocide Convention, due to the scope and nature of recent atrocities and narrow definition of genocide in this Convention, there is a need to go beyond what is provided in the Genocide Convention and include other acts such as deliberate ethnic cleansing, arbitrary killings, torture, attacks on civilian centers, interference with humanitarian assistance and so on.<sup>25</sup> Moreover, those who speak more broadly than the limited case of genocide refer to a set of basic or fundamental human rights the violation of which would warrant intervention. Such a conceptualization may, on the one hand, establish a more manageable regime under which coercive humanitarian action may be accepted by the international community. On the other hand, the emphasis on basic human rights may help reduce the arguments raised against intervention on the basis that human rights is deeply affected by cultural relativism.<sup>26</sup> Some others, especially a group of scholars and policy makers from the US where the emphasis is mainly put on civil and political rights, go further and claim a right to intervene to ensure the protection of the political right to democracy, or more specifically, to restore a democratically elected government that has been ousted by a coup or through violent means, as in the case of Haiti.<sup>27</sup>

The position taken here is that it is essential to focus on a more restrictive definition of human rights violations which may properly warrant humanitarian intervention. The human

values under threat must be fundamental ones, involving, first and foremost, the right to life. The situation must be systemic in nature and there should be an extreme humanitarian emergency which “shocks the conscience of mankind.”<sup>28</sup> This would amount to an imminent threat of widespread loss of life resulted from attempts for genocide or ethnic cleansing, systematic killings, situations of civil war or state collapse, starvation and other activities.<sup>29</sup> Seen in this perspective, the number of cases that would be properly classified as candidates for humanitarian intervention would be relatively limited and accordingly the opposition to intervention in such cases would be considerable less. Therefore, in the current author’s view it is believed to be problematic to include intervention for the purpose of protection or creation of democratic regimes into the scope of humanitarian intervention. As long as the denial of political rights are not caused by any overtly racist regime or the conduct of regime is not the source of extreme human suffering, given the nature of most of the current regimes around the world including some of the permanent and non-permanent members of the SC and the difficulties inherent in imposing democratic norms, institutions, and procedures from outside, it is not reasonable to extend the coverage of humanitarian intervention to the situations of promoting democracy.<sup>30</sup>

This restrictive approach still fails to specify the massive of “massive violation of human rights”. There are some suggestions that the number of persons affected should be expressed in sheer numbers in considering when to undertake humanitarian intervention to stop human suffering. It might be formulated as a certain percentage of the affected nation’s population or as an absolute number.<sup>31</sup> Yet, it is neither morally nor politically defensible to quantify the number of victims whose lives should be threatened or lost before any action is taken. In most situations of humanitarian emergency, it is observed that “murderous conflicts and monstrous pogroms are not always announced by long previews. They can burst suddenly through the brittle veneer of an apparently civil, even if strained, society.”<sup>32</sup> Therefore, to

conclude, it may be said that although it is not that easy to identify a situation of massive violations of human rights in an objective way, Supreme Court Justice William Potter Stewart's approach to identifying obscene material has some merit for our debate:

“I may not be able to define it [obscenity], but I know when I see it”.

*b. Aftermath of the operation: What goals should the intervention follow?*

Another set of questions related to the identification of when there falls a duty of humanitarian intervention to the international community is about the question of what goals should the intervening forces follow for ending human suffering: what for and how? It is true that humanitarian intervention has, as its central purpose, relieving the human suffering. The question “whether the object should be to deal with the immediate manifestations of such suffering or whether it should also include a more fundamental reshaping of the political process that gave rise to this suffering in the first place”<sup>33</sup> has always burdened the concept of humanitarian intervention and this argument has been raised by those who oppose to the very idea of humanitarian intervention.

Forcible intervention which involves the use of military power is a political act in nature. Therefore, despite the conditions offered by many scholars that the military forces must be withdrawn promptly and the political impact of the intervention “upon the structure of authority of the target state is to be confined to a minimum...”<sup>34</sup> most cases of humanitarian intervention do have political outcomes and the intervenors become a part of the political processes of the target country with an aim to make it sure that the crisis will not resurface upon the withdrawal of the intervening forces.<sup>35</sup> Moreover, given the fact that, the local authorities are generally the main source of the gross violations of human rights or the violations are caused by their inability to maintain order, it is claimed that the overthrow of the government or altering the governing structure of the targeted state would be unavoidable to achieve the aim of the intervention.<sup>36</sup>

Furthermore, in the 1990s, more radical arguments started to assert that not only the replacement of the offending regimes, but also the establishment of a working political structure –or democratic regimes- must be one of the goals the intervenors should strive to achieve in order to guarantee the human rights of the target society and prevent the recurrence of the situation that has triggered the intervention. The fact that most of the humanitarian emergencies were stemming from several cases of failed states or situations of civil war which had omni-dimensional reasons has forced many supporters of humanitarian intervention to conclude that ‘the underlying causes’ should also be addressed and that the intervenory forces must undertake long-term political missions such as achieving national reconciliation, disarmament, stabilization, establishing democratic processes, building civil societies, revitalizing collapsed economies, as well as halting the immediate threat to human life.<sup>37</sup>

This point was, in turn, taken up by the critics of humanitarian intervention to support their case. They pointed out the difficulty –or better to say, impossibility- for the international actors to construct sustainable institutions. As put by Stanton, “the argument does not depend on whether an intervention is unilateral or multilateral; the problem lies in the capacity of foreigners to produce institutions that are sustainable at the local level. ... The presence of international forces, short of occupation forces that purposefully restructure a state over an extended period of time, cannot substitute for the fundamental [democratic learning process].”<sup>38</sup> This argument is dated back to John Stuart Mill’s opposition to intervention for the support of self determination. According to this reasoning, members of a political community cannot be set free by an external force, and if the willingness for liberty was lacking, once any external intervention had been concluded, “it is only a question in how few years or months that people will [again] be enslaved.”<sup>39</sup> And the argument goes that outsiders are not competent in matters related to the solutions for the problems of other cultures, and

therefore they are ill-suited to bring social benefits to the target society. Notwithstanding the initial success of any given intervention, at the end of the day it is doomed to failure. Then, the best is not to undertake the whole enterprise in the first place.<sup>40</sup>

The position taken here is not to offer that the intervenory forces should be withdrawn as soon as the humanitarian catastrophe is stopped. Rather, it is claimed that a long-term settlement to the conflict and the attempts to establish a viable political structure –especially in the case of failed states characterized by the complete breakdown in civil order- might be the most necessary, albeit the most difficult, tasks the international community has to undertake for putting an end to disorder. Yet, in line with the first proposition that humanitarian intervention should be undertaken to end gross violations of human rights, such international attempts to find long term solutions must be seen as a separate –but complementary- process to humanitarian intervention. The probability that such actions will be achieved in a certain case cannot be a prerequisite to acting in the face of humanitarian emergency, nor should they be a part of the primary goals that the intervenory forces try to achieve.

Inclusion of such tasks into the agenda of the intervenory forces would set the threshold too high. Humanitarian intervention is itself already a costly and disputed engagement, and dealing with all these tasks would be far too much. Practically, such an extended operation, which is sometimes called as peacebuilding or nation-building, would require the deployment of military forces for a longer time and imply higher material and human costs. For this reason, not only will it discourage international actors to act, but such an enlarged conceptualization of humanitarian intervention may also be used as a justification for evading the responsibility. Even when an intervention is undertaken after all these considerations, in the long run, such an expanded conceptualization of the concept may lessen the necessary domestic or international support for the effectiveness of the intervention and



create a stronger opposition coming from the international community and the local parties in the target country.

Therefore, the position taken here is that in some cases of extreme humanitarian emergency, ending the immediate crisis alone is a legitimate goal, notwithstanding any long-term solution to the underlying causes.<sup>41</sup> What follows from this conclusion is that the probability of success of such long-term international attempts -which has until now proved unsatisfactory- cannot be taken as a ground to reject the whole idea of humanitarian intervention.<sup>42</sup>

*c. Exhaustion of other remedies: When to intervene?*

Traditionally it has been claimed that prior to resorting to the use of force, other non-military remedies must be exhausted or all peaceful efforts must prove unsuccessful. This notion, sometimes formulated as the 'last resort' principle, was a part of the Just War Doctrine and it has also been offered as a governing principle for humanitarian intervention.<sup>43</sup> It was justified on the consideration that "the application of military force, even in a limited mode, can have harmful and, indeed, lethal consequences."<sup>44</sup> In this sense, the employment of diplomatic efforts, and the use of economic sanctions are offered as the most spectacular alternative strategies to bring about a peaceful conflict resolution.<sup>45</sup> Based on the belief that in most instances lower levels of repression precedes the appearance of large-scale atrocities, the use of such lesser measures at the earlier stages are offered to be capable of preventing the situation from deteriorating.<sup>46</sup> By emphasizing the superiority of preventive policies over repression, it is further argued that the international community should "devote more resources and attention to the strategies of conflict mitigation and peace-building" in order to minimize the need to use military force.<sup>47</sup>

Under the light of the contemporary realities and the requirements of humanitarian emergencies, the last resort proposition must be employed selectively. In situations of extreme

humanitarian emergency, it might be the case that time does not allow the consideration of such legalistic formalities. The fast-moving situations sometimes leave no other viable options to act and therefore it may be too late to help the victims. On the other hand, moreover, some of the alternative remedies offered are problematic in themselves. For instance, the imposition of selective, carefully targeted economic sanctions, such as arms embargoes, might achieve the desired effects. Yet, embarking on more general economic sanctions, especially when sustained over a long period, may inflict indiscriminate harm on the society as a whole including the victims whom the international community tries to rescue. Moreover, sanctions are generally effective in the long run, and until they have proved effective, most of those whom could have been saved by an earlier action might be well dead.<sup>48</sup>

Based on these considerations, the position taken here is as follows. While in many cases it may be appropriate to wait until the exhaustion of other peaceful efforts prior to the use of armed force, in other instances the situation might be treated in a different way. When there is a massive threat to human rights and the situation is rapidly deteriorating, since delayed responses may exacerbate the situation the exhaustion of other remedies should not be seen as a necessary condition to engage in humanitarian intervention. The decision to embark on a humanitarian intervention should find the optimum point between the requirements to end a humanitarian tragedy and the need to exhaust other non-military means; and on balance, it should maximize the best outcome when compared to other alternative means.<sup>49</sup>

*d. Motives versus outcomes: How to judge the humanitarian character of the intervention?*

The last issue to be discussed is related to the problem of how to judge the humanitarian character of any given intervention. The possibility that humanitarian arguments might be used to cover selfish national interests has been one of the thorny issues that the

proponents of humanitarian intervention have to address. As a matter of fact, it can be said that, with an attempt to obscure their agenda based primarily on national self interest, states often employ the language of humanitarianism, and the real motives behind their actions cannot be easily ascertainable.<sup>50</sup> Out of the concern to circumscribe this danger and thus ensure that the intervening forces act with impartiality, ‘disinterestedness of the intervenors’ has appeared as one of the common conditions in most of the work which aim at developing criteria to regulate humanitarian intervention. In the same vein, the lack of other interests or motives than for purely humanitarian reasons on the part of an intervenor has been offered to complement the disinterestedness criterion.<sup>51</sup> Therefore, to be counted humanitarian, an intervention must be motivated and characterized by purely humanitarian, rather than some selfish, considerations. According to Parekh, an intervention is humanitarian if it satisfies the condition that “it should be wholly or primarily guided by the sentiment of humanity, compassion or fellow-feeling, and in that sense disinterested.”<sup>52</sup>

Critics of humanitarian intervention also employed this condition, though in a different fashion. In their analysis of the historical cases of humanitarian intervention, they tried to find instances where intervention was undertaken entirely on the basis of humanitarian concerns. No wonder, finding very few, if any, cases fitting to their framework, they tended to conclude that there were no examples of humanitarian intervention at all, and therefore the whole doctrine of humanitarian intervention lacks the support in customary international law and should not be allowed in modern practice.<sup>53</sup>

The position taken here is that, requiring states to act out of purely humanitarian motives is setting the standard unreasonably too high. It is from the nature of the things that foreign policy behaviors of the states are based on a mixture of different motives including self-interest, and this should not be seen as an occasion for surprise or condemnation. Therefore, as a matter of principle, wholly ‘pure’ examples of humanitarian intervention may

be the exception rather than the rule. As long as one of the primary goals of the action is to address human suffering, the existence of other motives cannot, of themselves, suggest that intervention is illegal or illegitimate. In case considerations of national interest were among the factors motivating any intervention, humanitarian motives should not be dismissed as bogus in advance.<sup>54</sup>

The examination of historical cases of humanitarian intervention shows that they have been mostly undertaken or carried out by neighbouring states or regional organizations which cannot remain aloof to the developments taking place in their neighborhood. Besides the humanitarian motives, they certainly did have some political and economic interests in putting an end to the situation and establishing order in the target state. From a realistic point of view, given the fact that humanitarian intervention is a costly business in blood and treasure, mobilizing domestic support for the deployment of troops abroad would definitely require firm justifications which need more than purely altruistic reasons. Yet, there were also strong sentiments of common humanity prevalent among the people in the intervening states who urged their governments to end human suffering elsewhere. In this sense, it can be concluded that when the humanitarian objectives are coincided with some other interests, the prospects for a decision to undertake a timely and effective humanitarian intervention and the probability of success of such an intervention would be higher. Yet, this conclusion does not provide the intervenors with an advance authorization to act as they wish. Together with the consideration of other conditions discussed here, due attention should be paid by the international community to ensure that the intervention is limited to the measures which are essential to put an end to human suffering.

However we must be beware of one more problem. This conclusion offers no clear guidance on how to identify the existence of humanitarian motives besides other motives, or their relative weight among other factors. Nor can it help us assess whether official claims to

humanitarianism are in fact used as a fig-leaf to obscure some underlying geopolitical interests. The difficulty of identifying the cases of genuine humanitarian intervention from numerous instances of bogus interventions has been one of the challenging tasks –charges- that proponents of humanitarian intervention have to respond.<sup>55</sup>

Determining the motivations behind certain foreign policy decisions is extremely difficult, if not impossible, and therefore it is unrealistic when judged against the state practice to base the assessment of any intervention solely on motivations of the intervening agents. As a way to address this problem, it is offered here that there is a need to extend our judgment of humanitarian character of the intervention to encompass not only the humanitarian motives, but also the humanitarian outcomes. The effects of the acts, besides the motives, can be taken as indicators for humanitarian quality of the intervention at hand. Although employing positive benefits of intervention for the victims of humanitarian emergency is not enough to eliminate the problematic aspects of the issue and itself open to counter-arguments, it provides us with a clearer guidance to distinguish the cases of humanitarian intervention from many other instances of intervention.<sup>56</sup>

By applying this criterion to Japanese invasion of Manchuria, Hitler's invasion of Czechoslovakia, the Soviet intervention in Czechoslovakia and Hungary, and the American intervention in Vietnam on the one hand, and to other cases labelled as humanitarian intervention, such as the Tanzanian intervention in Uganda, the Indian intervention in East Pakistan, or the NATO interventions in Bosnia and Kosovo on the other, one can have a rough idea about the quality of their humanitarian character. While there were invocation of humanitarian justifications in the former cases, they were clearly bogus and the interventions did nothing but increasing the suffering of the people in the targeted country. Yet, despite the absence of explicit humanitarian justifications in some of the latter cases, they were welcomed by the local population and a great number of lives were saved as a result of these

interventions. Therefore inclusion of the outcomes to the analysis of humanitarian intervention will provide a better assessment of any given case of humanitarian intervention.

In short, in judging the humanitarian character of any intervention, the position taken here is that the existence of non-humanitarian motives, in itself, cannot preclude the legitimacy of intervention. It is further claimed that rather than focusing exclusively on the motives it is necessary to concentrate on humanitarian outcomes and humanitarian motives simultaneously.

### **Concluding Remarks**

So far I have attempted to identify a number of components of the term humanitarian intervention and some related aspects of the concept, with an aim to help clarify the notion of humanitarian intervention. At the same time, I tried to develop my own positions on some of those controversial issues to have a parsimonious conceptualization of humanitarian intervention at a theoretical level. However, delineating the acceptable scope for humanitarian intervention in the state practice and resolving the conflict between growing humanitarian ideals and the classical concepts of sovereignty and nonintervention by striking the right balance is a challenging task facing the international community. Despite many improvements regarding the place of humanitarian intervention in world politics in the last decade, there is still a long way to go. Therefore, there is a need for continued discussions on the issue which pay due attention to the views of all the parties in order to bridge the gap between the positions of the supporters and opponents of a doctrine of humanitarian intervention. There is an urgent need to develop a common position within the international community on the issues of human rights in general and their effective enforcement, including humanitarian intervention, in particular. It is essential that a common position be developed to render the use of force for humanitarian purposes credible and legitimate in the eyes of the international

community, while at the same time distinguishing it from other forms of the use of force, and interventions for other purposes.

For this reason, it is further maintained here that when undertaken, interventions for humanitarian purposes should be guided by strict principles which must be developed by the participation of the international community as a whole. As stated before, an armed intervention must be undertaken only under circumstances of extreme humanitarian emergency and when other forms of international action has proved –or, will possibly prove– unsuccessful. Such an action should be preferably carried out under a UN mandate. However, when the SC is unable to act, the option of unauthorized intervention should also be left as a ‘last resort’ avenue. The framework for assessment developed in this study provides an important point of departure for this purpose. Furthermore, in scholarly works on humanitarian intervention, there have been attempts to develop criteria to govern the decision and the conduct of –particularly unilateral– interventions. Based on this growing body of literature and the state practice, the international community should spend more thought on the codification of framework criteria to regulate humanitarian intervention in general and unauthorized intervention in particular.<sup>57</sup> This might be followed by further initiatives to strengthen the global institutions –mainly the UN– so that the norms regarding humanitarian intervention might be enforced in an effective and unselective way.

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## Notes

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\*\* Vincent, R. J., *Human Rights and International Relations* (Cambridge: Cambridge University Press, 1986), pp.126-127.

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<sup>1</sup> Saban Kardas, "Humanitarian Intervention: The Evolution of the Idea and Practice", *Perceptions: Journal of International Affairs* (Vol. VI., No. 2, June-August 2001), pp.120-137.

<sup>2</sup> Roberts, Adam, "Humanitarian War: Military Intervention and Human Rights", *International Affairs* (Vol. 69, No. 3, July 1993), p. 426.

<sup>3</sup> Knudsen, Tonny Brems, "Humanitarian Intervention Revisited: Post-Cold War Responses to Classical Problems", in Michael Pugh (editor), *The UN, Peace and Force* (London: Frank Cass, 1997), p.146.

<sup>4</sup> Finnemore, Martha, "Constructing Norms of Humanitarian Intervention", in Peter Z. Katzenstein (editor), *The Culture of National Security: Norms and Identities in World Politics* (New York: Colombia Univ. Press, 1996), p. 154.

<sup>5</sup> Parekh, Bhikhu, "Rethinking Humanitarian Intervention", in Jan Nederveen Pieterse (editor), *World Orders in the Making* (London: Macmillan Press Ltd, 1998), p.147.

<sup>6</sup> Verwey, Wil. D., "Humanitarian Intervention in the 1990s and Beyond: An International Law Perspective" in Pieterse (editor), *op.cit.*, p.180

<sup>7</sup> Garrett, Stephan A., *Doing Good and Doing Well: An Examination of Humanitarian Intervention* (Westport: Praeger Publishers, 1999), p.1.

<sup>8</sup> seminal essays on the issue of intervention can be found in the edited volumes: Bull, Hedley (editor), *Intervention in World Politics* (Oxford: Clarendon Press, 1984); Damrosch, Lori F. and Scheffer, David J. (editors), *Law and Force in the New International Order* (Colorado: Westview Press, 1991); Lyons, M. Gene and Mastanduno, Michael (editors), *Beyond Westphalia?: State Sovereignty and International Intervention* (Baltimore: Johns Hopkins University Press, 1995); Pieterse (editor), *op.cit.*

<sup>9</sup> Actually the confusion is still present in the literature and in the speeches of world leaders. For instance, while UN Secretary General Kofi Annan had earlier described intervention to cover all types of humanitarian "actions along a wide continuum from the most pacific to the most coercive" (Annan, Kofi, *Secretary General's Speech to the 54<sup>th</sup> Session of the General Assembly*, (20 September 1999)), later he reiterated his position and called for reinforcing the distinction between military actions and humanitarian action (Annan, Kofi, *Military Operations Should not be Described as Humanitarian Action*, (SG/SM/7632, 20 November 2000)).

<sup>10</sup> Bull, Hedley, "Introduction", in Bull (editor), *op.cit.*, p.1; this classical definition is also the interpretation widely accepted among international legal scholars; Oppenheim, Lassa, *International Law: A Treatise* (London: Longmans, Green, 1955 8th ed. by H. Lauterpacht), p.305.

<sup>11</sup> Although as a preferential criterion, some analysts also offer the consent of the target government as a necessary condition, see Dallmeyer, Dorinda G., "National Perspectives on International Intervention: From the Outside Looking In", in C. F. Daniel and B. C. Hayes (editors), *Beyond Traditional Peacekeeping* (New York: St. Martin's Press, 1995), p.24.

<sup>12</sup> The main characteristics of peacekeeping, which at the same time distinguish it from humanitarian intervention, are; peacekeeping forces were deployed upon the consent of the states or parties concerned, they were adhered to impartiality, and they were lightly armed to protect themselves. Danish Institute of International Affairs, *Humanitarian Intervention: Legal and Political Aspects* (Copenhagen: 1999), p.57 [to be cited as Danish Report]; Murphy, Sean D., *Humanitarian Intervention: The United Nations in an Evolving World Order* (Pennsylvania: University of Pennsylvania Press, 1996), pp. 118-119, for references to studies on peacekeeping see p. 199, footnote 11.

<sup>13</sup> for those who argue that the definition of humanitarian intervention should be extended to include non-military measures, especially coercive economic sanctions, see Weiss, Thomas G., "Tangled up in Blue", *Harvard International Review* (Vol.16, Issue.1, Fall 1993), p.31; for an interesting typology including non-forcible actions see Woodhouse, Tom and Ramsbotham, Oliver, "Peacekeeping and Humanitarian Intervention in post-Cold War Conflict", in T. Woodhouse, R. Bruce and M. Dando (editors), *Peacekeeping and Peacemaking: Towards Effective Intervention in Post-Cold War Conflicts* (New York: Macmillan Press Ltd., 1998), p.52; Wheeler adds what he calls "non-forcible humanitarian intervention", Wheeler, Nicholas, "Humanitarian Intervention and World Politics", in John Baylis and Steve Smith (editors), *The Globalization of World Politics* (New York: Oxford University Press, 1997), pp.405-406; Parekh, on the other hand, makes reference to the use of "physical force in one form or another. It usually involves military force, but it need not". Parekh, *op.cit.*, p.145; also see Johansen, Robert C., "Limits and Opportunities in Humanitarian Intervention", in



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Stanley Hoffmann, *The Ethics and Politics of Humanitarian Intervention*, (Notre Dame: University of Notre Dame Press, 1996), p.66.

<sup>14</sup> for instance see Verwey, *op.cit.*, p.180,190.

<sup>15</sup> on this issue mainly see Arend, Anthony C. and Beck, Robert J., *International Law and the Use of Force* (London: Routledge, 1993), Chapter VII, pp.93-111; also see Finnemore, *op.cit.*, p.154; Pease, Kelly Kate and Forsythe, David P., "Human Rights, Humanitarian Intervention, and World Politics", *Human Rights Quarterly* (Vol.15, No.2, May 1993), p.298; Donnelly, Jack, "Human Rights, Humanitarian Crisis, and Humanitarian Intervention", *International Journal* (Vol. XLVIII, No.1, Autumn 1993), pp.607-640, p.611; Ronzitti, Natalino, "Lessons of International Law from NATO's Armed Intervention Against the Federal Republic of Yugoslavia", *The International Spectator* (Volume XXXIV, No.3, July-September 1999), p.51.

<sup>16</sup> Tanja, Gerard J., "Humanitarian Intervention and Humanitarian Assistance: An Echo from the Past and a Prospect for the Future", in European Commission, *Law in Humanitarian Crises Access to Victims: Right to intervene or right to receive humanitarian assistance?*, Volume II (Luxembourg: Office for Official Publications of the European Communities, 1995), p.74.

<sup>17</sup> Tanja, *op.cit.*, pp.69-70.

<sup>18</sup> Roberts, Adam, *Humanitarian Action in War: Aid, Protection and Impartiality in a Policy Vacuum* (London: The International Institute for Strategic Studies, Adelphi Paper 305, 1996), p. 19; a number of articles representative of this enlarged and somewhat confused conception of humanitarian intervention can be found in the edited volume: Harriss, John (editor), *The Politics of Humanitarian Intervention*, (New York : Pinter, 1995).

<sup>19</sup> Pease and Forsythe, *op.cit.*, p.308; Murphy, *op.cit.*, p.17, footnote.16.

<sup>20</sup> for example, having said that "intervening for the good hinges on the very contestable notion of what is good", Shalom asks "Bill Clinton is giving away our forest resources: should Japan land troops in the name of internationalism? Human Rights Watch issued a report on restrictions of freedom of expression in Britain: should French troops cross the Channel? Allowing the countries to intervene when certain rights have been transgressed is a prescription for disaster. It is better to prohibit all interventions than to allow the U.S. government to decide which interventions are good", Shalom, Stephen R., "Reflections on Intervention", *Peace Review* (8:4, 1996), p.460.

<sup>21</sup> this was also one of the requirements offered by Rougier, as early as in 1910. According to him, the only rights which justify intervention are the rights to life, freedom and justice, Rougier, Antoine, "La théorie de l'intervention d'humanité", *Revue Générale*, (17, 1910), cited by Abiew, Francis Kofi, *The Evolution of the Doctrine and Practice of Humanitarian Intervention* (The Hague: Kluwer Law International, 1999), p.43, footnote.75.

<sup>22</sup> for example, Krauthammer, Charles, "Drawing the Line at Genocide", *Washington Post*, 11 December 1992, A27, cited by Himes, Kenneth R. (1994), "The Morality of Humanitarian Intervention", *Theological Studies* (Vol.5, Issue.1, March 1994), footnote.49.

<sup>23</sup> for example, see Pease and Forsythe, *op.cit.*, p.309; Verwey, *op.cit.*, pp.201-202; Dallmeyer, *op.cit.*, p.24; Weiss, Thomas G. and Chopra, Jarat; "Sovereignty under Siege: From Intervention to Humanitarian Space", in Lyons and Mastanduno (editors), *op.cit.*

<sup>24</sup> Smith, Michael J., "Humanitarian Intervention Revisited: Is There a Universal Policy?", *Harvard International Review* (Fall 2000), pp.73-74; in this regard, the avoidance of US politicians to use the term genocide during the slaughter in Rwanda was illustrative. It was claimed that the Clinton administration had instructed its UN spokesperson not to use the term genocide to describe the deaths in Rwanda because it would have made it more difficult to stand aside. Quoted by Klimow, Matthew S., *Moral versus Practical: The Future of US Armed Humanitarian Intervention* (Ontario: Martello Papers, 1996), p.24.

<sup>25</sup> Hoffmann, Stanley, "The Politics and Ethics of Military Intervention", *Survival* (Vol.37, No.4, Winter 1995-1996), pp.37-38, his own criterion would be "massive violations of human rights, which would encompass genocide, ethnic cleansing, brutal and large-scale repression to force a population into submission, including deliberate policies of barbarism, as well as the kinds of famines, massive breakdowns of law and order, epidemics and flights of refugees that occur when a 'failed state' collapses"; also see Johansen, *op.cit.*, p.70; Klimow, *op.cit.*, p.27.

<sup>26</sup> According to Garrett "the idea here is to focus on a minimal and universal code of human rights that involves protection from politically inspired murder, slavery, torture, and in the most extreme cases, true genocide",

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Garrett, *op.cit.*, pp.74-75. Yet in the opinion of the current author establishing a core basic rights may not be necessarily a solution to the cultural relativism. Even if there is an agreement on certain human rights values, it does not mean that states would also share a belief in the enforcement of these rights by means of military force.

<sup>27</sup> for a brief account and references see, Pease and Forsythe, *op.cit.*, pp.309-312, footnotes, 68-71; also see Murphy, *op.cit.*, p.17, footnote.17; Griffin, Michèle, “Where Angels Fear To Tread: Trends in International Intervention”, *Security Dialogue* (vol.31, no.4, December 2000), footnote.16.

<sup>28</sup> see for instance Vincent: “offences against human rights are a matter of international concern, but they do not trigger intervention except perhaps when outrageous conduct shocks the conscience of mankind”, Vincent, R. J., “Grotius, Human Rights and Intervention” in Hedley Bull, Benedict Kingsbury and Adam Roberts, (editors), *Hugo Grotius and International Relations* (Oxford: Oxford University Press, 1990), p.255.

<sup>29</sup> In the latest works on the topic, there were some proposals which adapted the definitions developed by international tribunals established for crimes against humanity and war crimes. In this regards, the report prepared by Danish Institute of International Relations offers a pertinent solution. In order to have a clearer definition of serious violations of human rights which might help determine when humanitarian intervention is justified, the report offers to take up the definition of the “most serious crimes of concern to the international community as a whole” given in the Article V of the 1998 Statute of the International Criminal Court. Article V refers to “genocide”, “crimes against humanity” and “war crimes” (grave breaches of international humanitarian law). Danish Report, *op.cit.*, pp.106-107. Articles 6-8 of the Statute give the definitions of these crimes; The report prepared by Advisory Council on International Affairs (Netherlands), on the other hand, refers to the Article VII of the same Statute which enumerates “crimes against humanity”, Advisory Council on International Affairs (Netherlands), *Humanitarian Intervention* (Advisory Report No.13, April 2000), p.29. [to be cited as Dutch Report].

<sup>30</sup> for a similar conclusion see Hoffmann, Stanley, “Sovereignty and the Ethics of Intervention”, in Hoffmann, *op.cit.*, p.30; despite the case of Haiti as an example of the restoration of democracy in the post-Cold War era, it is more likely to remain as an exception, Murphy, *op.cit.*, pp.325-326; Maynes, Charles William, “Relearning Intervention”, *Foreign Policy* (Spring 1995), p.107; Ortega, pp.91-92.

<sup>31</sup> In elaborating the factors that may trigger UN review of natural, or man-made disasters, Minear mentions this as one of several other factors. Minear, Larry, “A Strengthened Humanitarian System for the Post-Cold War Era”, in Minear, Weiss, and Campbell, *Humanitarianism and War: Learning Lessons from Recent Armed Conflicts*, (Providence: Watson Institute for International Studies, Occasional Paper No.8, 1991), p38; also in proposing policy guidelines to suggest that the US be actively involved in humanitarian intervention Solarz and O’Hanlon propose that the death rate should reach or threaten to reach at least tens of thousands a year. In their analysis of the conflicts that took place in 1996, they conclude that most of them “were simply not bloody enough to justify outside military operations”. Solarz, Stephen, J., and O’Hanlon, Michael, “Humanitarian Intervention: When is Force Justified?”, *The Washington Quarterly* (20:4, Autumn 1997), p.9, also see the table on page.5; Klimow, on the other hand, opposes what he calls “body counts” to determine if a situations is sufficiently grave to warrant intervention. Klimow, *op.cit.*, p.27.

<sup>32</sup> Farer, Tom, “A Paradigm of Legitimate Intervention”, in Lori F. Damrosch (editor), *Enforcing Restrain: Collective Intervention in Internal Conflicts* (New York: Council on Foreign Relations Press, 1993), pp.326-327.

<sup>33</sup> Garrett, *op.cit.*, p.78.

<sup>34</sup> Verwey, *op.cit.*, p.202; for similar conditions also see Dallmeyer, *op.cit.*, p.24; Ero, Comfort and Long, Suzanne, “Cases and Criteria: The UN in Iraq, Bosnia and Somalia”, in Roger Williamson (editor), *Some Corner of a Foreign Field* (London: Macmillan Press Ltd., 1998), p.162.

<sup>35</sup> Farer, Tom, “An Inquiry into the Legitimacy of Humanitarian Intervention”, in Damrosch and Scheffer (editors), *op.cit.*, p.198; Roberts, “Humanitarian War”, p.447.

<sup>36</sup> “The objective should not be simply to halt oppression but also to prevent its recurrence. Thus the offending government and the conditions under which it flourished must be replaced”. Gillespie, Thomas R., “Unwanted Responsibility”, *Peace and Change* (Vol.18, Issue.3, July 1993), also for those arguing to this end see, footnote.42.

<sup>37</sup> Ramsbotham, Oliver and Woodhouse, Tom, *Humanitarian Intervention in Contemporary Conflict: A Reconceptualization*, (Cambridge: Polity Press, 1996), p.157; Weiss, *op.cit.*, p.31; Wheeler, *op.cit.*, p.403; in this regards, Parekh is even going further to include “helping create conditions in which a viable structure of civil authority can emerge” into his definition, Parekh, *op.cit.*, pp.147-148; Helman, G. B., and Ratner, S. R., “Saving

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Failed States”, *Foreign Policy* (Vol.89, Winter 1992-93), pp.3-30) advocate the idea of ‘UN conservatorship’ and offer several possible models. There were also some calls for outside administration coming from Bosnia and Somalia, see Roberts, “*Humanitarian War*”, p.447, footnotes.54-56; Jonah, James O. C., “Humanitarian Intervention”, in T. G. Weiss and L. Minear (editors), *Sustaining Civilians in Times of War* (London: Lynne Rienner Publishers, 1993), p.75, footnote.8; Mandelbaum, Michael, “The Reluctance to Intervene”, *Foreign Policy* (Vol. 95, Summer 94), pp.3-18.

<sup>38</sup> Stanton, Kimberly, “Pitfalls of Intervention”, *Harvard International Review* (Vol.16, Issue.1, Fall 1993), p.15; Donnelly, *op.cit.*, p.639; also see Krauthammer, Charles, “The Short, Unhappy Life of Humanitarian War”, *The National Interest* (Issue 57, Fall 1999), pp.5-8.

<sup>39</sup> Mill J. S., “A Few Word on Nonintervention”, in *Essays on Politics and Culture* (New York: Doubleday, 1962), p.174, cited by Garrett, *op.cit.*, p.27, footnote.8; Hoffmann also points out that this is one of the dilemmas presented to liberals regarding the issue of intervention. According to him, besides Mill’s case against intervention, it was this dilemma which explains why Kant is so silent on the issue of intervention, Hoffmann, Stanley, “The Problem of Intervention”, in Bull (editor), *op.cit.* , pp.23-24.

<sup>40</sup> Shalom, *op.cit.*, p. 461.

<sup>41</sup> for similar conclusions see, Garrett, *op.cit.*, p.144; Clarke, John N., “Ethics and Humanitarian Intervention”, *Global Society: Journal of Interdisciplinary International Relations* (Vol.13, Issue.4, October 1999); Ingram, James, “The International Response to Humanitarian Emergencies”, in Kevin Clements and Robin Ward (editors), *Building International Community, Cooperating for Peace: Case Studies* (Canberra: Allen & Unwin, 1994), p.201; in this regards the distinction offered by Wheeler that any intervention must be evaluated along with short and long-term consequences is opposed. Wheeler, *op.cit.*, pp.403.

<sup>42</sup> The best example of the failure to distinguish between the aims that intervention should pursue can be found in the disillusionment with humanitarian intervention following the debacle in Somalia to implement the second phase of UN operation (UNOSOM II) which set ambitious political goals. This failure almost overshadowed the results of the initial phase of the operation that saved many lives from famine. Somalia example also shows the dangers inherent in military operations for humanitarian purposes. As expressed in the phenomenon of “mission creep”, a relatively limited objective of famine relief may evolve into a much broader effort to reconstitute the target state, which may in the end put the whole initiative into disrepute. See for instance Gibbs, David N., “Realpolitik and Humanitarian Intervention: The Case of Somalia”, *International Politics* (Vol.37, Issue.1, 2000), pp.49-50.

Yet it must be noted that in cases they are attempted, besides the military component, the realization of long term goals would certainly require the involvement of different states, governmental and non-governmental international organizations with civilian and political mandates. The function of the military power in these operations might be to provide a secure environment for the effective operation of the international political and civil forces working for the realization of long-term goals. Since the deployment of such international civilian and political actors require the consent of the local parties –especially that of the government- the initial use of force would assure such consent. Afterwards, their operation would be extremely vulnerable in military terms and therefore require a military protection which would be offered by the initial intervenory force. But, this can be categorized as an instance of peace operation, rather than humanitarian intervention.

<sup>43</sup> Beach, Hugh and Isbister, Roy, *Old Wine, New Bottle: The Just War Tradition and Humanitarian Intervention* (International Security Information Service UK, Briefing on Humanitarian Intervention No.3, October 2000), online access: <http://www.isisuk.demon.co.uk/0811/isis/uk/hiproject/no3.html>; Garrett, *op.cit.*, p.130; Verwey, *op.cit.*, p.202; Wheeler, Nicholas, “Humanitarian Intervention After Kosovo: Emergent Norm, Moral Duty or the Coming Anarchy?”, *International Affairs* (Vol.77, Issue.1, 2001), p.122; Guicherd, Catherine, “International Law and the War in Kosovo”, *Survival* (Vol.41, No.2, Summer 1999), p.24; Orend, Brian, “Crisis in Kosovo: A Just Use of Force?”, *Politics*, (19(5), 1999), p.128.

<sup>44</sup> Fisher, David, “The Ethics of Intervention”, *Survival* (Vol.36, No.1, Spring 1994), p.53; also see, Klimow, *op.cit.*, p.29.

<sup>45</sup> Abiew, “Assessing Humanitarian Intervention”, p.80; Ortega, Daniel, *Military Intervention and the European Union* (Paris: Institute for Security Studies, Western European Union, Chaillot Paper 45, March 2001), p.82; Roberts, “*Humanitarian War*”, p.446; to give a more specific substance to this clause Ero and Long offer that “military humanitarian intervention should proceed only when all other appropriate measures outlined in Article 41 of the UN Charter have been implemented and have failed to bring the cessation of human rights violations”,

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Ero and Long, *op.cit.*, p.162; also for a range of policy intercessions offered by Lillich, see Klimow, *op.cit.*, p.29, footnote.80.

<sup>46</sup> Rodley, Nigel S., "Collective Intervention to Protect Human Rights and Civilian Populations: The Legal Framework", in N. S. Rodley (editor), *To Loose the Bands of Wickedness* (London: Brassey's Ltd, 1992), pp.14-42, p.37; Ryan offers a threshold ladder of intervention which specifies different levels of enforcement and response options corresponding to these levels. Ryan, Christopher M., "Sovereignty, Intervention, and the Law: A Tenuous Relationship of Competing Principles", *Millennium: Journal of International Studies* (Vol.26, No.1, 1997), p.98.

<sup>47</sup> Johansen, *op.cit.*, p.69, offers different alternatives of preventive development, preventive education, preventive enforcement, and preventive adjudication.

<sup>48</sup> for a similar view see, Hoffmann, Stanley, "Comments on Comments", in Hoffmann, *op.cit.*, p.98; Hoffmann, "The Politics and Ethics of Military Intervention", p.44.

<sup>49</sup> Dallmeyer, *op.cit.*, p.25; Beach and Isbister offer that "the term 'last resort' need not, on this regards, be understood chronologically. Rather, it suggests that force should be employed if all other approaches are regarded as unsuitable. That is to say one should *consider* everything else first, but not necessarily *do* everything else first", [emphasis in original].

<sup>50</sup> Parekh, *op.cit.*, p.146.

<sup>51</sup> as early as 1880 Amos indicated that "so far as [humanitarian] intervention is concerned, it is above all, desirable that the purity of the motives should be conspicuous...", Amos, *Political and Legal Remedies for War*, (New York: Harper, 1880), p.159, quoted by Abiew, *The Evolution*, p.42, footnote.69; one of the essential conditions offered by Rougier was also "disinterestedness" of the intervention, cited by Murhpy, *op.cit.*, pp.48-49, footnotes.64-66; Weiss and Chopra, *op.cit.*, p.105; this condition is sometimes traced back to "right intention" criterion offered by Just War theory which says "force may be used only in a truly just cause and only for that purpose", Beach and Isbister, *op.cit.*, ; Orend, *op.cit.*, pp.126-127.

<sup>52</sup> Parekh, *op.cit.*, p.146; "the State has a 'relative disinterest' in the situation, in the sense that its overriding motive is the protection of fundamental human rights, without important secondary motives of a political, economic, ideological or other self-interested nature being involved."; Verwey, *op.cit.*, p.201; also for a more careful approach, see Wheeler, Nicholas and Morris, Justin, "Humanitarian Intervention and State Practice at the End of the Cold War", in Rick Fawn and Jeremy Larkins (editors), *International Society after the Cold War: Anarchy and Order Reconsidered* (London: Macmillan Press Ltd., 1996), p. 138.

<sup>53</sup> the best example of this position is reflected by Franck, Thomas and Rodley, Nigel S., "After Bangladesh: The Law of Humanitarian Intervention by Military Force", *The American Journal of International Law* (Vol.67, April 1973), pp.278-279, They claim "history shows that when the humanitarian justifications has been invoked, it has mostly been under circumstances in which there is at least a strong suspicion that the facts and usually the motive, were not as alleged", p. 304; also see Brownlie, Ian, *International Law and the Use of Force by States* (Oxford: Clarendon Press, 1963), pp.339-340; moreover, see the statement: "how can one claim an action is humanitarian if it clearly arises from considerations of realpolitik, which are the only possible explanation why some states that violate the most basic human rights are let off the hook?" Corten, Olivier, "Humanitarian Intervention: A Controversial Right", *UNESCO Courier* (Vol.52 Issue.7, July/August 1999), p.59; Farer, "An Inquiry", p. 193.

<sup>54</sup> for parallel conclusions see: Garrett, *op.cit.*, p.119; Abiew, "Assessing Humanitarian Intervention", p.80; Ramsbotham and Woodhouse, *op.cit.*, pp.56-57; Murphy, *op.cit.*, pp.14-15,323-324; Beach and Isbister, *op.cit.*, "self-interest may not validate intervention, but nor does it necessarily preclude it. Where there is a legitimate claim to intervene it would be illogical to refuse on the grounds that it would promote self-interest as well. Indeed, where they work in tandem, so much the better".

<sup>55</sup> Murphy, *op.cit.*, pp.136-137; Frank and Rodley challenge the proponents of humanitarian intervention "they [the proponents of humanitarian intervention] cannot devise a means that is both conceptually and instrumentally credible to separate the few sheep of legitimate humanitarianism from the herds of goats which can too easily slip through", Frank and Rodley, *op.cit.*, p.284.

<sup>56</sup> the best account of the issue can be found in Garrett, *op.cit.*, pp.18-19, and also Chapter 6; see Wheeler's critics about Garret, Wheeler, "Humanitarian Intervention After Kosovo", pp.122-123.

<sup>57</sup> Especially after the NATO intervention in Kosovo, the world community confronted with this problem sharply. As a result, the dilemmas humanitarian intervention poses have received a growing attention from

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international community and become the central theme in the 1999 GA debate. The UN Secretary-General Kofi Annan's keynote speech to the 54<sup>th</sup> Session of the General Assembly in September 1999, just after the Kosovo crisis, has reflected the dilemmas of humanitarian intervention starkly and stimulated a debate in regards to humanitarian intervention. (Kofi Annan, Secretary General's Speech to the 54<sup>th</sup> Session of the General Assembly, 20 September 1999, Press Release SG/SM/7136 GA/9596, 20 September 1999; the earlier version of his speech appeared on Annan, Kofi, "Two Concepts of Sovereignty", *The Economist* (18 September 1999), pp.49-50). He did not give any clear answers and invited the world community to address the problems posed by humanitarian intervention. In response to his call, a number of initiatives have been launched, especially by Western States. As a result, some reports and books have been prepared which deal with legal and political problems of humanitarian intervention and offer some alternative guidelines to regulate the state conduct regarding humanitarian intervention. (some of the work which came out of these initiatives include: Danish Report, *op.cit.*; Dutch Report, *op.cit.*; Cook, Robin, *Guiding Humanitarian Intervention* (London: Speech by the Foreign Secretary at American Bar Association, 19 July 2000), accessible via: [http://www.ukun.org/xq/asp/SarticleType.17/Article\\_ID.137/qx/articles\\_show.htm](http://www.ukun.org/xq/asp/SarticleType.17/Article_ID.137/qx/articles_show.htm); International Commission on Intervention and State Sovereignty (ICISS), *Report: The Responsibility to Protect*, (Ottawa: International Development, Research Centre, December 2001)) Yet, it remains to be seen whether this process will yield any concrete results in respect to place of humanitarian intervention in state practice and produce any codification.