DOCTRINE AND PRACTICE
OF
HUMANITARIAN INTERVENTIONS


A Master's Thesis


by

AYŞEGÜL KOCAMAN


Department of
International Relations
Bilkent University
Ankara
September 2008

DOCTRINE AND PRACTICE
OF
HUMANITARIAN INTERVENTIONS


The Institute of Economics and Social Sciences
of
Bilkent University


by


AYŞEGÜL KOCAMAN


In Partial Fulfillment of the Requirements for the Degree of
MASTER OF ARTS


in


THE DEPARTMENT OF
INTERNATIONAL RELATIONS
BİLKENT UNIVERSITY
ANKARA


September 2008

I certify that I have read this thesis and have found that it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in International Relations.

----------------------

Prof. Yüksel İnan
Supervisor

I certify that I have read this thesis and have found that it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in International Relations.

----------------------

Assistant Prof. Nil Şatana
Examining Committee Member

I certify that I have read this thesis and have found that it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in International Relations.

----------------------

Assistant Prof. Esra Çuhadar Gürkaynak
Examining Committee Member

Approval of the Institute of Economics and Social Sciences

----------------------

Prof. Dr. Erdal Erel
Director

# ABSTRACT

DOCTRINE AND PRACTICE
OF
HUMANITARIAN INTERVENTIONS

Kocaman, Ayşegül
MIR, Department of International Relations
Supervisor: Prof. Yüksel İnan


September 2008


Humanitarian intervention lies at the center of contradictory relations between the principle of state sovereignty and the responsibility to protect human rights. Whereas some theorists define humanitarian interventions as violation of the basic principle of international law and relations, that is the non-intervention principle, and other theorists see humanitarian interventions as the legal and legitimate way of protecting the security of all humanity in the world. The purpose of this study is to contend that the international community has the responsibility to intervene to prevent humanitarian crises. The emerging norm of "responsibility to protect" is getting wider acceptance and support among the scholars in the literature; although no consensus on the legitimacy of humanitarian interventions has been achieved so far. This research also attempts to clarify that the legality and legitimacy of humanitarian interventions is limited to the cases of threats to international peace and security and where there is prior authorization by the United Nations Security Council based on the Charter.

Keywords: military intervention, humanitarian intervention, the responsibility to protect, state sovereignty, non-intervention principle, United Nations, UN Security Council, violations of human rights.

# ÖZET

ÖĞRETİDE VE UYGULAMADA

İNSANİ MÜDAHALELER

Kocaman, Ayşegül

MIR, Uluslararası İlişkiler Bölümü

Danışman: Prof. Yüksel İnan


Eylül 2008


İnsani müdahaleler, devlet egemenliği ilkesi ve insan haklarını koruma sorumluluğu arasındaki çelişkili ilişkinin tam merkezinde yer almaktadır. Bazı teorisyenler insani müdahaleleri uluslararası hukukun en temel ilkesinin -yani içişlerine müdahale etmeme ilkesinin- ihlali olarak tanımlarken bir kısım teorisyenler de insani müdahaleleri dünya insanlığının güvenliğinin korunmasının yasal ve meşru yolu olarak görmektedirler. Bu çalışmanın amacı, uluslararası toplumun insani krizlerin engellenmesi için müdahale etme sorumluluğu olduğunu ileriye sürmektir. İnsani müdahalelerin meşruluğuna dair bir görüş birliğine şimdiye kadar varılamamasına rağmen ortaya çıkan "koruma sorumluluğu" normu literatürde akademisyenler arasında daha geniş kabul ve destek görmeye başlamıştır. Bu tez, aynı zamanda insani müdahalelerin yasallığının ve meşruluğunun sadece uluslararası barış ve güvenliğin tehdit altında olduğu ve Birleşmiş Milletler Yasası (Charter) çerçevesinde BM Güvenlik Konseyinin yetki verdiği durumlarla sınırlı olduğunu ortaya koymaya çalışmaktadır.


Anahtar Kelimeler: askeri müdahaleler, insani müdahaleler, koruma sorumluluğu, devlet egemenliği, içişlerine müdahale etmeme ilkesi, Birleşmiş Milletler, Birleşmiş Milletler Güvenlik Konseyi, insan hakları ihlalleri.

# ACKNOWLEDGEMENTS

# TABLE OF CONTENTS

# LIST OF ABBREVIATIONS

ESDP          : European Security and Defense Policy

FRY           : Federal Republic of Yugoslavia

G.A.           : General Assembly

GDP           : Gross Domestic Product

ICJ           : International Court of Justice

IFI           : International Financial Institutions

IO            : International Organizations

KFOR          : Kosovo Force

KLA           : Kosovo Liberation Army

NATO          : North Atlantic Treaty Organization

NGO           : Non-governmental Organizations

UN            : United Nations

UNITAF        : Unified Task Force

UNOSOM        : United Nations Operation in Somalia

US            : United States

S.C.          : Security Council

# CHAPTER 1

# INTRODUCTION

Intervention by any means (diplomatic, economic and military) has always been a complicated phenomenon in international relations. Yet, humanitarian intervention has been one of the most controversial issues in international politics. Although there is not a uniform definition of intervention in the academic field, in general it means interference in the internal affairs of the target state. Because of its meaning of interference into domestic jurisdiction of states, the legitimacy of humanitarian interventions has been hotly debated among the academic circles of international relations. The main criterion for interventions to be accepted as humanitarian is that humanitarian crises; violations of human rights should have an impact on international peace and security. When there is the risk of humanitarian crises to expand to the neighboring countries and to the entire region, the international community has assumed the responsibility to respond to massive violations of human rights, because the situation is accepted to become a threat to international peace and security.

This thesis is an attempt to understand the complex nature of humanitarian interventions by questioning its legality and legitimacy in international politics. One of the main questions that comes to mind is whether interventions called

"humanitarian" are really conducted on humanitarian reasons or whether intervening states use it in order to justify their actions for pursuing their own strategic and political interests. Questions like this make the phenomenon of humanitarian intervention controversial in the field of international relations. In this thesis, I try to elaborate on this important debates concerning the legitimacy of humanitarian interventions in order to make it a bit more clear. In the thesis, I argue that humanitarian interventions should be conducted multilaterally with the authorization of the United Nations Security Council. Humanitarian intervention is accepted to be legitimate when the situation is interpreted as threats to international peace and security and when there is prior authorization of the UN Security Council.

For that purpose, in the second Chapter I will give definitions of humanitarian intervention from different perspectives and then the emergence and evaluation of the doctrine of humanitarian interventions will be explained briefly in this Chapter. The second Chapter will continue with the focus on the debate on the legitimacy of humanitarian interventions. These debates mainly focus on state sovereignty and non-intervention which are the organizing principles of international relations. Relations between states are based on these principles since the Westphalia Treaty. Humanitarian intervention implies the responsibility of a state or international community to protect the nationals of another state from massive violations of human rights. State sovereignty and intervention are seen as inherently contradictory concepts. Some scholars deny the right of another state to intervene even on grounds of humanitarian reasons because they believe that to intervene means to violate the sovereignty of a state. In the second Chapter, state sovereignty from realist and constructivist perspectives will be discussed. It will

2

be argued that state sovereignty like other rules and principles of international relations is normative, so it is not static but open to change as the normative climate changes. I will specifically focus on the main driving forces that lead to the transformation of state sovereignty such as decolonization and globalization.

In order to grasp the importance of Security Council authorization, different articles of the UN Charter will be analyzed and also declarations and resolutions of the General Assembly and Security Council will be examined in the second Chapter. In the post- Cold War era the international community has witnessed the proliferation of intra-state conflicts. On the other hand, the UN Security Council became more flexible in defining threats to international peace and security to include refuge flows, humanitarian disasters and abuses of human rights. And also with the end of the Cold War, there is increasing cooperation between the permanent members of the Security Council, so it became easier to decide whether to intervene in order to end civil wars and humanitarian disasters. Because of all of these factors, the number of humanitarian interventions has significantly increased during this period.

There are different phases of humanitarian intervention, although in the literature the focus is on the military reaction to humanitarian catastrophe after it did happen. However, the prevention of conflicts and post-conflict peace-building are as important as the military intervention phase. Prevention of conflicts is an important stage in humanitarian interventions, because it will deter the escalation of conflicts into large scale conflicts. It is less costly and more effective as various researches show. Peace building stage after the military intervention is a complementary phase that requires the reconstruction of the state institutions and consolidating peace in the society. In order to comprehend humanitarian

3

interventions better, it would be helpful to study the peace building process, so the third Chapter will focus on these three phases of humanitarian intervention.

In the last chapter, two cases of humanitarian intervention will be analyzed. Kosovo case will be examined as an example of military reaction to humanitarian catastrophe after it did happen. Preventive actions were not so effective and the civil war broke out. After giving the historical background of the crisis, the legitimacy of the intervention in Kosovo without the authorization of Security Council will be discussed. I will also analyze the Somalia case as an example of post-conflict peace-building efforts. Somalia case is an example of military intervention when there is no government in the country. The United Nations intervention in Somalia is an important case, because for the first time the UN sent troops to the territory where humanitarian disasters occurred. In this case, we also see a broad interpretation of Chapter VII of the UN Charter by the Security Council, because the mission includes purely humanitarian crises as a threat to peace. Domestic crisis within a state was seen as a threat to international peace and UN troops are authorized to stop humanitarian crises and to rebuild order and peace in Somalia. State sovereignty in the areas of humanitarian issues is challenged and international organizations started to assume authority over humanitarian issues.

In conclusion, I argue that authorization of the UN Security Council is required for the legitimacy of humanitarian interventions. Unilateral intervention or a multilateral intervention under the command of a regional organization like in the case of Kosovo is problematic. The international community represented by the United Nations should assume the responsibility to intervene in cases when

there are large-scale human rights violations and humanitarian crises that pose a threat to international peace and security.

# CHAPTER 2

# HUMANITARIAN INTERVENTION IN GENERAL

## 2.1 Definition of Humanitarian Intervention

Humanitarian intervention has been one of the most controversial issues in international relations. The legitimacy of humanitarian intervention has been debated hotly among the theorists and practitioners of international relations especially since 1990s. Some theorists argue that humanitarian intervention cannot be legal or justifiable and others argue that there is an obligation to intervene for the protection of human rights. Francis Kofi Abiew in his book attempts to establish a legitimate basis for humanitarian intervention. According to him, there are three fundamental questions to ask: Firstly, are there minimum duties states have in terms of protecting the rights of their citizens? Secondly, can violations of these minimum duties constitute the justification for humanitarian intervention? Thirdly, how should such intervention be effectively implemented?[1] It is widely accepted that sovereign states have the responsibility to protect their citizens from threats of starvation, ethnic cleansing, slaughter etc. and if states are

---

[1] Francis Kofi Abiew, *The Evolution of The Doctrine and Practice of Humanitarian intervention* (The Hague: Kluwer Law International, 1999), 17

unwilling or unable to do so themselves, the international community has the right to exercise that responsibility. "If states are unwilling or unable to protect lives and liberties of their citizens –if they degenerate into anarchy or tyranny- then the duty to safeguard these rights reverts to the international community."[2]

In order to grasp the nature of the relationship between humanitarian interventions and state sovereignty, and the controversies among international relations theories about the legitimacy of humanitarian interventions, we should first look at the meaning of humanitarian intervention. It is important to look at different definitions of humanitarian intervention from different perspectives in order to have a comprehensive understanding of humanitarian interventions. The term humanitarian intervention has two components, intervention and humanitarian, which are seen as incompatible with each other. The term "humanitarian" in the "notion of humanitarian intervention is open to whole spectrum of interpretations."[3] An intervention ceases to be humanitarian if conducted with the calculations of economic, political and strategic interests of the intervening states. I will first try to define intervention and then later combine the two concepts that form the notion of humanitarian intervention.

In international relations, the concept of foreign intervention is used for a variety of situations but it means, in general, interference in the domestic affairs of a state in the narrower sense. Weak and failed states[4] which are unable to

---

[2] J. L. Holzgrefe, "The Humanitarian Intervention Debate" in *Humanitarian Intervention: Ethical, Legal and Political Dilemmas,* ed. J. L. Holzgrefe & Robert O. Keohane (Cambridge: Cambridge University Press, 2003), 52

[3] Pierre Hassner, "From War and Peace to Violence and Intervention" in *Hard Choices: Moral Dilemmas in Humanitarian Intervention,* ed. Jonathan Moore (Lanham Maryland : Rowman & Littlefield Publishers, 1998), 16

[4] Failed states refers to "States in which institutions and law and order have totally or partially collapsed under the pressure and amidst the confusion of erupting violence, yet which subsist as a ghostly presence on the world map" For more detail see the website at http://www.sourcewatch.org/index.php?title=Failed_state

legitimize and popularize their rule, states torn by ethnic conflicts and civil wars are prone to intervention by external actors. Intervention defined as "the calculated action of a state, a group of states, an international organization or some other international actor(s) to influence the political system of another state(including its structure of authority, its domestic policies and its political leaders) against its will by using various means of coercion (forcible or non-forcible) in pursuit of particular political objectives."[5]

Other than military intervention, there is diplomatic intervention –that is disapproval of policies of another state or granting membership to international organizations, suspending membership and withholding recognition of a new government. Economic intervention is imposing economic sanctions such as boycotts and embargoes or providing economic assistance to the opponent groups within another state to make them to bring a change in authority structure of that country.[6]

Humanitarian intervention is defined as "the threat or use of force by a state, group of states, or international organization primarily for the purpose of protecting the nationals of the target state from widespread deprivations of internationally recognized human rights."[7] Some writers, however, deny the right of another state to intervene even though a neighboring state treats its citizens in a brutal way, because they think that to intervene means to violate the sovereignty of another state. It is generally argued that humanitarian intervention has become a new justification for military action. Humanitarian interventions are nothing

---

[5] Deon Geldenhuys, *Foreign Political Engagement* (London: Macmillan Pres LTD, 1998), 6
[6] Geldenhuys, 14-15
[7] Sean D. Murphy, *Humanitarian Intervention: The United Nations in an Evolving World Order* (Philadelphia: University of Pennsylvania Press, 1996), 12

8

new, but there is a perception that the post-Cold War era is more conducive to successful interventions.

The definition of humanitarian intervention that was adopted at a NATO seminar in November 1999 is as follows: "an armed intervention in another state, without the agreement of that state, to address a humanitarian disaster, in particular caused by grave and large-scale violations of human rights."[8] Humanitarian intervention is done "without the agreement of the intervened state" so the sovereignty of that state is breached.

I believe that the right or responsibility to protect human rights and to intervene rests with the international community. Unilateral interventions by one state or allied states do not hold legitimacy, because they may use humanitarian intervention as a tool for pursuing their own political and economic goals. So, unilateral intervention by one state in the domestic affairs of another one in the name of protecting human rights is problematic. I agree with P. B. Mehta that the decision to intervene and the right to protect human rights should be located in international institutions. Multilateral intervention is considered as legal and legitimate compared to unilateral interventions. The duty to protect human rights rests international organizations rather than individual states to intervene selectively in some cases and not in others.[9] So, the reform and strengthening of international institutions is a better way to protect international peace and security.

---

[8] *CSS Strategic Briefing Papers*, "Humanitarian Intervention: Definitions and Criteria," 3(1) (June 2000) available at http://www.victoria.ac.nz/css/docs/briefing_papers/Humani.html (last accessed on 28 March 2008)

[9] For detailed knowledge, see Pratab Bhanu Mehta, "From State Sovereignty to Human Security (Via Institutions?)" in *Humanitarian Intervention*, ed. Terry Nardin & Melissa S. Williams (New York & London: New York University Press, 2006), 270-283

There should be a balance between the sovereignty of states and protection of human rights. Balancing sovereignty with protection of human rights is not an easy task. Some states advocate the establishment of formal criteria for humanitarian intervention. Some of the criteria are: The threat should be grave and large-scale violations of human rights, the use of force should be the last resort, the purpose of use of force should be limited to stopping the human rights abuses, there should be high probability of success, and the use of force should be proportionate to achieving these goals. Intervention should not violate the independence of target states and everything about the purpose and conduct of intervention should be clear. However, establishing criteria for humanitarian intervention does not mean that it would regulate the conduct absolutely.[10]

## 2.2. Emergence of the Doctrine and Practice of Humanitarian Intervention

In the 19th century, examples of military intervention have been justified by the humanitarian considerations of the major powers, but it involved the political interests of the intervening parties. "At the end of the 19th century, many legal commentators held that a doctrine of humanitarian intervention existed in customary international law."[11] However, many legal scholars disagreed, because the state practice prior to 1945 was inconsistent with regard to humanitarian interventions that the existence of the doctrine of humanitarian intervention was questionable.

---

[10] *CSS Strategic Briefing Papers*, "Humanitarian Intervention: Definitions and Criteria," 3(1) (June 2000) available at http://www.victoria.ac.nz/css/docs/briefing_papers/Humani.html (last accessed on 28 March 2008)
[11] "The Responsibility to Protect", 17

Humanitarian interventions from 1990s and onwards have more legitimacy in the international arena. Humanitarian interventions before 1990s (during the Cold War) such as Belgium's intervention in the Congo (1960), the United States' intervention in the Dominic Republic (1965), Vietnam's intervention in Cambodia (1978), France's intervention in Central Africa (1979), the US' intervention in Grenada (1983) etc. are mostly justified by humanitarian considerations by the intervening states. However, in most of the cases the protection of the human rights of nationals abroad was used as cloak to hide the real motivations. Powerful states used humanitarian interventions as a legal pretext for their interventions. "Strong states which are –for reasons of good or bad- determined to intervene in a weak state have no shortage of legal rationalizations for their actions."[12]

Systemic change that is change of the international system of bipolar Cold War structure to multipolar post-Cold War structure, has been one of the reasons that humanitarian intervention gained much more concern and attention of the international community. "The politics of the 1990s have moved humanitarian intervention to the center of world affairs."[13] In the following pages, I will try to explain the basic differences between humanitarian interventions during the Cold War period and post-Cold War period.

**2.2.1. Humanitarian Intervention during the Cold War**

The United Nations has not been an effective organization in resolving conflicts, bringing international peace and security as it is expected to be. The reason is that it does not have a supranational executive mechanism to implement

---

[12]"The Responsibility to Protect" , 67
[13] J. Bryan Hehir, "Military intervention and National Sovereignty: Recasting the Relationship," in *Hard Choices: Moral Dilemmas in Humanitarian Intervention* , ed. Jonathan Moore (Lanham Maryland: Rowman & Littlefield Publishers, 1998), 52

its resolutions and also the interests of the permanent members of the Security Council. Sovereignty of states puts the great obstacle on the UN. The United Nations championed sovereignty of nation states at the expense of protection of human rights. In the Article 2(4) of the UN Charter it is stated that "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state."[14] Enforcement of human rights law is left to the consensus of the member states including the permanent SC members. If national interests of sovereign states of members of the UN, especially permanent members of the Security Council, are threatened by violations of human rights, then action against aggressors became an option. Only then "will forces under the UN command be used if necessary to enforce the observance of human rights."[15]

During 1980s, most of the Western, advanced states were not in favor of humanitarian intervention, both because they feared international controversies over the decision to intervene and because there were serious violations of human rights in many countries that intervention in all of these states were impossible. International human rights organizations could not intervene in the internal affairs of these states to protect people from violent actions of sovereign governments especially before 1990s. Only after the end of the Cold War and the acceleration of the effects of globalization that humanitarian intervention gained more support and international organizations began to have an effective role in protecting human rights.[16]

---

[14] The UN Charter available at http://www.un.org/aboutun/charter/chapter1.htm
[15] Beatrice Heuser, "Sovereignty, Self-Determination, and Security," in *State Sovereignty: Change and Persistence in International Relations*, ed. Sohail H. Hashmi (Pennsylvania: the Pennsylvania University Pres, 1997), 92
[16] Robert H. Jackson, *Quasi-States: Sovereignty, International Relations, and The Third World* (Cambridge: Cambridge University Press, 1990) , 160

**2.2.2. Humanitarian Intervention after the End of the Cold War**

The practice of humanitarian intervention in the post- Cold War era has changed very much. The international community witnessed the proliferation of intra-state conflicts in such places as the former Yugoslavia, Somalia, Liberia, Rwanda and Afghanistan etc. On the other hand, the UN Security Council became more flexible in defining threats to international peace and security to include refuge flows, humanitarian disasters and abuses of human rights. Also with the end of the Cold War, there is an increasing cooperation between the permanent members of the Security Council, so it became easier to take decisions whether to intervene in order to end civil wars and humanitarian disasters. "The most substantive departure in the post- Cold War era remains the Security Council's willingness to authorize military actions in response to matters thought previously to be solely within the domestic jurisdiction of states."[17] Because of all of these factors, the number of humanitarian interventions has increased very much.

The end of the Cold War increased the scope of humanitarian interventions, because some of the obstacles before the interventionary activities are lifted, and also the number of ethnic conflicts, starvation, human rights abuses by authoritarian leaders of failed states increased. All these reasons led to the increase of the cases of humanitarian intervention. East-West conflict during the Cold War blocked any possibility of decision taking in the Security Council in favor of conducting humanitarian intervention. Third World countries and authoritarian regimes played two superpowers against each other and used state sovereignty as a shield against any intervention in their domestic affairs.[18] After the end of the Cold War, it became easier to take decisions to conduct

---

[17] "The Responsibility to Protect" , 118
[18] Geldenhuys, 18-20

humanitarian intervention or to interfere in the internal affairs of states. However, the international community experienced a great disappointment when humanitarian interventions in Somalia, Haiti, and Bosnia during the first half of 1990s failed to achieve its purposes and led to retreat of the international community from humanitarian interventions. But, during recent years, again there is an increasing tendency to intervene in the internal affairs of weak and failed states.[19]

In the age of globalization, most of the conflicts are internal. Interstate conflicts and wars decreased while the number of intra-state conflicts increased dramatically. When the superpower rivalry ended, most of the ethnic groups claimed a right to self-determination. In other cases, civil strife in failed states in the Third World started to have direct and indirect effects on the world order, because state collapse causes chaos in one country and region can spill to other regions and escalated to the extent that it may threaten world order and international security badly.

The United Nations intervention in Somalia is an important case, because for the first time the UN sent troops to the territory where humanitarian disasters occurred. In this case, we also see a broad interpretation of Chapter VII of the UN Charter by the Security Council, because the mission includes purely humanitarian crises as a threat to peace. Domestic crisis within a state was seen as a threat to international peace and UN troops are authorized to stop humanitarian crises and to rebuild order and peace in Somalia. State sovereignty in the areas of

---

[19]Geldenhuys, 33-35

humanitarian issues is challenged and international organizations started to assume authority over humanitarian issues.[20]

If international problems pose a threat to international peace and security, foreign intervention in the internal affairs of states can be considered as possible and just (and maybe necessary). In Chapter VII of the UN Charter the limits to state sovereignty are recognized. These limits are at the points "at which the UN Security Council determines a threat to international peace and security under Chapter VII." Article II (VII) which sets down the principal of non-intervention in the internal affairs of states also gives the limits to this principle: "This principle shall not prejudice the application of enforcement measures under Chapter VII."[21] Since the end of the Cold War, broader interpretation of Chapter VII of the UN Charter resulted in the rise of the number of humanitarian interventions. The Security Council started to decide what constitutes a threat to international peace and security in a more flexible manner than during the Cold War. At the UN Security Council summit meeting of 31 January 1992, members of the Security Council stated that "the absence of war and military conflicts amongst states does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security."[22] After the end of the Cold War, the international community developed a new understanding that they have a right to involve in the domestic affairs of states, to interfere in internal affairs, because these threats have international consequences.

---

[20] Kamal S. Shehadi, "Clash of Principles: Self-determination, State Sovereignty and Ethnic Conflict," in *State Sovereignty: Change and Persistence in International Relations,* ed. Sohail H. Hashmi (Pennsylvania: the Pennsylvania University Pres, 1997), 106-108
[21] For detailed knowledge, see James Gow, "Shared Sovereignty, Enhanced Security: Lessons from the Yugoslav War," in *State Sovereignty: Change and Persistence in International Relations*, ed. Sohail H. Hashmi (Pennsylvania: the Pennsylvania University Press, 1997), 171
[22] UN Doc. S/PV 3046, 143, 31 January 1992

The Western ideas of democracy, respect for human rights and fundamental liberties, good governance, and economic liberalization are the main driving forces behind humanitarian interventions and with globalization the spread of these ideas are accelerated. However, there is also another side of the medallion: International humanitarian intervention is also viewed with suspicion and fear since it reminds many backward countries the memories of imperialism, colonialism, and racism. Nevertheless, this attitude of hostility to humanitarian intervention seems to be changing gradually.[23] It's argued by some that under the name of "humanitarianism recolonization of Africa is taking place in international relations again."[24] The Third World states are mostly in favor of non-intervention principle and against humanitarian interventions because they feel threatened by imperialism. However, disengagement by the international community in the intrastate conflicts and human rights violations may be as much a threat to the Third World countries as fears of colonialism, imperialism associated with humanitarian intervention. Some objective criteria for the conduct of humanitarian intervention may be helpful to overcome the fears of vulnerable Third World countries.[25] Setting of objective criteria will also be helpful in addressing the legitimacy problem which is at the center of the humanitarian intervention debate. In questioning the legitimacy of humanitarian interventions, analyzing of the concepts of state sovereignty and non-intervention principles will be beneficial.

## 2.3. State Sovereignty vs. Responsibility to Protect

State sovereignty, legal equality of states and non-intervention to the domestic affairs of states are the basic organizing principles of international

---

[23] Abiew, 244
[24] Geldenhuys, 30
[25] Hehir, 38

16

relations. Relations between main political units (the states) are based on these principles since Westphalia Treaty (1648). Institutions, norms and rules in the international arena are made by men and sovereignty and related concepts such as mutual recognition, non-intervention are also products of political agents.

With decolonization, sovereignty is expanded to the newly independent and weak states. With sovereign rights these states are incorporated into international community and had gained international safety with the guarantee of non-intervention to the internal affairs of states. The rulers of these states take advantage of their sovereign rights sometimes at the expense of the rights of their citizens. States have unequal powers in the international system, so sovereign statehood is a protection shield for weak states and is more liberating for weak ones because of the idea of non-intervention. However, it should not be forgotten that political institutions and principles are not independent of human thought, because it is human beings who invent and operate them, so sovereignty regime is also "artificial political arrangement which could be altered or even abolished."[26] Emergence of negative sovereignty after the decolonization is a basic change of human thought and will show how the international system should operate.

In this part, I will try to explain briefly how realists and constructivists look to state sovereignty. I argue that state sovereignty like other rules and principles of international relations is normative, so it is not static but open to change as the normative climate changes. I will specifically focus on the main driving forces that lead to the transformation of state sovereignty. I will try to explain the impacts of decolonization, the end of Cold War and globalization on the principles of state sovereignty. In recent years, especially the evolution of human

---

[26] Jackson, 7

rights norms and the increase in the number of humanitarian intervention cases also have caused some changes in the conduct of international relations and so, changes in the understanding of the international community of state sovereignty.

### 2.3.1. Definition of State Sovereignty

Sovereignty is defined as "the supreme legitimate authority within a given territory."[27] Constituent parts of sovereignty is therefore territoriality (sovereign has the legitimate authority within defined borders), legitimacy (sovereign should be acknowledged by domestic and international community, otherwise his power cannot make him absolute sovereign within that defined territory) and supremacy (sovereign should be the supreme authority that nobody could challenge his authority.)[28]

Stephen Krasner defines four different meanings of sovereignty. First, "independence sovereignty" means the ability of state authorities to have control over borders, to manage movements across borders. However, globalization has reduced this ability of states, because movements of goods, capital, people and technology across borders became easy and sovereign governments cannot regulate everything. Second, "domestic sovereignty" is the acknowledgement of authority as legitimate by people within territorial boundaries of the state and sovereign authority should be able to exercise effective control over people. It can also be called as internal sovereignty. Third, "Vattelian sovereignty" which is introduced by Emmerich de Vattel, means that sovereign authorities are free from foreign intervention in their internal affairs. States are free to do as they pleased

---

[27] Daniel Philpott, "Ideas and the Evolution of Sovereignty," in *State Sovereignty: Change and Persistence in International Relations,* ed.  Sohail H. Hashmi  (Pennsylvania: the Pennsylvania University Pres, 1997), 19
[28] Philpott, 17-19

within their territory. This is the principle of non-intervention. Vattelian sovereignty can also be called as external sovereignty. Forth, "international legal sovereignty" is about mutual recognition that is independent states recognize each other as competent in entering into international relations, making treaties etc.[29]

In the contemporary international system, all ex-colonies are given sovereignty rights and they enjoy formal equality with other states in the international arena. The newly independent states which possess sovereign rights do not have the capacity to provide socio-economic welfare to their populations also don't have well functioning institutions. They have "juridical statehood", but not "empirical" statehood that is the ability to rule their population in line with international law and democracy. Jackson calls these states "quasi states."[30] Although quasi states lack the institutional capacity to sovereign statehood, they cannot be deprived of sovereignty by war or invasion. External foreign intervention was not justified under the changed international norms at that time[31] (during 1960s, 1970s and 1980s). Quasi-states are not capable of freedom to act, but the doctrine of negative sovereignty is intended to justify independence of these states. Negative sovereignty can be defined *freedom form* outside interference: "Non-intervention and sovereignty in this meaning are two sides of the same coin."[32] Positive sovereignty, on the other hand, means *freedom to* act, to provide political goods to its citizens, to have the authority to declare and implement policies domestically and internationally. States that possess positive sovereignty have the characteristics of empirical statehood that is they are able to

---

[29] Krasner, 19-21
[30] Jackson, 10
[31] Jackson, 23-24
[32] Jackson, 27

provide their people protection from external and internal threats and provide them socio-economic welfare.[33]

### 2.3.2. State Sovereignty from Different Perspectives

In the realist perspective, sovereign statehood is an analytical assumption that sovereign states are given units, which are unitary, rational actors whose primary concern is their survival, so to increase their security in an anarchic world order. According to constructivism, sovereign states are not given units in international relations. International relations are based on particular patterns of norms and principles, political actors have a shared intersubjective understanding on which norms and what kind of actions is appropriate in the constitution of international relations.[34] According to constructivists, the changes in the ideas of international structure, legitimate authority etc. lead to the changes in the norms of sovereignty. Realists always put emphasis on material factors in the evolution of sovereignty, whereas constructivists emphasized ideational considerations in the emergence and changes of norms of sovereignty. Ideational changes such as the emergence of state sovereignty at Westphalia, decolonization during 1950s and 1960s, the founding of European Union, and increased awareness of human rights violations and the rise of the humanitarian intervention all led to significant transformation in legitimate authority, so transformation of the understanding of the conception of sovereignty.[35] Structural realists argue that changes in ideas cannot lead to revolutions in sovereignty. Material and structural factors such as technology, social classes, economic power, military power etc. are more powerful in explaining changes in sovereignty. However, changes in ideas are an

---

[33] Jackson, 32-38
[34] Krasner, 22
[35] Philpott, 22

20

important part of the explanation of the changes in sovereignty, if not the sole source of changes.[36] Ideas have a social power that influence public, government officials, intellectuals, scholars etc. and lead to a transformation of norms of sovereignty. Realists believe that constitution of new structures of international relations and revolution in sovereignty is a product of "power and interests of the economically and militarily strongest polities."[37] If the new formation of norms and rules is in the interests of materially powerful actors, then the new ones replace the old ones. However, ideational explanations argue that material power shifts themselves are the results of the spread of ideas, so the main source of change in the new constitution of international relations and evolution of sovereignty is, no doubt, ideas.

### 2.3.3. Transformation of State Sovereignty throughout History: Main Driving Forces behind the Changes in the Concept of Sovereignty

The new governing norm of international relations after Westphalia Treaty (1648) was sovereign statehood. Before Westphalia, all monarchs, emperors, princes lived under the common law of Christendom, they did not possess supreme legitimate authority. This transformation of the international system and the emergence of modern sovereign state system were inspired by the ideas of Reformation which favored authority of the Princes against the Catholic powers.[38] By the twentieth century, empirical sovereign statehood was recognized by positive international law: territory within a defined boundary, stable population and a capable government are the essential features of this sovereign statehood.[39]

---

[36] Philpott, 22-23
[37] Philpott, 24
[38] Philpott, 30
[39] Jackson, 61

As a result, some states which show the capabilities of empirical statehood were incorporated into the international society as independent states and the rest was subordinated as dependent colonies. In the African continent, there were no territorial states that were capable to exercise authority over a stable population and provide order within a defined territory.[40] In the late 19th century, the European states shared the African continent among themselves as their colonies, so at that time there were sovereign states of Europe and America and dependencies which don't have empirical sovereign statehood status. During the time of the League of Nations, "Mandate" system was established. Advanced sovereign states were given the responsibility to promote the improvement of underdeveloped people in Africa and to bring civilization in those places. Also under the "Trusteeship" that was institutionalized in the United Nations Charter, some backward states were put under the responsibility of advanced states as trust territories.[41]

After the end of the Second World War; decolonization, the idea of self-determination and anti-colonial ideas led to the changes in sovereignty and as a result the emergence of a negative sovereignty regime. During 1950s and 1960s decolonization took place. All colonies were given sovereign rights which are based on the doctrine of self-determination. Colonial peoples are accepted as having the capacity to govern themselves as independent states. 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly Resolution 1514) proclaimed that "all peoples have the right to self-determination" and "inadequacy of political, economic, social or educational

---

[40] Jackson, 67-69
[41] Jackson, 72-73

preparedness should never serve as a pretext for delaying independence."[42] All different ethnic groups who live under the colonial rule were accepted as one nation and self-determination and sovereignty rights were given to them. Pre-existing colonial boundaries are accepted as the boundaries of the new independent states and separation of different ethnic groups are not permitted. Maybe this is the main reason of many ethnic conflicts and civil wars on these territories which led to serious human rights abuses and humanitarian chaos. I will turn this issue later in this Chapter.

The changing rules and norms and changed understanding of international legitimacy can explain decolonization by the Western powers and the emergence of the negative sovereignty regime in the international arena. Self-determination and equal sovereignty became the main principles of international relations and colonialism became the most protested doctrine of international relations.[43] There is no place for justification of foreign rule over African continent or other parts of the world. All these show that evolution of new ideas that contradicts the older ones and gained supporters around the world led to the evolution of sovereignty. Norms and conduct of international relations are not static, but they are changing. And today, since 1990s, protection of human rights and the idea of humanitarianism also affect the meaning and limits of sovereignty and led to the emergence of the conduct of humanitarian intervention which contradicts the principle of non-intervention.[44]

---

[42] United Nations General Assembly's proclamation on 14 December 1960 of the Declaration on the Granting of Independence to Colonial Countries and Peoples - resolution 1514 (XV).
[43] Jackson, 83-85
[44] Philpott, 35-47

**2.3.4. State Sovereignty and Violations of Human Rights**

In most of the Third World countries, violations of human rights, repression of people and civil wars have occurred and still this is the case. Citizens of these states became victims of violence inflicted by sovereign governments. In those countries, states pose a threat to the security of their population rather than being the main provider of security. This situation creates a contradiction between sovereignty rights and human rights. As a result, a reaction to this negative sovereignty regime occurred in the international society: Codification of human rights in many international conventions. International humanitarian law is formed against the sovereign governments that fail to protect human rights. Because governments of the Third World countries "use their sovereign rights to deny or at least neglect human rights" government's freedom of actions is intended to be limited by human rights laws.[45]. Arbitrary uses of force, oppression of political, social, cultural and economic rights of people are some examples of human rights violations. International human rights norms set the standards of conduct by the rulers to their people and also conduct between people. "Today, for the first time in history, how a sovereign state treats its own citizens is no longer a matter for its own exclusive determination, but a matter of legitimate concern for all states and for their inhabitants."[46]

In most of the Third World countries, there are many different ethnic groups which are marginalized and not given political and economic rights. They do not have the right to self-determination and their basic human needs are not met, so most of the ethnically different people have to migrate and great numbers of refugees flow to other countries which creates security problems for the region

---

[45] Jackson, 45-49
[46] Jackson, 144

and even for the international community. Self-determination, independence, sovereignty are all considered as good, but whether these concepts are good or bad depends on the circumstances. Most of the Third World states used these rights for their authoritarian purposes or the governments are so inexperienced in governing that they were unable to operate in accordance with "rule of law" and "humanitarian law."[47]

The sovereign rulers are mostly concerned with their own security and survival of their regime rather than the security of their people. Statesmen of the Third World states are mostly abusive and coercive in their domestic conduct with their people and this leads to internal disorder. Most of the Third World states use the new international norms such as non-intervention, self-determination etc. as a shield against any criticism made by Western governments with regard to human rights violations by abusive governments. So, it can be argued that international norms and rules or new doctrines such as negative sovereignty contributes to abusive actions of sovereign governments, because these norms are mostly in favor of sovereign governments at the expense of the human rights of the population of these states.[48]

Sovereignty is compromised by globalization and humanitarian interventions. Globalization means intensification of interactions between states, civil societies, ethnic groups and people around the world. Globalization makes it more crucial for states to be more concerned with what is going on different parts of the world, with domestic problems of even distant countries. Conflicts in those countries may have a significant impact on international peace and security.[49]

---

[47] Jackson, 151
[48] Jackson, 161-163
[49] David Dickens & Guy Wilson Roberts, "Non-Intervention and State Sovereignty in the Asia Pacific," *Centre for Strategic Studies, Wellington New Zealand*, (2000): 38

Sovereignty is confronted by globalization and economic interdependence. "No longer is the state the sole or the most important actor in the international arena."[50] In the age of globalization, states need to cooperate in order to be able to manage the problems that globalization generated or intensified. The process of globalization has blurred the distinction between domestic and international.

With the acceleration of globalization, interdependence between states increased, non-state actors emerged, awareness of human rights violations increased across the globe, so the immunity of state sovereignty started to be questioned in our contemporary world. However, this does not mean a total erosion of state sovereignty, because sovereignty is still one of the organizing principles of world politics.

State sovereignty became more problematic in today's globalized world. States are not anymore free to do anything as they pleased in their domestic affairs. Human rights norms put a universal standard of conduct and NGOs and IOs started to monitor human rights violations. We also see the emergence of supranational organizations that states give up some of their sovereignty and a kind of "pooled sovereignty" emerged. Here we see a regional integration. On the other hand, after the disintegration of the Soviet Union, many small states emerged and they possess state sovereignty. So, there is a trend towards two different directions: One is towards greater integration and the other is towards "subnational disintegration."[51]

---

available at  http://aus-cscap.anu.edu.au/NonInterv.pdf  (last accessed on 24 October 2007)
[50] Dickens &Roberts, 43
[51] Sohail H. Hashmi, "Introduction," in *State Sovereignty: Change and Persistence in International Relations*, ed. Sohail H. Hashmi  (Pennsylvania: Pennsylvania University Press, 1997), 2-4

**2.3.5. The Failure of States to Protect Their People and the Responsibility of the International Community to Protect the Nationals of Other States**

According to Hobbes, sovereignty is absolute that intervention is unacceptable. But Grotious had different understanding of sovereignty. For him, sovereignty is limited by natural law and international law such as treaties and customary practices. Sovereign states are free agents as long as they conduct their affairs in line with international rule of law. He argues that "the principle that exclusiveness of domestic jurisdiction stops when outrage upon humanity begins." He claimed that "the use of force by one or more states to stop the maltreatment by a state of its own nationals" is lawful.[52] The debates around intervention vs. sovereignty and the limits of state sovereignty started at this time.

Some argue that sovereignty and intervention are not inherently contradictory concepts, because sovereignty of states requires states to protect their people from grave harm, threats of starvation, massive killings etc, if they fail to do so then coercive intervention by the international community for the protection of nationals of other states becomes necessary and legitimate.

John Stuart Mill argues against intervention and claims that negative sovereignty should be respected. Although he believes that intervention in another state is not legitimate, he claims that intervention is justifiable in "barbarous nations" which is an illiberal government that inflicts violence on its population and they cannot claim non-intervention. "Such government has no rights as a sovereign and the intervening state has only to protect the human rights of the local population."[53] However, during 1950s-1980s, intervention was not seen as a lawful solution to the human rights violations and many advanced states stayed

---

[52] Quoted from Thomas G. Weiss & Cindy Collins, *Humanitarian Challenges and Intervention: World Politics and Dilemmas of Help* (Oxford : Westview Press, 1996), 17
[53] Quoted from Jackson, 185

back and did not interfere in the internal affairs of abusive states. As time passed, international rules and norms changed, international structure evolved and the understanding of international legitimacy has changed, so today humanitarian intervention is seen as a possible way of dealing with illiberal, abusive governments of the Third World countries. If the criteria for intervention on humanitarian grounds are set clearly and the purpose of the intervention is clear, the number of humanitarian interventions may increase and become a legitimate tool to handle violators of human rights which are mostly sovereign governments of Third World states. Since 1990s, the cases of humanitarian intervention increased dramatically, the impact of globalization cannot be denied, because "a violation of rights in one part of the world is felt everywhere."[54] Humanitarian awareness increased greatly by the mass media and Western governments cannot be inactive to the violations of human rights, both because their citizens put a pressure on themselves, and bad governance and human rights abuses would affect international security because interdependence between states increased very much. In the formation of the public opinion, media plays a central role. Public support for interventions is necessary in democratic states. The media presents the atrocities, suffering of human beings in different parts of the world and citizens, so citizens of a democratic state may feel a responsibility to protect human beings and support humanitarian interventions.[55]

---

[54] Jackson, 145
[55] Sylvan & Pevehouse, 76-83

**2.3.6. The Principle of "Non-intervention" in the Domestic Affairs of the Sovereign States versus Humanitarian Intervention**

There are two competing interpretations of state sovereignty: One is sovereignty as "privacy" which implies freedom from intervention by outside actors in the internal affairs of states. This also refers to negative sovereignty. The domestic affairs of states are private sphere, so neither international organizations nor other states can interfere in this private sphere. Privacy of states cannot be violated like privacy of individuals cannot be violated. This interpretation of sovereignty makes territorial integrity of states and non-intervention unbreakable principles.[56] This interpretation of "sovereignty as privacy" was dominant during the Cold War years. The international community was reluctant to intervene in the internal affairs of states. However, since the end of the Cold War, especially in recent years, another interpretation of sovereignty gained preeminence. "Sovereignty as responsibility" means that sovereign states should be held internationally accountable for their policies even in internal affairs, their treatment of citizens, protection of human rights etc.[57]

According to cosmopolitanism, human rights and fundamental liberties are assumed as universal and apply to all countries. So, under the "cosmopolitan" international law, international community has an obligation to intervene in another state when grave human sufferings occur within a state. Solidarity with others necessitates international community to intervene to stop humanitarian catastrophe. Defenders of the universal human rights and universal morality argue that international community has a right to protect human rights notwithstanding

---

[56] Catherine Lu, "Whose Principles? Whose Institutions? Legitimacy Challenges for Humanitarian Intervention," in *Humanitarian Intervention*, ed. Terry Nardin & Melissa S. Williams (New York & London: New York University Press, 2006), 195-197
[57] Lu, 198

the particularities of different communities. (Cosmopolitanism vs. communitarianism) Defenders of humanitarian intervention have "solidaristic" world view according to which human beings show solidarity with other human beings" and on the other hand, defenders of non-interventionism have a "pluralistic" view of world order according to which "sovereignty remains the lodestar of identity in many crucial respects."[58]

The real meaning of state sovereignty should not be forgotten. It is "the supreme legitimate authority within a defined territory." So, sovereign government gets its authority from the will of its people, but if the governments act against the will of people and abuses human rights, how can it claim a right to sovereignty? It loses its legitimacy and humanitarian interventions reinforce the state and its sovereignty by replacing or rehabilitating the old, illegitimate authority with the new one.[59]

Gregory Fox also argues that this kind of intervention in humanitarian crisis and protection of human rights just strengthens state sovereignty. The evolution of human rights norms and the increase in the number of humanitarian interventions does not mean an erosion of state sovereignty. Instead it is aimed at strengthening state sovereignty by replacing authoritarian regimes which do not anymore possess supreme legitimate authority neither in the eyes of domestic groups nor in the eyes of international community with governments whose conduct is in line with liberal democratic principles. So, these governments would be acknowledged as more legitimate than the older one and sovereignty of the state would be strengthened. They will be more powerful both in the international arena and in the domestic arena, because political participation will be broadened. Once the

---

[58] Mehta, 262
[59] Mehta, 264

state institutions and legitimate authority is established, the international community will stop its intervention and retreat from that country.[60]

Globalization increased the interdependence of states and the level of interconnectedness between states and people across national borders. This increased interconnectedness lead to the broadening of the area of "intermestic affairs" that is the "overlap between domestic and international affairs."[61] Humanitarian awareness and concern about human rights increased greatly by the effect of media. Suffering in one part of the world is known in distinct parts of the world.

Westphalian nation state system is affected by the forces of globalization. Theorists of globalization argue that the centrality of nation-state in international relations is weakened. Forces of globalization-internationalization of the economy, the easiness of transportation, communication etc. - undermined the strength of the nation state and a higher source of authority is needed. With greater economic integration and interdependence, the states became unable to control cross border movements of goods, people and capital, and cannot respond to the threats by themselves. Threats such as illegal migration, globalized and organized crime, global terrorism, environmental degradation, huge number of refugees etc. all reduce the ability of states to deal with the global problems. Globalization forces also affected the Third World states badly. They have unequal share of global income and they are dependent on foreign aid. There are also ethnic conflicts and the risk of civil wars, so it is believed that nation-states

---

[60] Gregory H. Fox, "New Approaches to International Human Rights: The Sovereign State Revisited," in *State Sovereignty: Change and Persistence in International Relations*, ed. Sohail H. Hashmi (Pennsylvania: the Pennsylvania University Press, 1997), 125-130
[61] Geldenhuys, 36

cannot address to crisis effectively and a kind of global governance is necessary.[62] However, this argument is utopian and states are still the primary political units though weakened by globalization forces.

The importance and relevance of sovereignty in international relations did not erode with the effects of the end of Cold War and globalization. However, absolute sovereignty came under great pressure that there is growing tendencies around the world towards "shared sovereignty." Sovereignty can be shared both at the domestic level with different ethnic groups which aspire for self-determination and at the international level with other sovereign states or international organizations in an increasingly interdependent world. Threats to security are globalized, so solutions to these threats are also globalized. Most of the states cannot deal with the problems and threats by themselves and needs international cooperation. "Shared sovereignty can mean enhanced security."[63] With shared sovereignty and increased international cooperation, conflicts can be settled peacefully and security at the individual, group, state and international level can be enhanced.

## 2.4. Basic Criteria for a Military Intervention to Be Considered As Humanitarian Intervention

For some security scholars, humanitarianism is only a cloak in order to cover the possible motivations and interests in military interventions. On the contrary, constructivists regard humanitarianism as a real motivation for state action. We need to understand the normative system in which political action

---

[62] Howard Adelman, "Theory and Humanitarian Intervention," in *International Intervention: Sovereignty versus Responsibility,* ed. Michael Keren & Donalda Sylvan (London: Frank Cass .LTD, 2002), 6-9
[63] Gow, 154

takes place. When states determine whether to undertake humanitarian intervention and to make decisions about how to intervene, statesmen have to consider many conflicting norms and values. "Humanitarianism" by itself, never provides a satisfactory explanation of an intervention argues Martha Finnemore "only by examining broader normative landscape in which humanitarianism rests can we begin to understand its effects."[64] Internationally held values and norms change over time and these changes have an impact on humanitarian intervention. In 1980s, ethnic conflict, genocide, mass killings did not provoke military intervention by Western governments, but in 1990s governments became willing to take military actions in response to humanitarian crisis. This is an example of changed normative climate. The rise of human rights and the institutionalization of human rights claims is the most important reason of these changes. When states do not meet good governance and human rights standards, outside actors increasingly recognize humanitarian interventions legitimate.[65]

However, there is the risk that humanitarian intervention may be abused by some intervening states that want to justify their actions of pursuing their own political and economic agendas. States especially the powerful ones are more selective in their intervention priorities. In some cases, they are reluctant to intervene to stop humanitarian abuses and protect civilians whereas in other cases they intervene enthusiastically maybe because of the possible gains from those interventions. So, some measures and criteria for conducting humanitarian interventions must be clearly indicated. For a military intervention to be considered as humanitarian intervention it should be a response to an immediate

---

[64] Martha Finnemore, "Paradoxes in Humanitarian Intervention," (September 2000): 2 available at http://www.cgpacs.uci.edu/research/working_papers/martha_finnemore_humanitarian_interventio n.pdf
[65] Martha Finnemore, *The purpose of Intervention* (New York: Cornell University Press, 2003), 52-84

and grave threats to human rights; it should be limited to protecting human rights and coercive measures should be proportionate to the threats.[66] Forming of effective rules of humanitarian intervention is necessary. Definitions to international peace and security must be clear. Without the rules clearly articulated, sovereign nation states cannot be successful in dealing with conflicts in Third World states.[67] Codification of the rules of humanitarian intervention may stop abuses of humanitarian intervention by some states to pursue their own political and economic goals. This kind of setting criteria or codifying the rules of humanitarian intervention may also put an end to the selectivity problem-that is the states chose to intervene in some cases and not to intervene in other cases according to their interests. Humanitarian interventions authorized by the International Organizations according to the rules clearly set and codified will not be open to abuses by powerful states and the main aim of humanitarian interventions will be just humanitarian. The suspicions and worries of some weak states about the motivations of the intervening states may also erode if such kind of codification is made, because many of the Third World states are afraid of the real purposes of intervening countries. However, this not an easy process.

It is believed that the international community represented by the United Nations has the right to intervene in situations of massive violations of human rights, because it is the international community that can take actions in line with the international interests rather than regional or national interest. Humanitarian interventions by a regional organization such as NATO can also be abused by the major powers, so the United Nations seems to be the most appropriate international organization in contemporary international politics.

---

[66] Geldenhuys, 9–10
[67] Adelman, 16–18

# CHAPTER 3


# THE UNITED NATIONS AND HUMANITARIAN INTERVENTION


## 3.1. Authorization of Humanitarian Interventions

As it is mentioned in the previous chapters, for humanitarian interventions to be legitimate, it should be conducted multilaterally by international organizations rather than unilateral interventions by some powerful states. In this regard the United Nations is the authorizing source of military interventions and also should be the main agent that organize and conduct humanitarian interventions. Otherwise, humanitarian interventions will be open to abuses by major powers and the main objectives of humanitarian interventions cannot be realized.

Authorization for the use of force for humanitarian purposes is one of the important functions that the UN has and does not want to loose, because it shows that the UN is capable of addressing significant issues regarding security of the international society.[68] The United Nations is established for the purpose of providing and maintaining of international peace and security, so authorization of the use of force is an important function of the UN for the  fulfilling of  its main objective of providing and maintaining international security. Regional

---

[68] Jennifer M. Welsh, "Authorizing Humanitarian Intervention," in *United Nations and Global Security,* ed. Richard Price  (Gordonsville, USA: Palgrave Macmillan, 2004), 178

organizations such as NATO and EU or major powers such as the United States should not assume the role of the United Nations and try to substitute it in providing international peace and security. Although the United Nations has some deficiencies and need to be reformed in many aspects, "it is still viewed in most of the world as the primary agent of international legitimacy, so the UN authorization of interventions should remain the norm."[69]

There are different kinds of peace operations that the UN is authorized to undertake. Peacekeeping operations are traditional peace operations undertaken with the consent of the intervened states. The UN should remain "neutral" and cannot take sides. However, peacebuilding (or peacemaking) operations are different from peacekeeping operations. In order to restore peace and security in the conflict-torn areas, the UN has to involve actively in the interventions, just policing activities is not enough. Furthermore, for a military intervention to be considered as peacemaking, the use of force *without the consent* of the intervened state is necessary. Otherwise, the operations cannot fall under the category of peacebuilding or humanitarian interventions.[70]

Massive violations of human rights in failed and weak states is regarded as threats to international peace and security by many scholars and practitioners, not just an internal problem of the sovereign states. Chapter VII of the UN Charter provides for military action in cases that threats to international peace and security occurs and in recent years the number of humanitarian interventions for the purpose of easing sufferings of people in failed and weak states has increased. In the decisions of the United Nations Security Council, we can see the broadening

---

[69] C.A.J. Coady, "The Ethics of Armed Humanitarian Intervention" United States Institute of Peace, Peacework 45, (July 2002) Available at: http://www.usip.org/pubs/peaceworks/pwks45.pdf (last accessed on 23 April 2008), 32
[70] Coady, 33–34

of the interpretation of what constitutes a threat to international peace and security.[71]

Although there are still controversies about the legitimacy of humanitarian interventions, recently there are increasing attempts to bring massive violations of human rights under the scope of international law. In recent years, the UN Security Council includes "civil war, intrastate conflicts and the possession of weapons of mass destruction and humanitarian crisis" into its interpretation of what constitutes threats to international peace and security.[72] Even though the UN can legitimately authorize military interventions in cases of massive violations of human rights, the UN's capacity to conduct successful military interventions is questioned by many scholars and politicians, because the UN cannot address those problems effectively unless major powers support those interventions and give military and financial assistance to the UN.

Security Council authorization for humanitarian interventions is sought by many states, because "they believe the process of multilateral decision-making in the Council is just –that is, in conformity with principles of consent, participation and collaboration- and yields solutions that can be described as being in the collective interest, as opposed to the interests of the most powerful."[73] Security Council authorization is regarded as legitimate also because of the *purpose* of the UN Charter – that is, the maintenance of international peace and security. Security of people inside the states is also considered as providing international peace and security. If Security Council fails to address those threats, then it loses its legitimacy in the eyes of the international community.[74]

---

[71] Coady, 21-22
[72] Welsh, 178
[73] Welsh, 184
[74] Welsh, 18

Major powers' domination in the Security Council and veto right of the five permanent members negatively affect the legitimacy of the decisions of the Security Council. Most of the developing countries, but not all of them, have a stance against humanitarian interventions, because they fear that imperialism will regenerate and major powers will impose their powers and interests on the weak states. They also fear that cases of intervention in the internal affairs of sovereign states will open the way for the interference in the domestic jurisdiction of states, so they mostly argue against humanitarian interventions.[75]

In deciding what constitutes threats to international peace and security, it is necessary to analyze the evolution of the "security" conception. During the Cold War, the primary objective of national security was territorial defense and political independence, so the "referent object" of security was clear: the state. With the end of the Cold War, in Europe the perception of the "enemy" state disappeared. The state was no longer seen as the sole referent object of security, now the individual or the society became regarded as referent objects. The security agenda also broadened and included ethnic conflict, drug-trafficking, environmental problems, economic problems, migration, humanitarian disasters etc.[76] Buzan, Waever and de Wilde argues that an issue is seen as a security issue when it is accepted that this issue is more important and should have priority over other issues on the political agenda. Securitization of an issue implies that the issue is regarded as an "existential threat" and some extraordinary measures should be taken in order to prevent threats that are emanating from that issue.[77]

---

[75] Welsh, 187

[76] Helene Sjursen, "New Forms of Security Policy in Europe" *ARENA working papers 01/4,* (2001) Available at http://www.arena.uio.no/publications/wp01_4.htm (last accessed on 26 April 2008), 1-5

[77] Barry Buzan, Ole Waever, Jaap de Wilde, *Security: A New Framework for Analysis* (Boulder, CO: Lynne Rienner, 1998), 21-26

From this perspective, the inclusion of intra-state conflicts in the failed and weak states, humanitarian disasters into the conception of "security" make it possible for the UN Security Council to decide that threats to human security within the domestic jurisdiction of states is also a threat to international peace and security with the condition that those threats crossed the threshold. So the result is a "reconceptualization of what constitutes legitimate intervention."[78]

Humanitarian interventions are not conducted purely by human rights considerations. Intervening states may have some political objectives. Apart from these "rights oriented humanitarian interventions", there are also "structural oriented humanitarian interventions" which aims to alter the structure of the government in the intervened state. A humanitarian intervention may be conducted on both of these purposes – that is, stopping the atrocities and protecting human rights, easing the suffering of people, and also to change the structure of the regime to democracy.[79]

It is argued that *massive* violations of human rights on a large-scale are a justification for military intervention, but it is not clear what constitutes "massive violations" of human rights. Some of the human rights such as the right to life is considered as a more basic right; and threats to this right is regarded as *massive* violation, so requires military intervention to stop these violations. However, violations of political rights of people are also seen as a legitimate reason for military humanitarian intervention by some scholars and practicioners. The question

---

[78] Mary M. McKenzie, "The UN and Regional Organizations," in *United Nations and Human Security,* ed. Edward Newman (Gordonsville, USA: Palgrave Macmillan, 2001), 155
[79] Kelly Kate Pease & David P. Forsythe, "Human Rights, Humanitarian Intervention, and World Politics," *Human Rights Quarterly15,* (1993): 300-301

whether intervention with the purpose of structural change is legal and legitimate or not is still a controversial issue in world politics.[80]

As mentioned before, the UN is established for the purpose of providing and maintaining international peace and security and the UN rules in the UN Charter is aimed to represent a single universal view on the legitimacy of the use of force, under what conditions use of force can be justified. However, in the United Nations, there is not an agreement among the UN members. For example, some members especially underdeveloped countries in Latin America and Africa and Arab states are against military humanitarian interventions, whereas Western democratic states are mostly in favor of humanitarian interventions. Furthermore, sometimes there are disagreements between the Western countries such as between USA and European countries.[81]

Western states have different views regarding the authorization of Security Council. France mostly insists on Security Council authorization when a need for humanitarian intervention arises. On the other hand, Britain does not always seek Security Council authorization if a kind of consensus reached in the Council. If interventions without Security Council authorizations take place and if the British government involved in it, then it uses some arguments of new interpretations of international law to justify and legitimize the interventions. On the contrary, the United States does not seek Security Council authorization if other permanent members oppose to this military intervention that the US sees as necessary and in line with its national interests, and the US also does not try to give justifications for the interventions it undertake without the Security Council authorization. The decisions of the international institutions are not so binding for the US. If this

---

[80] Pease & Forsythe, 308-310

[81] Michael J. Glennon, "Why the Security Council Failed?" *Foreign Affairs 82, no.3* (May/June 2003): 2-3

attribute of the US continues, the unilateral interventions or interventions by regional organization will be seen as legitimate, because repeated practice will lead to a theory.[82]

The five permanent members should vote in the Security Council for promoting international peace and security, not according to their national interests, because the UN is "the centre for harmonizing national interests and forging the international interest."[83] However, in the real world it is not always possible for permanent members to put international interests ahead of national interests and take decisions in the Security Council to authorize military interventions just for the protection of human rights. So, in cases that the Security Council fails to take decisions, actions from the General Assembly need to be sought. Emergency Special Session under the established "Uniting for Peace" procedures, the General Assembly should meet within 24 hours and take decisions as early as possible. Although decisions of General Assembly is not binding, two-thirds majority of states supports military intervention for humanitarian purposes, then the intervention would have some degree of legitimacy if not full legitimacy.[84] Article 10 and 11 of the UN Charter and Resolution of "Uniting for Peace"[85] in 1950 are the sources that give the UN General Assembly a kind of responsibility to address threats to international peace and security.

If the Security Council and General Assembly fail to act in response to massive violations of human rights and do not adopt a resolution that authorize

---

82 Welsh, 190
[83] "The Responsibility to Protect", 52
[84] "The Responsibility to Protect", 53
[85] Uniting for Peace is a legitimate UN mechanism adopted in 1950. It provides that if, because of the lack of unanimity of the permanent members of the Security Council (France, China, Russia, Britain, United States), the Council cannot maintain international peace where there is a "threat to the peace, breach of the peace or act of aggression," the General Assembly "shall consider the matter immediately.." For further information please see http://www.un.org/Depts/dhl/landmark/pdf/ares377e.pdf

the military intervention in conflict-torn states, then we can observe an increase in the number of interventions by *ad hoc* coalitions and/or by a single state. Unilateral interventions without the authorization of the UN bear the risk that the objectives of the humanitarian intervention is not exactly met and it may serve to the interests of the intervening state, not to the international interests. This kind of interventions also severely affects the authority and credibility of the United Nations.[86]

Regional organizations are also given a kind of responsibility in addressing to the matters of international peace and security under the Chapter VIII of the UN Charter. However, the authorization of the Security Council is required for the military action by a regional organization. Article 53(1) clearly indicates that "… the Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council…"[87]

Some theorists and practioners argue that regional organizations is much more effective than the global organizations, because they are more flexible, they can get the consent of the member states more easily and operations under the authority of regional organizations may be less costly.[88] On the other hand, some scholars argue that when conducting humanitarian interventions, regional organizations may not be as objective and impartial as international organizations. When a regional organization intervenes in a neighboring state for humanitarian

---

[86] "The Responsibility to Protect", 55
[87] United Nations Charter available at http://www.un.org/aboutun/charter/ (last accessed on 6 April 2008)
[88] McKenzie, 152

purposes, because of the proximity to the intervened state, member states may not remain insensitive to their national interests.[89]

NATO is one of the most active and effective regional organizations in military humanitarian organizations. NATO also changed its conception of security after the end of Cold War and also took actions outside the Alliance territory. Since the end of the Cold War, NATO has transformed itself from an organization of collective defense into a powerful player in the field of peace enforcement. NATO's Kosovo intervention indicates its change of security concept and its willingness to intervene militarily for humanitarian purposes. It was not a collective self-defense, but a military intervention in a sovereign state outside its Alliance territory.[90] However, NATO's involvement in humanitarian interventions is just at the level of conflict-termination – that is, ending conflicts and stopping violations of human rights; but it does not encompass conflict prevention or post-conflict reconstruction measures which are as important as the conflict termination.[91]

## 3.2. United Nations Charter

Non-intervention to the internal affairs of states is one of the organizing principles of international relations. In Article II (IV) of the United Nations Charter, non-intervention principle is clearly stated: "All members shall refrain in their international relations from the threat or use of force against the territorial

---

[89] McKenzie, 152
[90] McKenzie, 163
[91] McKenzie, 165

integrity or political independence of any state or in any other manner inconsistent with the purpose of the United Nations Charters."[92]

Article II (VII) of the UN Charter prohibits intervention in domestic affairs of states: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII."

Although non-intervention principle is championed by the United Nations Charter, the UN Security Council is accepted as having "the primary responsibility for the maintenance of international peace and security."(Article 24) The Security Council has the right and responsibility to decide what constitutes a threat to international peace and security and what measures should be applied to prevent or stop these threats. As stated in the Article 39 of the UN Charter: "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations or decide what measures should be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."[93] In Article 41 of the UN Charter measures such as "complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communications and the severance of diplomatic relations" are listed. If these measures are decided to be inadequate by the Security Council, then "action by air, sea or land forces may be

---

[92] United Nations Charter available at http://www.un.org/aboutun/charter (last accessed on 6 April 2008)
[93] United Nations Charter

necessary to maintain or restore international peace and security"[94] can be taken by the Security Council.

Article 51 of the UN Charter also permits the use of military force "if an armed attack occurs against a member of the United Nations…Measures taken by members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

All the mentioned Articles point out that non-intervention principle is not absolute and if threats to international peace and security occur, the UN Security Council has the right and responsibility to use military force to stop them. Besides the Security Council, the UN General Assembly has also the responsibility to discuss any matter within the scope of the UN authority and responsibility with regard to the maintenance of international peace and security. Although decisions of the UN General Assembly are not binding, but just recommendatory; "two-thirds vote in the General Assembly would clearly have powerful moral and political support."[95]

Many scholars argue that there is a contradictory relationship between non-intervention principle and humanitarian intervention. This contradictory relation is also reflected in the UN Charter. In the Charter, there is a dichotomy between the principle of non-intervention (Article II (IV) and II (VII)) and "protection of human rights" (Articles 55 and 56). Although Article II (VII) prohibits the interventions "in matters 0which are essentially within the domestic jurisdiction of

---

[94] Article 42 of the United Nations Charter
[95] "The Responsibility to Protect", 48

45

any state" it is not clear in the Charter whether massive violations of human rights within sovereign states is included in the domestic jurisdiction of states or not. So, there is an ambiguity in the UN Charter about the right and responsibility of humanitarian intervention. [96]

However, it is clear that in "threats to peace, breaches of peace and acts of aggression", the UN can use force to prevent or end such threats. It is within the authority of the Security Council to decide what constitutes threats to international peace and security. During the Cold War years, Chapter VII of the UN Charter was narrowly interpreted and violations of human rights, massive sufferings of nationals of foreign states was not accepted as threats to international peace and security and seen as internal security problems of that states. However, in the recent years the Security Council became more flexible in the interpretation of the Chapter VII of the UN Charter, and it started to take decisions that massive violations of human rights is also a threat to international peace and security.

As mentioned before, the UN Charter is skeptical about the interventions based on humanitarian justifications. Although one of the guiding principles is respect for human rights, no article of the UN Charter makes reference to the use of force for humanitarian purposes. However, in time, different interpretations of articles of the UN Charter has occurred and for some scholars and practioners the use of force for humanitarian purposes authorized by the UN is in line with the purpose and spirit of the UN Charter.[97]

Humanitarian intervention is accepted as a part of customary international law by some theorists, because the right of intervention on humanitarian grounds

---

[96] Zümrüt Verda Erüreten, "The Approach of the United Nations towards Humanitarian Intervention in Post-Cold War Internal Conflicts," *M.A Thesis at Bogaziçi University,* (1995): 30-31

[97] Alex de Waal & Rakiya Omaar, "Can military intervention be "humanitarian?" *Middle East Report 187/188 (*Mar/June 1994): 4-5

is well practiced by states throughout the history. Some examples for humanitarian interventions are given as European states intervention to Greece in 1827 to stop discrimination by the Turkish authorities; French intervention in Syria in 1860 to stop the massacres; Russian intervention in Eastern Europe to stop discrimination by the Ottoman authorities towards minorities in Eastern Europe; and American intervention in Cuba in 1848 to stop atrocities that were tolerated by the Spanish government.[98] Some scholars argue against the claim that these military interventions are conducted on purely humanitarian grounds. There is also the problem that states chose to intervene in some cases where violations of human rights occurred, while in many instances they preferred not to react to those violations. So, the "selectivity" problem was also present at that time. This inconsistency of practices of states does not preclude humanitarian interventions to be a part of customary international law. In the decision of the International Court of Justice (ICJ) in its ruling in the Nicaragua case it is stated: "… the Court does not consider that, for a rule to be established as customary, the corresponding practice must not be absolute rigorous conformity with the rule."[99]

Opponents of humanitarian intervention point out to Article II (IV) of the UN Charter which prohibits the use of force. Any intervention to the territorial integrity and political independence of a state would be illegal according to these scholars. However, other scholars argue that there are ambiguities in the UN Charter. In order to be able to clarify the ambiguities, it is necessary to look at the "travaux" of the UN Charter. "Travaux" are useful in clarifying the intentions of a treaty or other legal instruments. The intents of the drafters of the UN Charter may be helpful in deciding whether or not humanitarian intervention is legal and

---

[98] Ahmad M. Ajaj, "Humanitarian Intervention: Second Reading of the Charter of the United Nations," *Arab Law Quarterly 7,no. 4* (1993): 218-220
[99] Ajaj, 221

legitimate. However, others argue that interpretation of the Charter should be done under the present purposes rather than the initial intents of the drafters, because we can never be certain about the drafters' intentions.[100] This discussion on grammatical interpretation still continuous without an agreed result.

According to the contextual interpretation, rather than interpreting the specific provisions it s important to consider the entire treaty and the purpose of the Charter and also the related principles of international law. According to the proponents of humanitarian intervention, the evolution of human rights law lead to the interpretation of the UN Charter as to confirm the existence and legitimacy of humanitarian interventions.[101] It is also argued that the UN Charter is not only for the states or governments; the needs of human beings are also essential in maintaining international peace and security. This correlation between peace and human rights is also clearly shown in the Universal Declaration of Human Rights in 1948.

On the contrary, the opponents argue that although there are provisions in the Charter regarding the protection of human rights, there is no provision that clearly legitimizes the use of force for the purpose of protection of human rights. With the absence of binding rule for humanitarian interventions, sovereign states resist to the restriction of their sovereign rights. Although the debate between opponents and proponents of humanitarian intervention regarding its legitimacy did not reach a fruitful conclusion, we can say that contextual interpretation of the UN Charter is more constructive while deciding the legitimacy of humanitarian interventions under the auspices of the United Nations.

---

[100] Ajaj, 223
[101] Ajaj, 224

Article II (VII) of the UN Charter prohibits the interference in the domestic jurisdiction of states, and it is a big question to determine whether human rights issue is within the domestic jurisdiction of states or not. It is widely accepted that human rights is a universal issue and are no longer regarded as a matter which is within the domestic jurisdiction of the states. The sovereign states can not use their domestic jurisdiction as a shield to withdraw from their responsibility to respect and protect human rights of their citizens. It is not at discretion of any state to decide what's within their domestic jurisdiction and what's not. The determination of the scope of domestic jurisdiction is not left to the states rather it is an international issue, so it must be determined by the United Nations.[102] The UN which attaches so much importance to the promotion of human rights cannot remain inactive to massive violations of human rights. Multilateral intervention under the auspices of the UN is the most desirable way of conduct of humanitarian intervention. However, the UN as the International Organization is not capable enough for the effective conduct of humanitarian interventions. The ineffectiveness of the UN is also used by the opponents of humanitarian intervention as a pretext to support their theses. It is argued that if the UN is unable to enforce the principle of protection of human rights, then states unilaterally can intervene to stop violations of human rights and restore peace and security. However, unilateral interventions are open to abuses, so some kind of criteria must be set. The use of force should be proportional to the threats and the intervening states should have no self-interest when they decide to intervene in a sovereign state. International threats should prevail over national interests in humanitarian interventions; otherwise the military interventions cannot be

---

[102] Ajaj, 229-231

regarded as legal and legitimate. The intervening state should also leave the country as soon as the objective of the humanitarian intervention is achieved.[103]

## 3.3. UN General Assembly Declarations and Security Council Resolutions

Declarations of the United Nations (declared during the Cold War) are also a source where we can see the stance of the UN towards humanitarian intervention and non-intervention principle. *The Declaration on the Inadmissibility of Intervention in Internal Affairs of States* and *the Protection of Their Independence and Sovereignty* (1965) prohibit intervention for any reason. According to this declaration, "no state has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State." [104] So, all forms of intervention are condemned by the General Assembly in this Declaration.

*The Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States* (1970) is also in favor of the principle of non-intervention. However, it also calls for the cooperation of states for the elimination of racial discrimination, so respect for fundamental human rights is also an important concern for the member states of UN. However, the use of forcible action is forbidden, so the way to deal with human rights violations is not clear in the Declaration.[105]

---

[103] Ajaj, 233-236
[104] "Declaration on the Inadmissibility of Intervention in Internal Affairs of States and Protection of Their Independence and Sovereignty" available at
http://www.un-documents.net/a20r2131.htm
[105] "Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States" available at
http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/348/90/IMG/NR034890.pdf?OpenElement

Although the UN definition of aggression (1974) accepts that action against colonial or racist regime on behalf of self-determination is not an act of aggression, it still does not admit intervention against the violations of human rights by sovereign states towards their citizens is legitimate.

*The Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States* (1981) further developed the principle of non-intervention in the internal affairs of states and do not accept human rights violations as a justification of military interventions. According to this declaration, observance of the principle of non-intervention is essential to the fulfillment of the purposes and principles of the UN Charter.[106] So, all these General Assembly declarations point out that interference in the domestic affairs of sovereign states is prohibited except the cases of self-determination.

However, there are some other documents and decisions that support humanitarian interventions for the protection of human rights. For example, in 1923 the Permanent Court of International Justice stated in its advisory opinion that: "The question of whether a certain matter is or is not solely within the jurisdiction of a state is an essentially relative question; it depends on development of international relations."[107]

At the Security Council summit in January 1992, representations of some member states accepted human rights as an integral part of peace and security, and protection and promotion of human rights became one of the aims of UN peace operations.[108] Although the Security Council included human rights violations

---

[106] "Declaration on the Inadmissibility of Intervention in Internal Affairs of States" available at http://www.un.org/documents/ga/res/36/a36r103.htm

[107] Tunis-Morocco Nationality Decrees, Advisory Opinion of Permanent Court of International Justice Available at   http://www.worldcourts.com/pcij/eng/decisions/1923.02.07_morocco/

[108] Joanna Weschler, "Human Rights," in *The UN Security Council: From the Cold War to the 21st Century,* ed. David M. Malone (Boulder, Colo: Lynne Rienner, 2004), 57-59

within its task of promoting peace and security, many political actors objected this mixing of human rights with security issues.

Throughout the evolution of international relations, a matter which was once recognized as internal affairs of a sovereign state may become an international matter, so the international recognition of matters as international makes forcible and non-forcible interventions possible and legitimate. A state's treatment of its citizens was seen as an internal affair of that state; however violations of citizens' human rights come to be seen as a matter that interests the whole international community, so the states and international organizations cannot remain silent to those violations. This evolution is called as "internationalization of human rights."[109]

The UN Charter, Universal Declaration on Human Rights, International Covenant on Economic, Social and Cultural Rights (1966), International Covenant on Civil and Political Rights (1966) and other treaties related to human rights point out this internationalization of human rights. In 1992, the UN Security Council declared that "the International community no longer can allow advancement of fundamental rights to stop at national borders."[110]

The Security Council resolution on April 1991 (Res. 688) that demands Iraq to end its repression of Iraqi people (during the Golf War) is very important in the sense that the linkage between human rights violations and threats to international peace and security is clearly stated by the Sec. Council. "The Security Council, mindful of its duties and responsibilities under the Charter of the UN for the maintenance of international peace and security.. Condemns the repression of the Iraqi civilian population in many parts of Iraq, including recently in Kurdish

---

[109] Pease & Forsythe, 294
[110] Pease & Forsythe, 296

52

populated areas, the consequences of which threaten international peace and security in the region…"[111]

### 3.4. Policy Recommendations for Future UN Interventions

The United Nations would be stronger if it has a military force under direct command of itself independent of national sovereignties. This force will be trained for peace operations, specialize in peacekeeping, peacemaking and nation-building activities, ready for immediate deployment. This kind of rapid deployment force would be costly, but it would increase the legitimacy and probability of success in peace operations.[112] According to the Article 43 of the UN Charter, member states would commit armed forces to the Security Council so that the UN would have peace forces at its disposal to prevent acts of aggression, human rights violations etc. However, this kind of permanent UN military force had never come true. There were only ad hoc combinations of military forces of member states when a situation arises to use force. So, peace forces ready for rapid deployment trained for just peace operations is necessary.

After the stopping of atrocities and conflicts by the military, civilian agencies should undertake the tasks of policing, transitional administration, arranging and monitoring elections, providing humanitarian and economic aid. Civilian specialist should at least accompany to military in humanitarian interventions.[113]

We should accept that to conduct a military operation by a single agent is much easier and success is much more decisive. However, no state can take

---

[111] Resolution 688 of the Security Council available at
http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/596/24/IMG/NR059624.pdf?OpenElement
[112] Coady, 34
[113] Coady, 35

international law into its own hands and intervene in the domestic affairs of another sovereign state. This is against the norm of impartiality. The intervening state can take sides according to its national interests and use humanitarian causes as a pretext for its own purposes, so humanitarian interventions should be conducted multilaterally and with the authorization of the United Nations. "The UN, with the Security Council at the heart of the international law enforcement system, is the only organization with universally accepted authority to validate such operations."[114]

Although there is an overwhelming consensus that the Security Council is the appropriate authority for the conduct of military interventions for the protection of human rights; there are some considerations that the Security Council needs to be reformed for a better protection of international peace and security. For example, the veto right of the permanent members in the Security Council sometimes constitutes obstacle for the decision-making of the Council. In order to prevent inaction by the Security Council in such cases, permanent members should form a mutually agreed "code of conduct" for the use of veto in cases where military intervention for the purpose of protection of human rights is necessary, so that veto right would not obstruct the passage of resolutions that authorize humanitarian interventions.[115]

It is clear that the existence of veto rights of permanent members in the Security Council is a problem that can and does block the decision to conduct humanitarian interventions as seen during the Cold War. Another possible solution to this problem is that rather than taking decisions in the Security Council unanimity, single majority of the Security Council can be enough for the

---

[114] "The Responsibility to Protect", 49
[115] "The Responsibility to Protect", 51

authorization of interventions. It is more justifiable to take the authorization of Security Council by single majority if not unanimity rather than bypassing the United Nations and conducting military interventions unilaterally or by a regional organization.[116]

---

[116] Coady, 26

# CHAPTER 4

# HUMANITARIAN INTERVENTIONS AT DIFFERENT STAGES

## 4.1. The New Practice of Humanitarian Interventions

*Jus ad bellum* is one of the important principles of laws of war, which means the justifiable reasons for engaging in war. In conducting humanitarian interventions, it is also important to have legitimate reasons for intervention; otherwise *jus ad bellum* principle would be breached. *Jus ad bellum* principle explores whether military intervention for humanitarian reasons is just or not.[117]

It is accepted as legitimate reason to intervene militarily when a state does not fulfill its empirical statehood – that is, the capacity of a state to provide well-being of citizens and ensure the stability of the country- and its nationals suffers from starvation, grave humanitarian disasters etc. In the case of Somalia, the humanitarian crises resulted in eventual breakdown of state power as stated by the UN Secretary-General Boutros Boutros-Ghali in 1992: "At present no government exists in Somalia that could request and allow the use of force. It would therefore be necessary for the Security Council to make a determination under Article 39 of the UN Charter that a threat to the peace exists, as a result of the repercussions of

---

[117] Anne Julie Semb, "The New Practice of UN-Authorized Interventions: A Slippery Slope of Forcible Interference?" *Journal of Peace Research 37, no. 4* (July 2000): 470

the Somali conflict on the entire region, and to decide what measures should be taken to maintain international peace and security."[118] In the following days, on the 3rd of December, 1992 the Security Council adopted the resolution 794 and stated that the situation in Somalia constitutes a threat to international peace and security, and authorized the use of all necessary means to restore peace and stability in that country.[119]

Democratic governance is regarded as "requirement of international law" in recent years, so a state's system of governance is no longer a part of the internal affairs of states. If the states do not fulfill the requirement of democratic governance and the claims of citizens to be ruled democratically, the UN has the authority to use all necessary means to break the military rule and end the illegal regime and form legitimate form of governance. In these cases, the sovereignty of states is totally breached, so intervention in such cases is open for discrimination, because the use of force to overthrow an illegitimate regime is open to abuses.[120]

It is argued by some theorists and practioners that if the domestic injustice and violations of human rights are let to be legitimate reasons for military humanitarian interventions, then it would be difficult to avoid the increase of humanitarian interventions at the expense of non-intervention principle.[121] Criteria must be set that clearly indicates the boundary between situations that require external intervention and other less severe situations which do not require military intervention. Without these clearly set boundaries, it would be difficult to prevent the ambiguity related to deciding in what situations to intervene and other situations not to intervene. However, it is not possible to draw a sharp line

---

[118] Semb, 474
[119] Semb, 474
[120] Semb, 476-477
[121] Semb, 478

between the two situations. If violations of human rights are accepted as legitimate reasons for humanitarian interventions, then it would be really hard to determine which violations of human rights should be within the scope of legitimate humanitarian interventions and which are not.[122] So, with the absence of clearly set criteria the states may selectively intervene in some cases and not intervene in other cases. This is a weakness of humanitarian intervention doctrine and practice.

In cases of breakdown of state authority, it is easier to draw the boundary between the cases that intervention is legitimate and other cases that intervention is illegitimate. Failed states and total breakdown of state authority are accepted as more legitimate cases of military humanitarian interventions. In other states that are weak and could breakdown in a few years should be helped to strengthen its institutions and governance structure, so prevention of escalation of conflicts is an important phase of humanitarian intervention. Military intervention in these cases without an effort to prevent occurrence and escalation of conflicts may lead to hot legitimacy debates between opponents and proponents of humanitarian interventions.[123]

In cases of intervention in undemocratically governed states, it is more difficult to draw the boundary, because it is more ambiguous to decide which interventions in undemocratic states is legitimate and which are unjust. States select according to what criteria to intervene in some cases that the rulers govern the people undemocratically and not to intervene in other cases of similar situations?[124]

---

[122] Semb, 480
[123] Semb, 481-482
[124] Semb, 482

There are also other special cases such as environmental degradation, discrimination, proliferation of nuclear weapons etc. which are also proposed to be accepted as legitimate reasons for humanitarian intervention. However, the number of reasons for the legitimate humanitarian interventions is getting increased, so it would be difficult to stop the further broadening of the interpretation of "threats to international peace and security" at the expense of state sovereignty and non-intervention principle.[125] The obstacles on the dramatic increase of the cases of humanitarian interventions are: the states' consideration of cost of operations, the low probability of success – that is, if the intervention would probably be unsuccessful then states will not be more willing to engage in military interventions- and the voting procedure in the UN Security Council that veto right of permanent five member states is a big restraint against the authorization of humanitarian interventions by the UN Security Council.[126]

It is argued by some theorists that "there has developed in customary international law an independent right of military intervention in the affairs of other states for the purpose of protecting individuals from continuing grave violations of fundamental human rights."[127]

Customary international law is composed of state practice and *opinion juris* – which refers to a rule that is binding in law because of a feeling of legal obligation that states hold. Repetition of state practice eventually leads to development of principles of customary international law. With regard to the development of humanitarian intervention norm, there has been repeated practice of states that intervene in the internal affairs of sovereign states to prevent or end

---

[125] Semb, 483

[126] Semb, 484-487

[127] Daniel H. Joyner, "The Kosovo Intervention: Legal Analysis and a More Persuasive Paradigm," *EJIL 13, no.3* (2002): 601

the grave human rights violations, such as Arab states' military action against Israel in 1948, Belgian intervention in Congo in 1960, the US intervention in Grenada in 1983 etc.[128] The stated purposes of interventions by the intervening states was humanitarian, but it is not clear that in reality the interventions were conducted purely on humanitarian justifications. Some scholars and practioners argue that customary international law norm of humanitarian intervention is established and in Kosovo case, the intervention was also tried to be justified on this legal argument.[129]

However, a number of scholars and practioners argue on the contrary and stated that interventions without the authorization of the Security Council (like the Kosovo case) are seen as exceptions to the established procedure for the legitimate use of force, rather than as a case of the creation of a new legal order based on the customary international law rule of humanitarian intervention.[130]

## 4.2. Different Phases of Humanitarian Intervention

The debate concerning humanitarian intervention mostly focuses on the military reaction to humanitarian catastrophe after it happens. However, the responsibility to prevent-that is trying to ensure that such a catastrophe does not occur- is equally important. Economically it is more cost effective and also less people will die or suffer grave harms.

It is also important to point out the necessity and significance of post-conflict peace building efforts. After the international community's reaction to the humanitarian disasters and military intervention ending the civil war or ethnic

---

[128] Joyner, 602
[129] Joyner, 604
[130] Joyner, 609

cleansing, the intervened state and its people cannot be left to its own, international community also has the responsibility to rebuild it. This process is called "peace building". I think in order to be able to comprehend humanitarian intervention better and for humanitarian intervention to achieve its core purpose; this process of peace building should also be studied. In the following pages of this Chapter, I will try to examine the different stages of humanitarian intervention.

### 4.2.1. Prevention of a Humanitarian Catastrophe

When there is a high probability that conflicts will emerge, positioning of military forces for the prevention of emerging conflicts and violence is an important stage in humanitarian interventions, because conflicts will be deterred before the escalation of the situation into a large-scale armed conflict, so that the casualities will be low and the cost of the operations also will be lower.[131]

Conflict prevention concept is divided into four forms. First one is conflict prevention before the conflicts has break out. Second form is preventing the escalation of conflicts after they have broken out. Third form is conflict prevention to prevent humanitarian crisis; and the forth one is preventing the recurrence of conflicts. It is important to prevent conflicts after the restoration of stability and order by international organizations.[132] These stages for the prevention and resolution of conflicts are also mentioned in the 15th article of "An Agenda for Peace."

---

[131] Responsibility to Protect, 57-58
[132] Elizabeth M. Cousens, "Conflict Prevention" in *The UN Security Council: From the Cold War to the 21st Century,* ed. David M. Malone (Boulder, Colo: Lynne Rienner, 2004), 106-107

In conflict prevention task, fully and timely informing of the Security Council or the related organs and institutions of the international organizations is very significant. To get know closely the situation in the states where the probability of conflicts to arise is high (that is early warning and monitoring) will be helpful to prevent the occurrence of conflicts or the escalation of crisis. Diplomatic, economic or coercive means can be used by the UN to prevent conflicts. Deployment of troops in a potential conflict zone may be deterrent for the conflicting parties to avoid engaging in conflicts.[133]

There are some normative, political and operational limits to the capacity of the United Nations for conflict prevention. States may not be willing to give necessary resources and troops to the UN command, the intervened states may be resentful of the UN's conflict prevention activities within their domestic jurisdiction etc., so the UN's conflict prevention activities were not as successful as expected. The international community should support the UN in order to take more assertive actions to prevent the occurrence and escalation of conflicts.[134]

### 4.2.2. Military Reaction to Humanitarian Catastrophe after It Did Happen

Intervention phase is only a part of the humanitarian interventions in a broader sense. It is not an end in itself. Military intervention stage follows the preventive operations in the case that such operations have failed and conflicts escalated into large-scale armed conflicts. The end of the military intervention does not mean the completion of the task. Military interventions should be

---

[133] Cousens, 109-111
[134] Cousens, 114-115

followed by post-conflict reconstruction activities. Otherwise, the main objectives of military humanitarian interventions cannot be realized.[135]

In military operations, rules of engagement should be exactly determined before an operation starts. These rules guide the military forces and clarify the objective and application of the use of force in the interventions. Rules of engagement must reflect the observance of international law. These rules are a kind of code of conduct" in the field and necessary for the effectiveness and success of the military interventions.[136]

I don't want to go into the details of the military intervention operations here once again, because in the previous chapters this stage of humanitarian interventions is mentioned at length. Now I will pass to the third stage of humanitarian interventions which is post-conflict reconstruction, or sometimes called as "peace-building". This stage is one of the most controversial issues in the doctrine and practice of humanitarian intervention.

### 4.2.3. Post-Conflict Reconstruction

International intervention is not just a military intervening in a sovereign state to stop violent conflicts. This stage must be followed by the reconstruction of the state institutions that can effectively function. The military commander should transfer administrative authority to civilian authority as early as possible after the conflicts are terminated.[137] Post-conflict reconstruction includes establishment o state institutions, reconstruction of infrastructure, development of a civil society, and also economic reconstruction of the intervened country.

---

[135] Responsibility to Protect, 58-59
[136] Responsibility to Protect, 62
[137] Responsibility to Protect, 64

There are three approaches to post-conflict reconstruction. The first one is "top-down" approach which means the establishment of state institutions and public administration at the national level first and then passing the administration to the local people. The second approach is "bottom-up" approach. According to this approach, people are capable of deciding what is better for them. The political and social changes should be made at the community level. At the community level, it is focused on the units and entities that are engaged in conflicts, so that conflicts can be more effectively addressed. The third approach is the "integrated" approach. It is the combination of the two approaches – that is, post-conflict reconstruction both at national and community level. Civil society organizations play a critical role in mediating interests at national and community level.[138]

State-building activities by international actors mostly follow the top-down approach. The state institutions and political leadership is reconstructed and administration authority is passed to the local actors. However, it maybe more effective and sustainable if firstly a functioning civil society is established and then the local actors cultivate the state institutions and political infrastructure. This bottom-up approach of state-building is another option that international actors should think before engaging in state-building activities.[139] However, it is a difficult task to foster civil society and national unity if there are different ethnic groups in that state. The most proper form of governance and state institutions should be established, so that power sharing arrangements between different social groups can be possible. If the divergences of different social groups are not

---

[138] James Katorobo, "Governance Breakdown and Post-conflict Reconstruction," *UNDESA Commissioned Paper* (2005): 16-19 Available at http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN011103.pdf    (last accessed on 20 May 2008)

[139] Simon Chesterman & Michael Ignatieff, "Conclusion: The future of State-building," in *Making States Work: State Failure and the Crisis of Governance,* ed. Simon Chesterman (Tokyo: United Nations University Pres, 2005), 364

taken into consideration while reconstructing the state institutions, then the very problem that the international community intervened to resolve will continue and even intensify, because in most cases civil wars broke out by the increasing conflicts between different ethnic and social groups.[140]

In order to reconstruct the society and the state after the end of conflicts, the United Nations establishes "interim" or "transitional" administrations in the conflict-torn territories and exercises some degree of civilian authority. The degree of executive authority assumed by the United Nations in Kosovo and East Timor was high. However, it is hotly debated among scholars and practioners that whether it is just and acceptable to form a kind of autocracy –that is; the UN's interim rule is a foreign rule over the territory of sovereign states- for the purpose of creating legitimate, strong and sustainable states.[141]

There are some basic criteria for the state-building to be effective and legitimate: The strategic objectives of transitional administration must be clear, all operations should be in line with an agreed political goal that is establishing legitimate and sustainable state institutions, and effective governance.[142] The relationship between international and local actors must also be clear. It must be clearly accepted that local actors are the owners, and international administration is just transitional and when the objective is reached, interim administration will end and true owners- that is, local actors- will govern themselves. The degree of the conflicts, the capacity and desire of the local actors to govern themselves, and the level of commitment to the international community in bringing the desired change in the governance of the intervened state are important factors that

---

[140] Chesterman & Ignatieff, 366
[141] Simon Chesterman, "Transitional Administration, State-Building and the United Nations," in *Making States Work: State Failure and the Crisis of Governance,* ed. Simon Chesterman (Tokyo: United Nations University Pres, 2005), 340-342
[142] Chesterman, 344

determine how long would political transition last. As stated by Simon Chesterman "Once power is transferred to local hands, whether at the municipal or national level, local actors should be able to exercise that power meaningfully, constrained only by the rule of law."[143]

For a political change to be realized in a conflict-torn state, security in that state must be provided first, so during the post-conflict reconstruction period a kind of civilian police is required, or the military should be trained for police functioning in those states. "Recent experience with post conflict reconstruction emphasizes the importance of ensuring security and a peaceful settlement of conflicts before progress can be made on establishing a strong national government, reconstructing infrastructure and creating the foundation for economic growth."[144]

A more systemic approach towards peace-building operations is required. Since the early 1990s, the UN started to develop a systemic treatment of peace-building. Boutros-Ghali's "Agenda for Peace" is the first attempt to approach peace-building systematically.[145] In 1995, in the Supplement to An Agenda for Peace, post conflict peace-building has been categorized under the heading of "instruments for peace and security." So we can understand from this categorization that peace-building is as important as other strategies for peace and

---

[143] Chesterman, 345

[144] Dennis A. Rondinelli & John D. Montgomery, "Regime Change and Nation-Building: Can Donors Restore Governance in Post-Conflict States?" Public Administration and Development 25, no. 1 (Feb. 2005): 18

[145] Allen G. Sens, "From Peace Keeping to Peace Building: The United Nations and the Challenge of Intrastate War," in *United Nations and Global Security,* ed. Richard Price (Gordonsville, USA: Palgrave Macmillan, 2004), 144-145

security such as preventive diplomacy and peacemaking, peacekeeping, sanctions and peace enforcement.[146]

Sufficient material and financial resources should be committed to the UN forces, the mandate of the UN Security Council should be clear, objective should be clear, civilian-military relations is important, reconciliation of the interests and agendas of participating states is necessary, because conflicted interests may hamper the conduct of humanitarian interventions successfully, resources and objectives of the intervention should match high expectations with low political will and resources will result in failure. Coordination between different departments of the UN or between the UN and participating states is significant. Low level of coordination may result in less effective interventions. A peace-building unit may be created within the United Nations. Coordination with the NGOs, regional organizations or financial institutions also become more difficult, because the number of NGOs and International Financial Institutions (IFIs) that participate in peace-building operations is getting increased as time passed.[147]

The measure of the success of peace-building operations is varied: the cessation of war and conflicts, the prevention of returning of conflicts and human rights violations, the establishment of positive peace – that is, establishment of democratic governance, reconstruction of well-functioning state institutions, the rule of law, and development of civil society within that state.[148] These high standards of success are hard to achieve, because of the above mentioned difficulties regarding peace-building activities.

---

[146] Boutros Boutros-Ghali, "Supplement to An Agenda for Peace," (3 January 1995) Available at http://www.un.org/Docs/SG/agsupp.html (last accessed on 3 August 2008)
[147] Sens, 147-148
[148] Sens, 151-152

Economic reconstruction is a very essential part of post-conflict reconstruction. The UN transitional administration must try to reconstruct the economy of war-torn societies. War economies should be turned into peace economies which in turn can create prosperity for the majority of the local population. However, economic reconstruction is a difficult process in peace-building, because it requires large amounts of political and financial resources and the states under the UN transitional administrations are not willing to provide large amounts of financial help. Economic reconstruction also requires long-term commitment. However, many donor agencies focus on responding to the latest emergencies, so their help is limited to short terms and it is not enough for the reconstruction of the war-torn economies.[149]

---

[149] Alex J.Bellamy, Paul Williams & Stuart Griffin, *Understanding Peacekeeping* (Cambridge: Published by Polity, 2004), 244

# CHAPTER 5

# HUMANITARIAN INTERVENTION IN PRACTICE

## 5.1. Humanitarian Intervention in Somalia

I will try to study the Somalia case as a part (and an example) of "post-conflict peace building efforts". This process is called "peace building" or "nation building." Nation-building is an inseparable part of humanitarian interventions as stated by Clarke & Herbst: "The international community should discard the illusion that one can intervene in a country beset by widespread civil violence without affecting domestic politics and without including a nation-building component."[150]

Somalia case is an example of a military intervention when there is no government in the country. In cases of state collapses, military intervention is argued to be more justified. US led united task force (UNITAF) entered into the country for a humanitarian mission, but the US forces could not resolve the key problems in the country.[151] In the Somalia case, the mission of the intervening troops changed over time. In December 1992, the mission of the Unified Task

---

[150] Walter Clarke & Jeffrey Herbst, "Somalia and the Future of Humanitarian Intervention," *Foreign Affairs 75, no. 2* (1996): 78

[151] Adam Roberts, "Humanitarian War: Military Intervention and Human Rights," *International Affairs 69, no.3* (1993): 440-441

Force (UNITAF) or Operation Restore Hope -that is the name Bush administration gave it- was to aid the Somalis; to provide food and shelter etc. However, in May 1993, the second UN Operation in Somalia (UNOSOM II) expanded the mission to "peace-building". This ambitious mission of nation-building in Somalia was not match with the resources and political will of the member states of the UN.[152]

### 5.1.1. Historical Background of the Conflicts in Somalia

Degeneration of the Somalian society into civil strife and anarchy was puzzling for some observers since Somalia is one of the few homogeneous states in Africa with a common language, a common culture and a single religion, Islam. "Unlike nearly all the new states of Africa, Somalia was a 'nation', before it became a 'state'"[153] argues David Latini. Most Western states believed that a model of democratic process is started in Somalia after the decolonization with the changes in government based on elections. But many Somalis see themselves very differently. The modern state is corrupted and many political appointments were made constantly to enhance "clan power". Where some Western observers saw democracy, many Somalis saw "corruption, tribalism, indecision and stagnation."[154]

Once mentioned as the one true nation state in Africa, Somalia in 1990s experienced very bad events such as famine, starvation, genocide etc. There were British, French and Italian colonial powers in Somalia. When the colonial powers retreated from Somalia, the leaders in Somalia after independence tried to establish a militarist and dictatorial rule. However, Somalis wanted a democratic

---

[152] Clarke & Herbst, 72
[153] David Laitin, "Revolutionary Change in Somalia" *MERIP Report.62,* (November 1977): 6
[154] Laitin, 7

regime and started an armed struggle in civil society. The military leader, Siad Barre, used force to stop this opposition in society. Also some clans were marginalized and were deprived of political and economic rights. During the Cold War, Somalia was exposed to competition of the Soviet Union and United States, and used as a tool by the great powers, so the situation get worse and the result was the collapse of the Somalia state in 1991.[155]

What caused the Somalia society to break down into many clans? "The dissolution of the Somalia state is rooted in the political economy of class and regional dynamics, played out in an idiom of kinship"[156] In the case of Somalia, we see a tribal warfare that occurs in the context of shattering states.

In the elections of March 1969, political leaders bought votes and the ruling party bought out the opposition members. Because of corruption "there was no longer a sense of confidence in the national will, not even a minimum basis for cooperation was established and there was a high degree of moral decay"[157] In the weak states, the behavior of public officials can be influenced by bribes, payoffs to family members or promises to future employment, so to prevent corruption it is necessary to promote greater transparency in the activities of the state agents.[158] In Somalia, it was difficult to restore legal governance, because most Somalis had a deep mistrust of any government institution.

When Siad came to power in a coup in 1969, he tried to eradicate tribalism and build nationalism. In 1970s and 1980s, we see a relative stability in the Somalia society. The military rule imposed a policy of honesty on a corrupt system. Coercion and forced labor was seen the only way to break the corruption

---

[155] Katorobo, 7
[156] Catherine Besteman, "Violent Politics and the Politics of Violence: The Dissolution of the Somali Nation-State," *American Ethnologist 23, no. 3 (*August 1996): 580
[157] Laitin, 7
[158] Fukuyama, 50

of the old regime. By the end of 1980s, however, the increase in inter-clan rivalries had weakened the military base of Siad government. The military ruler, Siad declared that Somalia is a Socialist state. He traveled throughout the country and explained to the people what "socialism means, how socialism is consistent with Somalia traditional values and with Islam." Foreign policy was turned eastward; Russian and Chinese military and civilian were invited to help with Somalia development. Many economic sectors were nationalized. However, the two major export items-bananas and livestock- are still under private ownership. What the Siad regime dictated was actually a mixed economy, despite the socialist rhetoric. While the government, planning of economic activities increased but little has changed since the declaration of Socialism.[159]

In 1977, Siad tried to get back a territory left in Ethiopia by the colonially drawn borders. The Soviets provided military assistance to Ethiopia. Soviet-Somalia relations get worse and US began to be interested in Somalia. "Somalia was seen as strategic because of its proximity to the Middle East and the Persian Gulf"[160] It is argued that geographical considerations such as Somalia's strategic proximity to the oil-rich Middle East were of great value to the superpowers during the Cold War. The real interest of both the United States and the Soviet Union was not to help Somalia but to pursue their own global and regional interests. It is argued that US interested in Somalia in order to maintain military bases in Somalia capable of monitoring what is going on in the Gulf during 1980s. With the end of the Cold War, the US and the former Soviet Union lost interest in Somalia and subsequently withdrew their presence. Previously suppressed long-

---

[159] Laitin, 6-18
[160] Besteman, 581

standing grievances and conflicts were reemerged in the form of ethnic conflicts, so destabilizes Somalia.[161]

By the late 1980s, Isaaq –led (the largest northern clan family in Somalia) uprisings began against Siad government. In turn, Siad ordered the bombing of towns and villages of Isaaq clan. There was a high degree of human rights abuses, massacres of rival clans and torture practices. Many resistance groups tried to overthrow the Siad regime. Siad's regime fell in 1991. When the dictatorship of Siad came to an end in 1991, a power vacuum occurred and intense clan fighting spread around the country. After Siad's fled, a war between resistance leaders started in order to get power. Because of the warfare between competing militias, farmers left their homes and as a result food production decreased sharply. The civil war left Somalia in a situation of no functioning government. In 1992, the UN began negotiations between warring factions.[162] This is the short historical background of the violent dissolution of the Somalia.

### 5.1.2. Interventions by the United States and the United Nations in Somalia

Now I will try to look at more deeply what the US particularly and the international community in general did in Somalia and what are the reasons for failure. Throughout 1992, the situation in Somalia was getting worse, governmental authority was minimal. A growing number of Somalis were dying of starvation. In August, the United States announced that it was prepared to help to provide the security for the delivery of goods and other relief services and supplies. However, this first help did not make much difference in Somalia and the UN Secretary General Boutros-Ghali asked the US to do more. On December

---

[161] Besteman, 583
[162] Besteman, 583-586

4, 1992, President Bush announced that "the US forces would create a secure environment in the hardest hips of the Somalia so that food can be delivered to the people in the countryside." The US troops went in Somalia to undertake a humanitarian mission. The plan was that a short, US dominated humanitarian mission would give way to a longer, UN dominated political effort. However, later the US led initiatives to stabilize the situation in Somalia resulted in many casualties of the US in civil war. The rationale for the US efforts was humanitarian; no strategic interests were at stake.[163]

"Operation Restore Hope" began on December 9, when the first US troops landed in Somalia. The US troops delivered food and medicine and saved hundreds of thousands of lives. Three months later, the US troops level decreased when troops from other countries begun to arrive at Somalia. A little number of US troops remained in Somalia to help to deter challenges that may arise. However, US involvement did not end there. The Clinton Administration found itself more deeply involved in Somalia. Violence between some of the clans of the Somalia and the external forces increased very much. The UN Security Council passed a new resolution (837) calling for military operations to weaken and if possible to capture the violence creating clans' leaders. We saw more aggressive American attacks and as a result a high rate of casualties for both UN and US troops. The Clinton Administration prepared a more ambitious set of objectives for Somalia. The Secretary of Defense Les Aspin stated that before the withdrawal of US troops from Somalia, it has some missions of restoring calm to Somalia, disarming the warlords and also the establishment of police forces in populated centers. We can say that the new policy was "nation building."

[163] Richard Haass, *Intervention: The Use Of American Military Force in the Post-Cold War* (Washington D.C: Brooking Institution Pres, 1999), 43

However, the forces sent to the area for these goals were not enough. There was a turning point when 18 US soldiers were killed in a single engagement. US troops were outnumbered by the local forces. After this event, the perception of US failure was spread to both the world and the US public. Many in Congress demanded an immediate or near-term withdrawal of US forces. However, on October 7, 1993, Clinton announced a new policy: the US would increase its forces in and around Somalia for a period of 6 months. At the end of that time, all US troops would be withdrawn. The objectives of sending more troops to Somalia was: to protect US troops and bases, to keep open the key roads, to pressure those who would attack the supply routes for US forces, and to provide a context for a Somalia political process. The purpose of this new policy was not anymore "to rebuild Somalia's society or even to create a new political environment that can allow Somalia's clans to live and work in peace." The four objectives were mostly achieved and the US military presence decreased sharply until March 31, 1994.[164]

### 5.1.3. State Failure and Nation Building Efforts

According to Fukuyama, moving the decision-making authority down the hierarchy and closer to local sources of information is necessary for improving the efficiency of the organizations of public sector. This kind of decentralization of decision-making will be more responsive to local conditions. However, in underdeveloped countries, decentralization may lead to corruption by local leaders, so the proliferation of further formal rules rather than informal norms will serve to limit corruption in underdeveloped countries. There is no optimal form of

---

[164] Haass, 44-46

organization particularly for public sectors, because "everything depends on context, past history, the identity of organizational players etc"[165]

In the Somalia case, in order to limit corruption and reestablish the state institutions, the US and the international community should focus on the context, past history and the identity of the Somalis. To increase the institutional capacity of a less developed country, the United States and the international community in general need to motivate the local people to design their own organizations and help them to figure out how to build and operate it by themselves.[166]

However, sometimes international society leads to the destruction of institutional capacity in many developing countries, rather than constructing institutional capacity. After independence, the ability of most African governments to design and implement policies has deteriorated. It is argued that the majority of African countries had better capacity at independence than they have possessed. This is mostly because, there were many external aid flows to these countries, and more than 10% of GDP of the entire region comes from foreign assistance. Although Somalia received more foreign aid per capita then any other African state, development projects led to little improvement in the standard of living. As argued by Fukuyama "The international community knows how to supply government services; what it knows much less well is to create self-sustaining indigenous institutions."[167] The outside donors should be able to increase local government's capacity to provide these services by themselves. The outside actors' primary objective should be capacity-building, greater local participation in providing services and in decision-making is necessary.

---

[165] Fukuyama, 76
[166] Fukuyama, 82
[167] Fukuyama, 39-42

Ellis's arguments are also in line with Fukuyama. He argues "instead of money, what Africa really need is governments that are responsible to their own voters, that are largely self-financing, and that are internationally respectable."[168] Providing basic security is not enough for rebuilding Africa. The African states must first face up to modern realities in order to be rebuilt. Most African states have been unable to industrialize and incapable of making money; instead, outside money (foreign aid) has been used to enrich political elites and their partners abroad argues Ellis. Today, most African governments are not able to finance themselves through their own resources, and they rely on permanent subsidies from donor countries. Certain African governments have never been able to manage to create durable working administrations. Young people in Africa had little hope for a better future.[169]

Fukuyama defines 'nation building' as "The efforts to promote governance of weak states, improve their domestic legitimacy, and strengthen self-sustaining institutions, reconstruct conflict-ridden or war-torn societies"[170] and he identifies three distinct phases of nation building: First one is post-conflict reconstruction which applies to countries emerging from violent conflict like Afghanistan, Somalia and Kosovo, where state authority has collapsed completely and needs to be rebuilt. It includes short-term provision of stability through security forces, police, humanitarian relief and technical assistance. Second phase is to create self-sustaining state institutions that can survive when the outside interveners withdraw from the country. Third phase is strengthening of weak states, which are

---

[168] Ellis, 6
[169] Ellis, 7
[170] Fukuyama, 99

not able to accomplish certain state functions like the protection of human rights or the provision of primary education.[171]

The United States have had a mixed record in dealing with failed states in the first phase of post-conflict reconstruction. The US made many mistakes in Somalia, Haiti and Bosnia, but they also learned a lot from these cases. The efforts in the second phase of establishing legitimate, self-sustaining political institutions are much less successful. The US and international community could not increase the indigenous capacity for governance functions, so countries like Somalia and Haiti returned to their former situation once the international community withdraws and moves to another crisis area.[172]

## 5.2. Humanitarian Intervention in Kosovo

I will try to examine this case as a part (and an example) of "military reaction to humanitarian catastrophe after it did happen". In the Kosovo case, there were also some preventive strategies of the conflicts but they did not work and civil war had broken out.

One of the main questions regarding the Kosovo case is "does Kosovo intervention require clarification or modification of the law of humanitarian intervention?"[173] Kosovo case emphasized the need to address the deficiencies of the humanitarian law and also the shortfalls of the practices of the UN. According to NATO, the Kosovo crisis posed a grave threat to international peace and security, and the Security Council was not able to authorize military intervention, because of the veto power of the permanent members. Human rights violations

---

[171] Fukuyama, 100
[172] Fukuyama, 103
[173] Louis Henkin, "Kosovo and the Law of "Humanitarian Intervention"," The American Journal of International Law 93, no. 4 (Oct. 1999): 824

and sufferings of Kosovo people were so grave that something had to be done to halt the violations. At that time, NATO was the most appropriate and capable organization that could affectively address the situation in Kosovo.[174]

### 5.2.1. Historical Background of the Conflicts in Kosovo

Kosovo is a small province with nearly two million inhabitants, mostly ethnic Albanians, bordering on Macedonia and Albania. During 1980s and 1990s, there were mounting clashes between government forces of Slobodan Milosevic and pro-independence insurgent group, the Kosovo Liberation Army (KLA). In 1992, the Bush Administration issued the so-called "Christmas Warning", informing the Yugoslav government that the US was prepared to use force on behalf of the people of Kosovo, if the Yugoslav government continued to violate the rights of Kosovors. Nevertheless, the situation in Kosovo gradually got worse, violence escalated.

The United States firstly initiated a diplomatic effort led by Richard Holbrooke, the architect of Dayton Accords. Initially, Holbrooke appeared to succeed in persuading Milosevic. However, over time, fighting resumed, violence escalated. The United States and NATO attempted another diplomatic effort for the last time. The US Secretary of State Madeleine Albright presented the agreement in France which is called Rambouillet Accords: the restoration of considerable political autonomy for the people of the province, disarmament of KLA, a three year transitional period and deployment of an armed NATO peacekeeping force in Kosovo during the transition period. When the KLA accepted the agreement and Serbia refused to be abide by the agreement, the US

---

[174] Henkin, 825-826

and NATO threatened Milosevic with military action. NATO initiated its air operation on March 24, 1999.[175]

Now, let's look at the Kosovo crisis from a more international perspective. Until the late 1997, the international community was unable to cope with the brutal and quickly escalating war in Kosovo. When the major international actors put the issue on their political agenda in September 1997, Belgrade declared that Kosovo was an internal affair and nobody else's business. In response to the escalation of violence in 1998, the UN Security Council imposed an arms embargo as well as diplomatic and economic sanctions against FRY. In June 1998, NATO also stepped in and started to threaten Belgrade with military action.[176] The events that followed this stage will be explained above.

The origin of ethnic rivalry in Kosovo can be traced back before the 1980s. Serbs and Albanians both identify the same territory as their "historic homeland." The wrong perception of history have served to increase hatred between the two communities and triggered the conflict. Serbia's ruling elite tried to secure the existing power structure. The atrocities committed by the Serbia during NATO air campaign had lead to unrepairable damages. The Serbian nationalist movement inflicted death and human suffering in the region.[177]

---

[175] Haass, 164-174

[176] Marrie-Jannie Calic, "Kosovo in the Twentieth Century: A Historical Account" in *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action and International Citizenship*, ed. Albrecht Schnabel & Ramesh Thakur, (Tokyo: United Nations University Press, 2000), 11-12

[177] Duska Anastasijevic, "The Closing of the Kosovo Cycle: Victimization versus Responsibility" in *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action and International Citizenship*, ed. Albrecht Schnabel & Ramesh Thakur, (Tokyo: United Nations University Press, 2000), 14

**5.2.2. The Legitimacy of NATO's Intervention in Kosovo without the UN Security Council Authorization**

NATO's military action against Yugoslavia raises many questions, including the legitimacy of waging war on a sovereign state and the credibility of the United Nations, because it was the first time that a regional organization attacked a sovereign state without the authorization of the United Nations. The new interventionism based on humanitarian claims lead to more violence, more unstable and also to a dangerous world. US-led NATO action without the authority of the UN set a dangerous precedent in interfering in the internal affairs of a sovereign state. China strongly opposed NATO's bombing of Belgrade, because it believes that the Kosovo crisis and NATO response to it can lead to US hegemony.[178]

According to Ivo Daalder, NATO unilaterally decided to intervene because action by the UN Security Council would have been blocked by Russian and Chinese opposition to military intervention in Kosovo. The choice of NATO for intervention in Kosovo suggests that this was a European response to a European problem, so it did not need any approval anywhere outside Europe. Daalder argues that NATO faces a defining test in Kosovo. Kosovo underscores that while NATO's core function must be to provide for the collective defense of its members, its central purpose in the new century must be to extend the security and stability to other countries throughout the Euro-Atlantic area. For this purpose, the allies need to see force not only as a credible deterrent and means of defending allied territory, but also as a tool for helping to enforce the norms and

---

[178] Zhang Yunling, "Whither World Order After Kosovo?" in *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action and International Citizenship*, ed. Albrecht Schnabel & Ramesh Thakur, (Tokyo: United Nations University Press, 2000), 20

values, including support for democracy and the protection of human rights and fundamental freedoms.[179]

Some scholars and practioners see the Kosovo intervention as legitimate and necessary; and if the situation is of highly serious and in need of urgent response from the international community, than authorization of the Security Council may be omitted. "Perhaps the most practical lesson learned by the United Nations from the Kosovo experience was that if the Security Council proves to be an obstacle to action that the international community at large or a powerful segment of it wants, the Council can and will be bypassed."[180]


## 5.2.3. NATO's Functions in the Post-Cold War Era: NATO's Transformation from an Organization of Collective Self-Defense into the Field of Peace Enforcement

Since the end of the Cold War, NATO has transformed itself from an organization of collective defense into a powerful player in the field of peace enforcement. In the Kosovo war, NATO carried its largest and most complex military operation against a sovereign state that posed no direct threat to the Alliance territory, outside the Alliance borders. NATO's stated objectives were to stop or avert a humanitarian catastrophe in Kosovo and to support international efforts to provide secure environment for the people of Kosovo. The post-war situation in Kosovo indicates that NATO is still far from achieving its goal of bringing peace and stability to a multi-ethnic Kosovo. The different elements of KFOR are not seen as impartial peacekeepers. Many Serbs believe that NATO is

---

[179] Ivo H. Daalder, "Emerging Answers-Kosovo, NATO and the Use of Force," *Brooking institution Review*, (Summer 1999): 25

[180] Paul Heinbecker, "Kosovo," in *The UN Security Council: From the Cold War to the 21st Century,* ed. David M. Malone (Boulder, Colo: Lynne Rienner, 2004), 538

biased against them. Divisions between the Allies of NATO over the level of independence that should be given to Kosovar Albanians in the future are increasing.[181] The constitutional political status of Kosovo was still undefined until February 2008.[182]

It is now widely accepted that the major threats to international peace and security stems from civil conflicts that are accompanied by the massive abuse of human rights. During the 1990s and aftermath, the number of humanitarian interventions increased very much. However, humanitarian intervention is sometimes problematic, because there is a doubt whether it is consistent with the norms of international relations, especially the principle of state sovereignty. In the 20th century, the massive abuse of human rights may justify a breach of the non-interference principle. Kosovo case reopened the debate over the legitimacy of humanitarian intervention.[183]

---

[181] Nicola Butler, "NATO: From Collective Defense to Peace Enforcement" in *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action and International Citizenship*, ed. Albrecht Schnabel & Ramesh Thakur, (Tokyo: United Nations University Press, 2000), 32-35

[182] The Albanian political leaders and major part of Kosovo's population continue to insist on independence and on 17th of February, 2008 Kosovo declared its independence.

[183] James Mayall, "The Concept of Humanitarian Intervention Revisited" in *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action and International Citizenship*, ed. Albrecht Schnabel & Ramesh Thakur, (Tokyo: United Nations University Press, 2000), 36-38

# CHAPTER 6

# CONCLUSION

The traditional principle of non-intervention is no longer an absolute principle. The UN Security Council now has a broader interpretation of what constitutes "threat to international peace and justice." However, it is feared that this broader interpretation would lead to an increase in the number of military interventions and all interventions would be tried to be justified under the cover of "threats to international peace and security."

Since the end of the Cold War, the UN Security Council authorized a number of military interventions on humanitarian grounds and the scope of non-intervention principle is restricted by Universal Human Rights requirements of statehood and democratic government. Universal Declaration of Human Rights and the two Covenants of human rights – International Covenant on Economic, Social and Cultural Rights; and International Covenant on Civil and Political Rights- also indicate the universality of human rights. The states cannot argue that human rights law does not bind them and they are free to rule as they wish. Before the end of the Cold War, the UN prioritized "state sovereignty" and "non-intervention" principle over the right of protection of human rights. Maybe this

was because of the high probability of veto by Russia and China. However, after the end of the Cold War, the UN started to give priority to requirements of human rights over the principle of "non-intervention" and when faced with massive violations of human rights within the territory of a sovereign state, it authorized the use of force to stop violations of human rights and restore peace and order in that state. So, it is the practice of states and the international organizations that shape the understanding of the international community regarding the priority of principles and norms.

The international community continuously reinterprets and redefines the UN's role in intra-state conflicts. The international expectations as to how the UN should act with regard to intra-state conflicts were influenced very much by the characteristics of the historical context of the time. From 1960s to 1990s, there had been some changes in the normative context of the UN role in humanitarian interventions. The constant redefinition of the normative preferences of the international community in turn helped to redefine the international community's expectations from the UN. The role of the UN in peace and security changes and evolves as the historical context within which it operates change.

In recent years, especially the evolution of human rights norms and the increase in the number of humanitarian intervention cases also have caused some changes in the conduct of international relations and so, changes in the understanding of the international community of state sovereignty. These changes in the concept of state sovereignty have some important implications for security both at the level of international security, state security and human security. Especially with the impact of globalization, it is argued by some theorists that human security gained preeminence over state sovereignty.

Including newer security challenges such as terrorism, weapons of mass destruction, "failed" or "rouge" states into the scope of humanitarian interventions is a new development and the Security Council started to authorize military operations in these cases, too. The broadening of the security agenda, which now includes human security and environmental security, makes the conduct of humanitarian interventions easier, but it also makes interventions more open to abuses.

The debate over the legality and legitimacy of humanitarian interventions is still ongoing. There are certain disagreements among the international law scholars and practioners. However, by the early 20th century, the doctrine of humanitarian intervention had gained wide acceptance. Many writers refused to recognize state sovereignty as absolute and realized that the international community has the right to intervene to restore peace and security. Some objective criteria must be set regarding the conduct of humanitarian interventions, such as the threat should be grave and large-scale violations of human rights, the use of force should be the last resort, the purpose of use of force should be limited to stopping the human rights abuses, and the use of force should be proportionate to achieving these goals. However, setting objective criteria for humanitarian interventions will not be enough unless states and international community as a whole do not have the political will to respect these criteria and apply them when conducting humanitarian interventions.

It is obvious that humanitarian interventions have been abused by some states in the past and some international theorists and practioners fear that interventions on humanitarian grounds can be used by some states as a shield to cover their real strategic and political motives behind the military interventions.

The evolution of the doctrine of humanitarian interventions may make it easier for states to further their interests. No consensus on the legitimacy of humanitarian interventions seems to have been achieved so far.

This lack of consensus is also demonstrated in the Kosovo case. The most prominent feature of the Kosovo case is that Kosovo intervention reopened the debate over the legitimacy of humanitarian intervention. It is still hotly debated that whether military intervention in a sovereign state for the purpose of halting violations of human rights and restoring order and peace by a regional organization without UN Security Council authorization is legal and legitimate or not. NATO as a regional organization assumed the responsibility to intervene in Kosovo, because it believed that authorization by the Security Council will be blocked by the veto of the permanent members. The legitimacy basis for the conduct of humanitarian interventions that is the authorization of UN Security Council is not present in this case.

In the Somalia case, the deficiencies in the conduct of humanitarian intervention resulted from lack of commitment by the international community. Although humanitarian intervention is conducted with the authorization of the UN Security Council, the objectives of intervention –ending civil war and massive violations of human rights, restoring peace and order in the country- were not achieved due to insufficient supply of troops and material sources by the member states.

# SELECT BIBLIOGRAPHY

Abiew, Francis Kofi. 1999. *The Evolution of the Doctrine and Practice of Humanitarian Intervention*. The Hague: Kluwer Law International.

Adelman, Howard. 2002. "Theory and Humanitarian Intervention." In Michael Keren and Donalda Sylvan, eds., *International Intervention: Sovereignty versus Responsibility.* London: Frank Cass .LTD, 3-24.

Ajaj, Ahmad M. 1993. "Humanitarian Intervention: Second Reading of the Charter of the United Nations," *Arab Law Quarterly* 7(4): 215-236.

Anastasijevic, Duska. 2000. "The Closing of the Kosovo Cycle: Victimization versus Responsibility." In Albrecht Schnabel and Ramesh Thakur, eds., *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action and International Citizenship*. Tokyo: United Nations University Press.

Bellamy, Alex, Paul Williams, and Stuart Griffin. 2004. *Understanding Peacekeeping.* Cambridge: Published by Polity.

Besteman, Catherine. August 1996. "Violent Politics and the Politics of Violence: The Dissolution of the Somali Nation-State," *American Ethnologist* 23( 3): 579-596.

Butler, Nicola. 2000. "NATO: From Collective Defense to Peace Enforcement" In Albrecht Schnabel and Ramesh Thakur*, eds., Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action and International Citizenship*. Tokyo: United Nations University Press.

Calic, Marrie-Jannie. 2000. "Kosovo in the Twentieth Century: A Historical Account." In Albrecht Schnabel and Ramesh Thakur, eds., *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action and International Citizenship.* Tokyo: United Nations University Press.

Chesterman, Simon, Michael Ignatieff, and Ramesh Thakur. 2005. "Conclusion: The Future of State-Building" In Simon Chesterman, ed., *Making States Work: State Failure and the Crisis of Governance.* Tokyo: United Nations University Press, 359-397.

Chesterman, Simon. 2005. "Transitional Administration, State-Building and the United Nations" In Simon Chesterman, ed., *Making States Work: State Failure and the Crisis of Governance.* Tokyo: United Nations University Press, 339-358.

Clarke, Walter and Jeffrey Herbst. 1996. "Somalia and the Future of Humanitarian Intervention," *Foreign Affairs* 75( 2 ): 70-85.

Coady, C.A.J. July 2002. "The Ethics of Armed Humanitarian Intervention." *United States Institute of Peace, Peacework 45* Available at http://www.usip.org/pubs/peaceworks/pwks45.pdf

Cousens, Elizabeth M. 2004. "Conflict Prevention." In David M. Malone, ed., *the UN Security Council: From the Cold War to the 21st Century.* Boulder, Colo: Lynne Rienner, 101-116.

CSS Strategic Briefing Papers. June 2000. "Humanitarian Intervention: Definitions and Criteria," 3(1) Available at http://www.victoria.ac.nz/css/docs/briefing_papers/Humani.html

Daalder, Ivo H. Summer 1999. "Emerging Answers-Kosovo, NATO and the Use of Force," *Brooking institution Review*: 22-25.

Dickens, David, and Guy Wilson Roberts. 2000. "Non-Intervention and State Sovereignty in the Asia Pacific," *Centre for Strategic Studies, Wellington New Zealand,* Available at http://aus-cscap.anu.edu.au/NonInterv.pdf

Ellis, Stephen. September/ October 2005. "How to Rebuild Africa," *Foreign Affairs* 84(5)

Erüreten, Zümrüt Verda. 1995. "The Approach of the United Nations towards Humanitarian Intervention in Post-Cold War Internal Conflicts," *M.A Thesis at Boğaziçi University.*

Finnemore, Martha. September 2002. "Paradoxes in Humanitarian Intervention" Available at http://www.cgpacs.uci.edu/research/working_papers/martha_finnemore_humanitarian_intervention.pdf

Finnemore, Martha. 2003. *The purpose of Intervention*. New York: Cornell University Press.

Fox, Gregory H. 1997. "New Approaches to International Human Rights: The Sovereign State Revisited" In Sohail H. Hashmi*, ed., State Sovereignty: Change and Persistence in International Relations.* Pennsylvania: the Pennsylvania University Press, 105-130.

Fukuyama, Francis. 2004. *State-building Governance and World Order in 21$^{st}$ Century.* New York: Cornell University Press.

Geldenhuys, Deon. 1998. *Foreign Political Engagement.* London: Macmillan Press LTD.

Glennon, Michael J. June 2003. "Why the Security Council Failed?" *Foreign Affairs* 82(3): 16-25.

Gow, James. 1997. "Shared Sovereignty, Enhanced Security: Lessons from the Yugoslav War" In Sohail H. Hashmi, ed., *State Sovereignty: Change and Persistence in International Relations.* Pennsylvania: the Pennsylvania University Press, 151-180.

Haass, Richard. 1999. *Intervention: The Use Of American Military Force in the Post-Cold War.* Washington D.C: Brooking Institution Press.

Hashmi, Sohail H. 1997. "Introduction" In Sohail H. Hashmi*, ed., State Sovereignty: Change and Persistence in International Relations.* Pennsylvania: the Pennsylvania University Press, 1-14.

Hassner, Pierre. 1998. "From War and Peace to Violence and Intervention" In Jonathan Moore, ed., *Hard Choices: Moral Dilemmas in Humanitarian*

*Intervention.* Lanham Maryland: Rowman & Littlefield Publishers, 9-27.

Hehir, J. Bryan.1998. "Military intervention and National Sovereignty: Recasting the Relationship" In Jonathan Moore*, ed., Hard Choices: Moral Dilemmas in Humanitarian Intervention,* edited by, Lanham Maryland: Rowman & Littlefield Publishers, 29-54.

Heinbecker, Paul. 2004. "Kosovo" In David M. Malone, ed., *the UN Security Council: From the Cold War to the 21st Century,* edited by, Boulder, Colo: Lynne Rienner, 537-550.

Henkin, Louis. October 1999. "Kosovo and the Law of "Humanitarian Intervention," *The American Journal of International Law* 93(4): 824-828.

Heuser, Beatrice. 1997. "Sovereignty, Self-Determination, and Security" In Sohail H. Hashmi, ed., *State Sovereignty: Change and Persistence in International Relations.* Pennsylvania: the Pennsylvania University Press, 81-104.

Holzgrefe, J.L. 2003. "The Humanitarian Intervention Debate" In J.L Holzgrefe and Robert O.Keohane, eds., *Humanitarian Intervention: Ethical, Legal and Political Dilemmas.* Cambridge: Cambridge University Press.

International Commission on Intervention and State Sovereignty (ICISS). 2001. "The Responsibility to Protect," *International Development Research Centre*, Available at http://www.iciss.ca/report2-en.asp

Jackson, Robert H. 1990. *Quasi-States: Sovereignty, International Relations, and the Third World.* Cambridge: Cambridge University Press.

James*,* Alan M. 2000. "The Concept of Sovereignty Revisited" In Albrecht Schnabel and Ramesh Thakur, eds., *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action and International Citizenship.* Tokyo: United Nations University Press.

Joyner, Daniel H. 2002. "The Kosovo Intervention: Legal Analysis and a More Persuasive Paradigm," *EJIL* 13(3): 597-619.

Katorobo, James. 2005. "Governance Breakdown and Post-conflict Reconstruction," *UNDESA Commissioned Paper* Available at

http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN011103.pdf


Krasner, Stephen D. 2001. "Rethinking the Sovereign State Model," *Review of International Studies 21*


Laitin, David. November 1997. "Revolutionary Change in Somalia," *MERIP Report 62*


Lu, Catherine. 2006. "Whose Principles? Whose Institutions? Legitimacy Challenges for Humanitarian Intervention" In Terry Nardin and Melissa S. Williams, eds., *Humanitarian Intervention*. New York & London: New York University Press, 188-216.


McKenzie, Mary M. 2001. "The UN and Regional Organizations" In Edward Newman, ed., *United Nations and Human Security.* Gordonsville, USA: Palgrave Macmillan, 151-167.


Mehta, Pratab Bhanu. 2006. "From State Sovereignty to Human Security (Via Institutions?)" In Terry Nardin and Melissa Williams, eds., *Humanitarian Intervention*. New York & London: New York University Press, 259-285.


Metre, Lauren Van. May 15, 2000. "Transatlantic Relations in the Aftermath of Kosovo," *Publication of United States Institute of Peace*, *Special Reports 59* Available at http://www.usip.org/pubs/specialreports/sr000515.htm


Murphy, Sean D. 1996. *Humanitarian Intervention: The United Nations in an Evolving World Order.* Philadelphia: University of Pennsylvania Press.


Pease, Kelly Kate, and David P. Forsythe. 1993. "Human Rights, Humanitarian Intervention, and World Politics," *Human Rights Quarterly 15*(2): 290-314


Philpott, Daniel. 1997. "Ideas and the Evolution of Sovereignty" In Sohail H. Hashmi, ed., *State Sovereignty: Change and Persistence in International Relations.* Pennsylvania: the Pennsylvania University Press, 15-48.

Ramsbotham, Oliver, and Tom Woodhouse. Summer 2005. "Cosmopolitan Peacekeeping and the Globalization of Security," *International Peacekeeping* 12(2): 139-156.


Roberts, Adam. 1993. "Humanitarian War: Military Intervention and Human Rights," *International Affairs* 69(3): 429-449.


Rondinelli, Dennis A. and John D. Montgomery. February 2005. "Regime Change and Nation-Building: Can Donors Restore Governance in Post-Conflict States?" *Public Administration and Development* 25(1): 15-23.


Semb, Anne Julie. July 2000. "The New Practice of UN-Authorized Interventions: A Slippery Slope of Forcible Interference?" *Journal of Peace Research* 37(4): 469-488.


Sens, Allen G. 2004. "From Peace Keeping to Peace Building: The United Nations and the Challenge of Intrastate War." In Richard Price, ed., *United Nations and Global Security.* Gordonsville, USA: Palgrave Macmillan, 141-158.


Shehadi, Kamal S. 1997. "Clash of Principles: Self-determination, State Sovereignty and Ethnic Conflict." In Sohail H. Hashmi, ed., *State Sovereignty: Change and Persistence in International Relations.* Pennsylvania: the Pennsylvania University Press, 131-150.


Sjursen, Helene. 2001. "New Forms of Security Policy in Europe," *ARENA working papers* 01/4
Available at http://www.arena.uio.no/publications/wp01_4.htm


Waal, Alex de and Rakiya Omaar. March/ June 1994. "Can Military Intervention Be "Humanitarian?" *Middle East Report 187/188*: 2-8.


Weiss, Thomas G., and Cindy Collins. 1996. *Humanitarian Challenges and Intervention: World Politics and Dilemmas of Help.* Oxford: Westview Press.


Welsh, Jennifer M. 2004. "Authorizing Humanitarian Intervention." In Richard Price, ed., *United Nations and Global Security.* Gordonsville, USA: Palgrave Macmillan, 177-192.

Weschler, Joanna. 2004. "Human Rights." In David M. Malone, ed., *the UN Security Council: From the Cold War to the 21st Century,* edited by, Boulder, Colo: Lynne Rienner, 55-68.


Yunling, Zhang. 2000. "Whither World Order after Kosovo?" In Albrecht Schnabel and Ramesh Thakur, eds., *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action and International Citizenship*. Tokyo: United Nations University Press.