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The Hard Choice: To Intervene or Not?

By Colonel C.J. Corrigan

NSSC 4

*No man makes a greater mistake than he who does nothing because
he could only do a little.*

Edmund Burke

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Abstract

With few exceptions conflict in the world during the past fifteen years has been within the boundaries of sovereign states and over 5 million lives have been lost due to genocide, crimes against humanity, war crimes, or due to the breakdown in societies caused by conflict. Evolving is a new relationship between states and their citizens that challenges the sanctity of state sovereignty, and that is supported by the just war tradition and the acceptance of agreed upon proscriptive universal norms governing the relationship between states and the relationship of states to their citizens. Emerging has been the concept of the sovereignty of the citizen and a shift to a human security construct that presents hard choices for Canada vis-à-vis its contribution to world security.

In the absence of a national security policy: that articulates national vital interests, major or important interests, and peripheral interests; and, that harmonizes and maximizes all elements of national power – geographic, natural resources, industrial capacity, military preparedness, population, national character, national morale, the quality of diplomacy, and the quality of government - there is a vacuum in the policy and decision framework to balance competing interests and values. The lack of a security policy and decision framework has been exacerbated by the events of September 11, 2001 and as a result, it could be said that Canada's foreign policy predisposition for a values-based "soft power" perspective of the world may be shifting to a more interest-based, "hard power" reality.

This purpose of the paper is to examine the complicated and vexing subject of humanitarian intervention, in a world where the nature of conflict is changing, and to suggest that Canada must develop and adopt an interest and values based decision framework to guide the hard choices of when and under what conditions Canada could consider participation in military intervention operations for human protection not involving the nation's vital interests. This paper examines: the historical, legal and, political precedents and the concept of intervening for humanitarian reasons in the internal affairs of a sovereign s

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Decisions to deploy forces, to engage in military operations and to put troops into harm's way are among the gravest which any government is required to make. They should never be taken casually, and should certainly not be based on the spontaneous reactions of politicians or publics to media images, no matter how dismal. They should be based on policies reflecting an accurate assessment of the country's interests and capabilities.¹

Introduction

Canada has no national security policy to assist or guide the government in making what Ambassador Louis Delvoie refers to in the quote above as arguably the most important decision any government must make, that of using the military as an instrument of foreign policy.² Canada is a rich nation, a member of the G8, and an original member of the United Nations (UN). Since the signing of the UN Charter on 26 June 1945, Canada has participated in almost every UN peace support operation. Since the early 1990s, over 33,000 Canadian soldiers have served in the Former Yugoslavia 2 315.3000.06.4199 T

proscribes a decision framework for making the hard choice of whether to intervene or not.

This paper will use the following definition to describe military intervention for human protection, “coercive action by states involving the use of armed force in another state without the consent of its government, with or without authorization from the UN Security Council, for the purpose of preventing or putting to a halt gross and massive violations of human rights or international humanitarian law,”⁷ By so doing, in a similar manner as the Report of the International Commission on Intervention and State Sovereignty, it recognizes the objections of the humanitarian aid community to having their interventions associated with that of the military. In addition, describing an intervention as ‘humanitarian’ could bias a decision in favour of intervening regardless of the validity.⁸

The CF has been conducting intervention operations since the advent of classical peacekeeping in the 1960s and the evolution to the wider spectrum of peace support operations, which occurred in the 1990s. Recent history and the unique position Canada and the CF finds itself on the world stage, requires, that as a policy priority, the Canadian government adopt a clear decision framework for military operations for human protection.

This purpose of this paper is to examine the complicated and vexing subject of humanitarian intervention, in a world where the nature of conflict is changing, and to suggest that Canada must develop and adopt an interest and values based decision framework to guide the hard choices of when and under what conditions Canada could

consider participation in military intervention operations for human protection not involving the nation's vital interests.

The paper will contend that:

- Canada, in exercising the just war tradition, has a role to play in military intervention operations for human protection in states that practise crimes against humanity and/or genocide on its citizens.
- In a unipolar world, sharing the same continent and vital interests of the world's hyperpower, Canada must maintain a policy of multilateralism and have sufficient security capability so as not to become a security liability to the United States.
- Due to the changing world security environment, there is a need to examine an interest versus values decision methodology in full consideration of the assessed risks.

Within the limitation of space, which precludes an exhaustive examination of this complex issue, this paper examines: the historical, legal and, political precedents and the concept of intervening for humanitarian reasons in the internal affairs of a sovereign state; the present and future reality; intervention as a matter of national interest or as a matter of national values; the shift from state security and sovereignty to human security; and lastly, a decision framework that can assist decision makers in making these difficult intervention decisions.

Any examination of interventionism should begin with an understanding of the evolution and application of the just war tradition.

International Law, State Sovereignty and Intervention

There is some controversy over whether a state has the right to intervene in the affairs of another. The two major issues involved in this decision pertain to addressing firstly, under what conditions is it acceptable to intervene and secondly, who has the authority to decide to intervene? A good place to commence this discussion is with the concept of the ‘just war tradition/jus ad bellum’ - the right to go to war. The theory of why and how wars are fought can be traced back to ancient Greece and to St. Ambrose (339-397 A.D.) and St. Augustine (354-430 A.D.). St. Thomas Aquinas further elaborated three conditions for a just war: “1. War must be waged under the command of a sovereign authority; 2. A just cause is required. Those attacked must be at fault; and, 3. Those initiating just war must have rightful intentions, which is to say they must intend to promote the good.”⁹ The modern legal basis of the ‘just war tradition/jus ad bellum’ can be traced to Hugo Grotius (1583-1645), considered as the ‘father of international law’, who devised a framework for ‘just war tradition/jus ad bellum’ - the right to go to war and ‘jus in bello’ – the rules for the conduct of war which for nearly two centuries influenced interstate relations. “Grotius provided the philosophical and legal basis upon which the laws of war came to be accepted as law (albeit customary law) applying to all nations. Not until the later nineteenth century, however, were the laws of war codified in writing.”¹⁰ The main components of the just war tradition or theory are:

- Just cause – Force may be used only to correct a grave, public evil, i.e. aggression or massive violation of the basic rights of whole populations.
- Comparative justice – While there may be rights and wrongs on all sides of a conflict, to override the presumption against the use of force, the injustice suffered by one party must significantly outweigh that suffered by the other.
- Legitimate authority – Only duly constituted public authorities may use deadly force or wage war.

- Right intention – Force may be used only in a truly just cause and only for that purpose.
- Probability of success – Arms must not be used in a futile cause or in a case where disproportionate measures are required to achieve success.
- Last resort – Force may be used only after all peaceful alternatives have been seriously tried and exhausted.
- Proportionality – The overall destruction from the use of force must be outweighed by the good to be achieved. And,
- Non-combatant immunity – Civilians may not be the object of direct attack, and military personnel must take due care to avoid and minimize indirect harm to civilians.¹¹

Key to the application of just war theory is the definition of the state and the relationship of state sovereignty. The concept of state sovereignty is based on the Peace of Augsburg of 1555 that stated that a ruler could determine his country's religion and the Treaty of Westphalia of 1648 that ended the Thirty Years War. The Treaty of Westphalia allowed that a ruler could rule as he wished, free from interference from other states and rulers.¹² Key to the evolution of the just war tradition and the sovereignty of the state is defining what constitutes a state. A citizenry, territorial boundaries, a government, and the mechanisms or structures to interact and conduct relations with other states generally characterize a state.¹³ From these defining characteristics of a state, Chapter 1, Articles 1 and 2, of the UN Charter has determined that the UN and its members, in the conduct of international relations, apply the principles of equal rights and the self-determination of peoples, the sovereign equality of states, and non-intervention. The Charter adds however that “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.”¹⁴ It is this last qualifier that leaves the door open for the

international community to intervene but under Chapter VII. The 1948 Universal Declaration of Human Rights (UDHR) supports the concept of sovereignty resting with a state's citizens and when a state violates the rights of its peoples, the international community, in consideration of the UDHR and the Genocide and Geneva Conventions, can judge the behavior of a state towards its peoples.¹⁵ However the fundamental issue of the sovereignty of the state makes intervention decisions problematic, for the principle of sovereignty "gives states the legal right to manage their internal affairs free from outside interference and prevents powerful states intervening in weaker states. Without sovereignty as a fundamental principle, only international norms, balances-of-power, or domestic constraints would limit intervention in other states."¹⁶

In summary, there is a firm legal framework in the just war tradition that guides intervention decisions and in international law that defines the state and respects the sovereignty of the state. However recent customary law, international law and precedents have resulted in challenges to state sovereignty and have permitted intervention in states that violate basic human rights or commits egregious acts upon its citizens.

Having examined the theoretical legal construct of interventionism, the practical application in consideration of the environment follows.

Present and Future Reality – The Global Setting

What is the global setting in which future military interventions for human protection will be needed? The Cold War has shifted from recent to contemporary history and the events during the last decade have resulted in new perspectives to the fundamental concepts of the state, the role of the state vis-à-vis its citizens, other states, nongovernmental organizations, and supranational organizations.¹⁷ With the demise of

the Soviet Union and the bipolar world which was balanced by the two superpowers, the United States has become the only superpower in a unipolar world and has been described as a “hyperpower.”¹⁸ So great quantitatively and qualitatively is it in all elements of power - economic, military, technology, science, and geopolitical, that it is futile for any state to compete or counterbalance.¹⁹

Therefore, there are foreign and defence policy implications for Canada especially in the absence of a national security policy. These implications mean that the NATO Trans-Atlantic link, in which Canada has played a counter-balancing role to policies of the United States vis-à-vis Europe, is now more important than ever to Canada maintaining a separate and distinct identity from that of its southern neighbor. In this manner, continuing in the tradition of ‘Pearsonian’ internationalism,²⁰ the policy of multilateralism will also serve to define and safeguard our identity and sovereignty. In addition, the events surrounding September 11th 2001 and the ongoing war against terrorism have reinvigorated the way many states view national security and apply measures to enhance the safety of their citizens. For example, a number of European Union states have deployed troops as part of the International Security Assistance Force (ISAF) to conduct security operations in Kabul and the US and Canada have deployed troops in a warfighting operation to capture al Qaeda terrorists.²¹ Canada’s Op Apollo ground commitment to fight along side American ground troops builds upon our sea and air participation in Desert Storm and the Kosovo bombing campaign. Unlike Op Apollo, the latter two intervention operations were conducted under the aegis of a United Nations Security Council resolution. In Afghanistan, Canadian ground troops have crossed the Rubicon from peace-enforcement to warfighting. Whether it is for global intervention

operations with the United States, NATO, or the UN, or for continental defence with the United States, the CF must be interoperable with the United States and other likely coalition forces in order to be militarily relevant and have sufficient capability to be a diplomatic tool for government.

Furthermore, the war against terror may mark a return in some measure to a threat-based force structure demanding high readiness forces-in-being. Heretofore, the CF force posture has been capability-based with most of the CF at low readiness. During the last decade the government has been stealing from readiness to wage the war against the national debt. The future may not afford Canada the luxury of time to equip and train armed forces and security forces. The forthcoming foreign policy and defence reviews may result in a re-emergence of a public safety and vital interests-based approach to national security from the more values-based human security foreign policy of pre-September 11th 2001. The true and lasting impact of September 11 on Canada's security agenda remains to be seen. As time passes, will security issues be addressed as they have been in the past – in the margins and conducted in the absence of a national security policy?

Some analysts posit that the United States makes “war - not peace.”²² If this is indeed so, Canada could have a complementary but distinct role in intervention operations for human protection to that of the United States. The United States may be more predisposed to warfighting and/or limiting its involvement in lesser interventions such as peace support or humanitarian operations to the provision of strategic lift and relief supplies. This division of labour is worthy of consideration by both governments. For continental defence, for Canada to maintain its sovereignty and identity from that of

the United States, Canada has a vital interest in maintaining sufficient defence and security capability so as not to become a security liability to the United States.²³ This undoubtedly will be a critical factor in the consideration of the burden sharing for ballistic missile defence (BMD). In addition, for an exporting nation whose largest trading partner is the United States, the maintenance of secure but open borders is a vital interest to Canada.

An analysis of the writings of some of today's political and military analysts suggests that modern day conflict is and will continue to be as Secretary-General Kofi Annan described in 2000:

Wars since the 1990s have been mainly internal. They have been brutal, claiming more than 5 million lives. They have violated, not so much borders, as people...In the wake of these conflicts, a new understanding of the concept of security is evolving. Once synonymous with the defence of territory from external attack, the requirements of security today have come to embrace the protection of communities and individuals from internal violence.²⁴

This reality reflects the predictions of Samuel Huntington and Martin van Creveld writing in the mid and early 1990s respectively. Van Creveld advanced the theory of future warfare being low-intensity and not between states but being ethnically and/or religiously based.²⁵ Huntington posits that "cultural identities, which at the broadest level are civilizational identities, are shaping the patterns of cohesion, disintegration, and conflict in the post-Cold war world."²⁶ Similarly, Michael Ignatieff argues convincingly that the intrastate conflicts so pervasive around the world in the recent past, present, and likely in the future, have their basis in ethnic nationalism rather than civic nationalism. He defines nationalism as having three reinforcing and complementary components – political, moral and cultural.²⁷ He defines civic nationalism as a characteristic of developed democracies whereby regardless of diversity, the citizens "subscribe to the nation's

political creed... This nationalism is called civic because it envisages the nation as a community of equal, rights-bearing citizens, united in patriotic attachment to a shared set of political practices and values.”²⁸ And “ethnic nationalism claims, by contrast that an individual’s deepest attachments are inherited, not chosen. It is the national community which defines the individual, not the individuals who define the national community. This psychology of belonging may have greater depth than civic nationalism’s, but the sociology that accompanies it is a good deal less realistic.”²⁹

In the absence of any major changes in the world, the future global reality will be likely as it has been in the past decade, where ethnic, nationalist-based, intrastate conflicts prevail in many parts of the world. However, the events of September 11th 2001 and the ensuing war against terror may impact on the willingness of countries and/or coalitions of the willing to intervene for human protection. The value-based motivation to intervene characterized by operations during the last decade in Somalia 1992-1995, Rwanda 1994, Haiti 1994, Zaire (not deployed), Kosovo 1999, and East Timor 1999, to name a few, may have been overtaken by the more pressing interest-based reality of combating terrorism. Clifford Orwin writes, “and what of genuinely humanitarian interventions? Are they still the wars of the future? Or the only wars of the future in which liberal Western countries will participate? Before Sept. 11, I would have answered yes, very probably so. The more fool for me. For as long as the war on terrorism continues, occupying the United States’ most combat-ready forces as well as those of its allies, purely humanitarian mayhem will be a luxury no one can afford.”³⁰ Thus, Orwin suggests that, for the present, intervention operations for human protection have been relegated a lesser priority and resultantly will be less likely.

As stated previously, Canada has no over-arching national security policy upon which to base defence and foreign policy decisions. Seemingly the extant process of CDS advice to the Prime Minister has been sufficient in the past for informed security and defence intervention decisions. Of significant concern is the exclusion of the CDS in the post- September 11th newly formed sub-committee supporting the Cabinet Ad Hoc Ministerial Committee on Security. This may be a process impediment to expert military advice being given to government and it seems to cross-connect to what General G. Theriault, a former CDS, wrote in 1996 when commenting pejoratively on the decision framework and process in government: “the military requires a great deal more than the kind of weak, inconsistent, reactive and insufficiently informed leadership that inevitably results from the structural shortcomings of the political control machinery we have in Canada.”³¹ The increasing complexity of security issues, especially the changing nature of conflict and the potential for Canadian intervention operations, means that ‘ad hocery’ or ‘muddling through’ is not good enough especially as it involves Canadians in “‘savage wars of peace’ around the world...to save the lives of others, not to protect our security interests. Inevitably the lack of real interests in these tragedies leads to a cruel calculation in which Western states must decide how much blood and treasure they are prepared to risk for the sake of saving others and restoring democratic governance.”³²

To reiterate, in light of the present and future reality, it would appear that the world has reverted to the pre-1648 conduct of warfare that does not recognize state sovereignty. Clearly the nature of conflict is changing dramatically. As a result, a national security policy, a decision framework process, and, to provide best military advice, the inclusion of the CDS in the sub-committee that supports the Cabinet Ad Hoc

Ministerial Committee on Security are needed in order to facilitate the best decision by government when committing Canadian soldiers to what the former Commandant of the US Marine Corps describes as today's operational reality – the “Three Block War.”³³

Balancing the Realist and Idealist Dilemma with Interests and Values

Intervention decisions involve reconciling ‘what is the right thing to do?’ and balancing the realist approach with the idealist approach and interests with values.

Humanitarian intervention is a sensitive issue, fraught with political difficulty and not susceptible to easy answers. But surely no legal principle – not even sovereignty – can ever shield crimes against humanity. Where such crimes occur and peaceful attempts to halt them have been exhausted, the Security Council has a moral duty to act on behalf of the international community. The fact that we cannot protect people everywhere is no reason for doing nothing when we can. Armed intervention must always remain an option of last resort, but in the face of mass murder it is an option that cannot be relinquished.³⁴

In the preceding, the UN Secretary-General Kofi Annan expresses in his Millennium Report the need for the world community to focus more on the sanctity of humans and less on the territorial sanctity of the state. In so doing, he shares the views of Edmund Burke, the 18th century political thinker, author and parliamentarian, “No man makes a greater mistake than he who does nothing because he could only do a little.” This refocus of Secretary-General Annan's from state-centrism to human-centrism marks an evolution in the basic concepts of what defines a state, nation-state, and the relationship of the people. Understanding the basis of interventionism brings into play the philosophical dichotomy between realists and idealists. Realists are predisposed not to intervene due to respect for the sovereignty of the state and are predisposed to measure intervention decisions in consideration of vital or important interests. Idealists, influenced by the Judeo-Christian ethic, are predisposed to intervene in consideration of values such as to preserve human life and alleviate suffering using the moral imperative as rationale. In

Kantian terms, “Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only.”³⁵ And in so doing, treat a person as something that is intrinsically valuable. In a similar context, Hans Morganthau asserts, “that modern political thought divides into two schools – the utopians with their optimistic philosophies of man and politics and the realists who see that the world ‘is the result of forces which are inherent in human nature’.”³⁶ Morganthau and Thompson elaborate that political realism is reflective of society’s acceptance of interest defined in terms of power and that political actions have a moral dimension. However, political realism refuses to identify the moral aspirations of a particular nation with the moral laws that govern the universe.³⁷

The essence of any intervention decision distils down to a decision that balances interests with values and made with a full understanding of the interdependent relationship of the government, the military and its citizens.³⁸ The dilemma of choosing the lesser of two evils, ‘To intervene or not? – is problematic for Canada as interests and values, although reflected in the 1994 Defence White Paper and the 1995 Canada in the World foreign policy statement (it could be argued that foreign policy should precede defence policy), have not been developed, prioritized and, weighed one against the other, in a national security policy.

Interests, those “elements which constitute a state’s compelling needs include self-preservation, independence, national integrity, military security, and economic well-being”³⁹ can be classified as vital, major or peripheral. Vital interests are “those situations, events, or trends which are deemed to threaten the survival or security of the nation and which the nation is prepared to counter by resorting to strong measures,

including military action”. Major interests are “situations which although threatening the basic security interests of the nation, can be diminished or eliminated through compromise, that is diplomatic negotiations”. Peripheral interests include “situations which do not affect the nation’s defence, or national security, or the integrity and stability of the international system.”⁴⁰

National values are those “timeless, universal, non-controversial notions that virtually every community cherishes”.⁴¹ In terms of Canada, national values include “respect for democracy, the rule of law, human rights, and the environment,”⁴² and are further defined as “Canadian values to be defended: democracy and the rule of law; individual rights and freedoms as articulated by the Charter; peace, order and good government as defined by the Constitution; and, sustainable economic well-being.”⁴³

In sum, the core of any intervention decision considers the interdependent relationship of the government, the military, and its citizens, and is based upon where in the spectrum between interests and values, the government places the value of Canadian soldiers, sailors, and airmen and women, and determines that there is sufficient cause for them to sacrifice their lives in ‘some corner of a foreign field.’⁴⁴

The Uneasy Decision

As stated previously, key to any decision on intervention is the historical precedent of the just war tradition and the sovereignty of the state. However, the inherent conflict between state sovereignty and interventionism has evolved considerably in the past decade with the result that many countries in the international community are less reluctant to violate state sovereignty for humanitarian reasons. The increasing shift from

state-centrism to human-centricism has changed the relationship between the state and its citizens in fundamental ways. For example:

Evolving international law has set many constraints on what states can do, and not only in the realm of human rights. The emerging concept of human security has created additional demands and expectations in relation to the ways states treat their own people. And many new actors are playing international roles previously more or less the preserves of states... The defence of state sovereignty, by even its strongest supporters, does not include any claim of the unlimited power of the state to do what it wants to its own people... sovereignty implies a dual responsibility: externally – to respect the sovereignty of other states, and internally, to respect the dignity and basic rights of all the people within the state.”⁴⁵

Consequently, the last decade has been characterized by frequent military interventions for human protection thereby setting the precedent and resulting in a new legal framework. However the issue of legitimate authority – ‘who has the authority to intervene?’ remains contentious. Many believe the UN is the ultimate authority, but internal Security Council politics caused by the veto, often results in the UN not intervening. Interventions undertaken on humanitarian grounds in Somalia, Bosnia, Haiti, and Rwanda were enabled by UN Security Council resolutions. Similarly, peace-enforcement missions in the Democratic Republic of Congo, Sierra Leone, East Timor and Kosovo were enabled by UN Security Council resolutions. However, the 1999 Kosovo Albanian – Yugoslavian crisis highlighted the dilemma of non-UN Security Council sanctioned operations caused by unilateral action by a single state or a group of like-minded states. The inability of the UN Security Council to gain a timely consensus on intervention caused the United States, as lead nation, and the NATO allies, including Canada, without UN Security Council or General Assembly consultation, to prosecute the 78-day air campaign against Belgrade. The legal framework has evolved from general acceptance of exercising the moral imperative to intervene in sovereign states conducting

gross violations of human rights and genocide against its citizens, and has shifted to the issue of what constitutes sufficient collective consensus and authority. Put another way, should military interventions for human protection be permitted as a unilateral action by a state or a group of states in a coalition, as was done by NATO early in Kosovo? Or should these interventions take place only under the auspices of a UN Security Council resolution?

The arguments for and against intervention can also lead us into a discussion of order versus justice. Those that favour military intervention for human protection believe that justice is a precondition to establishing and maintaining order within a state and between groups of states. The argument here is that there can be no true order without justice. Those in opposition view this in reverse order, espousing that order will lead to justice, and that intervention may compromise order and, in so doing, impede the imposition of justice.⁴⁶ The problem with this perspective is that there are a number of states such as Iraq, Iran, North Korea, certain military dictatorships of South America, the former Taliban regime in Afghanistan, and the former East-Bloc states of the Warsaw Pact and the Soviet Union that have or had an abundance of order but little justice.

Where does a country draw the line and how much can Canada do and under what conditions? Idealists will support intervention for human protection by saying that every human life has the same value. Pragmatists and realists will counter by arguing that some humans are of more value and contribute more than others to a society – to paraphrase in Orwellian terms, ‘some are more equal than others.’⁴⁷ And in a likely intervention scenario, Canada’s decision makers e

be placing more value on human life than the target society does to itself. If people are a state's most important resource and the size of the population is factored by the quality of the population,⁴⁸ under what conditions does Canada invest the lives of young Canadian servicemen and women and by what means of measurement does the government equate the value of Canadian lives to those suffering? Does intervention to protect humans ameliorate the overall situation in an intrastate or even an interstate conflict? Does military intervention attack the disease or is it the cure? Intervention addresses the sanctity of human life but what of the right of self-determination as witnessed in past civil wars such as in France, the United States, Slovenia, and Croatia to name a few? These difficult questions cannot even begin to be answered within the constraints of this paper.

However, Edward Luttwak has proposed a realist concept *in extremis* that posits making war to make peace. He argues "too many wars nowadays become endemic conflicts that never end because the transformative effects of both decisive victory and exhaustion are blocked by outside intervention," and war should be allowed to "serve its sole useful function: to bring peace."⁴⁹ The concept does have a certain appeal and clarity to pragmatists favoring a simple decision not to intervene with his statement that "an unpleasant truth often overlooked is that although war is a great evil, it does have a great virtue: it can resolve political conflicts and lead to peace."⁵⁰ Michael Ignatieff in the same vein qualifies this 'tough love' approach by writing "sometimes, hard as it is, the best thing to do is to do nothing: to let a victor emerge and then to assist him to establish and sustain the monopoly on violence upon which order depends." This "means

accepting a moral pact with the devil of war, seeking to use its flames to burn a path to peace.”⁵¹

Making war to make peace however has a severe impact on neighboring states and a region. This was the case with the NATO intervention in Kosovo. For the region, especially for Macedonia and Albania, a prolonged Kosovo conflict would have led to even greater numbers of refugees and would have increased the instability in these neighboring countries as their demographic balance shifted. Therefore, there is a pragmatic argument for stopping conflict.

The Need for a Decision Framework

Given the size of the CF, the existing level of operational and personnel tempo including Op Apollo, Canada cannot be everywhere in the world and cannot always say yes to every potential intervention. Therefore, it is timely to review and suggest a decision framework to assist in prioritizing the hard choices of military intervention for human protection. Such a framework consisting of criteria has existed since the early 1970s for determining Canadian participation in peacekeeping operations. The Sharp Principles, named after the Minister who proposed them to Parliament in 1973, were based upon the lessons learned by Canada in peacekeeping operations at that time. They were designed to assist the government in the decision to participate, to influence or leverage the UN Secretariat in the formulation of mandates, and to allow the government to justify withdrawing from UN missions failing to meet the mandate. The Sharp Principles are:

1. there should exist a threat to international peace and security;
2. the peacekeeping endeavour should be associated with an agreement for a political settlement, or at least a reasonable expectation of a negotiated settlement;

3. the peacekeeping organization should be responsible to a political authority, preferably the United Nations;
4. the peacekeeping mission should have a clear mandate adequate to permit it to carry out its assigned function;
5. the parties to the conflict accept the presence of the peacekeeping mission and agree to maintain a ceasefire;
6. Canadian participation in the operation is acceptable to all concerned; and,
7. there should be an agreed and equitable method of financing the operation.⁵²

However, as has been discussed previously, the nature of peacekeeping and the world have changed dramatically since the 1970s and therefore adherence to principles five, six and seven, although relevant, they are of lesser priority. Therefore, it may be appropriate to have a more up-to-date decision framework incorporating Sharp Principles one to four inclusive to assist in making intervention decisions whereby national interests and values have been fully weighed, one against the other, and justified in consideration of the assessed risks.

Before any consideration of a decision framework, it is useful to have a general consensus as to when the military intervenes for human protection. Arnold Kanter suggests that in the context of the United States, the United States “cannot and should not stand ready to intervene to right every wrong, and we will surely fail if we try.”⁵³ He recommends “setting the bar high...by suggesting that consideration of the use of U.S. military forces be limited to those rare instances of ‘genocide,’ ‘crimes against humanity,’ or ‘war crimes’...confining ourselves to the most serious or egregious cases.”⁵⁴ These are humanitarian value considerations that could be applicable for Canada. Kofi Annan has recommended the UN Security Council examine humanitarian intervention in consideration of the following:

- the scope of the breaches of human rights and international law, including the numbers of people effected and the nature of the violations;

- the inability of local authorities to uphold legal order, or the identification of a pattern of complicity by local authorities;
- the exhaustion of peaceful or consent-based efforts to address the situation;
- the ability of the Security Council to monitor actions that are undertaken; and,
- the limited and proportionate use of force, with attentions to repercussions upon civilian populations and the environment.⁵⁵

If we are to presume the future will be as it has been in the recent past, there is a need for a clear policy framework on when states, either unilaterally or collectively, should intervene. Moreover, this framework must bridge the issue of human rights and the evolving concept of sovereignty in order to assist the international community and state leaders in making intervention decisions. It is assumed that, as in the past, the UN would speak on behalf of the international community and that interventions, for the most part, will be conducted under the aegis of a UN Security Council resolution. In those cases where the US, Russia, or China have exercised their veto in the Security Council, the UN General Assembly would be the decision body. A collective action of a coalition of states has greater moral weight and hence legitimacy than individual states making a decision to intervene.

The international community could add the following two criteria for consideration. First, the threat or occurrence of grave and large-scale violations of human rights must be apparent. This is consistent with the Sharp Principles discussed previously as well as the statement of Kofi Annan. Second, there needs to be clear and objective evidence of such a threat or occurrence. Once available, this evidence can be assessed against the jus ad bellum criteria of just cause, comparative justice, legitimate authority, right intention, probability of success, proportionality, and last resort. This framework could also include an expression of the desirable end state - that state of

affairs which needs to be achieved to successfully conclude an operation⁵⁶ and for post-conflict nation-building

The decision framework presented is representative of the emerging and continuing vexing nature of decisions involving intervention for human protection. It offers decision makers guidance rather than a set of proscriptive conditions or rules that must be met before intervention operations can occur. From a Canadian perspective, there is further value in the policy guidelines that Arnold Kanter has suggested to American policy makers⁵⁷ in applying systemic judgment for intervention decisions. In concert with the criteria, these guidelines could serve to clarify the primacy of interests over values and therefore are equally applicable to Canada. They could form the ‘bottom line’ when it comes to assessing risk and measuring the cost of such interventions in terms of the lives of Canadian servicemen and women and the resources of an overstretched CF. These guidelines, made applicable to Canada, are:

- Determine that this is a crisis that matters significantly to Canada.
- Determine that Canadian participation will make the critical or military difference.
- Determine that sufficient domestic political support not only can be created but also sustained even in the face of unpleasant development and unexpected costs.
- Resist any temptation to go it alone.
- Clearly define the political objective.
- Clearly define and carefully circumscribe the military mission.

Conclusion

This paper has examined: the historical, legal and, political precedents and the concept of intervening for humanitarian reasons in the internal affairs of a sovereign state; the present and future reality; intervention as a matter of national interest or as a matter of national values; the shift from state security and sovereignty to human security; and lastly, a decision framework that can assist decision makers in making difficult

intervention decisions – especially decisions that risk the lives of Canadians for the lives of others.

In conclusion:

- The just war tradition continues to evolve, remains relevant, and caters for military interventions for human protection.
- The world has changed. In the past decade intrastate conflicts have predominated. The precedent has been set by military interventions for human protection, caused by the need for the international community to override state sovereignty with human sovereignty in cases where states have committed war crimes, crimes against humanity, or genocide against its citizens. The extent to which the events of September 11th resonate in Canada and result in a change to national security remains to be seen.
- The nature of warfare, recent history and the absence of a national security policy that articulates interests and values demands a decision framework that considers interests and values criteria in determining whether or not to intervene in military operations for human protection where Canada has no vital interests.
- The CF, due to its recent history of peace support operations, is uniquely qualified to act as an extension of diplomacy and a tool for government to exert its sovereignty and influence and, in so doing, garner recognition and prestige from the international community.

Lastly, deciding on military intervention for human protection is more than conflicting or competing ethical or philosophical approaches, the sanctity of the state

versus the sanctity of human life, or, adhering to proscriptive conditions agreed upon by the international community. It is about when and where, how, and who should intervene. It is about states, individually and collectively, that *can make a difference, making a considered and deliberate decision, weighing values and interests, to make a difference* by reducing human suffering and, in so doing, making the world a better place.

Endnotes

¹ Delvoie, Louis. "Canada and International Security Operations: The search for policy rationales." Canadian Military Journal, Summer 2000. p. 23.

² von Clausewitz, Carl. Translated and edited by Michael Howard and Peter Paret. On War. Princeton, NJ: Princeton University Press, 1976. pp. 86-67.

³ Department of Foreign Affairs and International Trade. Canada in the World: Government Statement. Ottawa: Government of Canada, 1995.

⁴ Department of National Defence. 1994 Defence White Paper. Ottawa: Government of Canada, 1994.

⁵⁶³³⁶⁵⁹⁹¹ Nuechterlein, Donald E. A Superpower Recommitted: A Superpower Assesses its Role in a Turbulent

²¹ Krauthammer, Charles. "U.S. military makes war – not peace." National Post. December 19, 2001. p. A16.

²² Ibid.

²³ Sokolsky, Dr. J. Lecture to NSSC 4, "US National Security Strategy and Policy," February 4, 2002. In this lecture Dr. Sokolsky reviewed the history of Canada-US defence relations from the August 1940 Ogdensburg Agreement between President Roosevelt and Prime Minister King to the most recent re-emphasis on continental defence or 'homeland defence' and BMD caused by the September 11 2001 World Trade Center. He asserted that since Ogdensburg, for Canada to maintain its sovereignty and identity from that of the United States, Canada has a vital interest in maintaining sufficient defence and security capability so as not to become a security liability to the United States. For a pre-September 11th perspective of this Canada-US relationship see his chapter "The Bilateral Defence Relationship With the United States" in Dewitt, David D. and Leyton-Brown, David (eds). Canada's International Security Policy. Scarborough, ON: Prentice-Hall Canada Inc., 1995. pp. 171-198.

²⁴ Annan, Kofi. Ibid. p. 43. www.un.org/millennium/sg/report

²⁵ van Creveld, Martin. The Transformation of War. New York: Simon & Schuster, 1991. p. ix. Despite the author's assertion that Clausewitzian thought was no longer relevant and that all future wars would be mostly intrastate - based more on ethnic and religion grounds and more likely would be low-intensity, the Gulf War, fought by the US based warfighting doctrine firmly based in Clausewitz, occurred shortly after publication. However since the early 1990s, van Creveld's theory has had relevance.

²⁶ Huntington, Samuel P. The Clash of Civilizations and the Remaking of World Order. New York: Simon & Schuster, 1996. p. 20.

²⁷ Ignatieff, Michael. Blood and Belonging – Journeys into the New Nationalism. Toronto: Viking, 1993. p. 3. This book precedes his follow-on books, The Warrior's Honour: Ethnic War and the Modern Conscience, in which he so persuasively cites the concept of "the narcissism of minor difference" and ethnic nationalism as the basis for the rational irrational acts of ethnic cleansing of Serbs, Croats, and Bosniacs during the 1992-95 Yugoslavian civil war, and Virtual War: Kosovo and beyond.

²⁸ Ibid. pp. 3-4.

²⁹ Ibid. pp. 4-5.

³⁰ Orwin, Clifford. "Humanitarian wars are a past luxury." National Post. February 15, 2002. p. A22.

³¹ Theriault, G. "Democratic Civil-Military Relations: A Canadian View," The Canadian Strategic Forecast 1996: The Military in a Democratic Society. Hanson and McNish (eds). Toronto: The Canadian Institute of Strategic Studies, 1996. p. 10.

³² Sokolsky, Dr J. "The Politics of Defence Decisions at Century's End," in Generalship and the Art of the Admiral. Perspective on Canadian Senior Military Leadership, Bernd Horn and Stephen J. Harris, (eds) St Catharines, ON: Vanwell Publishing Ltd., 2001. pp. 347-348.

³³ Krulak, General Charles. The former Commandant of the U.S. Marine Corps has described the present and future reality of warfare in his concept of the "The Strategic Corporal: Leadership in the Three Block War" where "In one moment in time, our service members will be feeding and clothing displaced refugees – providing humanitarian assistance. In the next moment, they will be holding two warring tribes apart – conducting peacekeeping operations. Finally, they will be fighting a highly lethal mid-intensity battle. All on the same day, all within three city blocks. It will be what we call the Three Block War." In this article he posits that the success of future humanitarian assistance, peacekeeping or traditional warfighting missions will depend "on the decisions made by small unit leaders, and by actions taken at the lowest level...Most importantly, these missions will require them to confidently make well-reasoned decisions under extreme stress – decisions that will likely be subject to the harsh scrutiny of both the media and the court of public opinion. In many cases, the individual Marine will be the most conspicuous symbol of American foreign policy and will potentially influence not only the immediate tactical situation, but the operational and strategic levels as well. His actions, therefore, will directly impact the outcome of the larger operation; and he will become... the Strategic Corporal." Marine Corps Gazette, Vol 83 No 1, January 1999. pp. 18-22.

³⁴ Annan. Ibid. p. 48.

³⁵ Singer, Peter (ed). "Kant's Ethics of Duty – The Categorical Imperative." Ethics. Oxford: Oxford University Press, 1994. p.279. From the L.W. Beck's translation of Kant's 1785 The Foundation of the Metaphysics of Morals in the Philosophy of Immanuel Kant. Chicago: University of Chicago Press, 1949.

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- ³⁷ Morgenthau, Hans and Thompson, Kenneth W. *Ibid.* pp. 4-13.
- ³⁸ von Clausewitz, Carl. *Ibid.* p. 89. From his many enduring concepts, the one that remains compelling and relevant to not just the military but to society as a whole, including government, is that of the ‘Clausewitzian Trinity’, expressed as the people, the commander and his army, and the government, or expressed another way, as the will of the people, supporting a fully resourced military to achieve the aims and objectives, and end-states determined by politicians. Colin Powell, *A Soldier’s Way*. London: Hutchinson, 1995. pp. 207-208. Powell interprets the trinity as three rules that must be satisfied before the US goes to war: rule one -determine what is to be achieved and how to achieve it; rule two – politicians set the war’s objectives, while armies achieve them; and rule three – the people must support the war. As none of these ‘Clausewitzian rules’ were adhered to for the Vietnam War, he was determined that they would be part of any future decision process to conduct operations.
- ³⁹ Macnamara, BGen. Lecture to NSSC 4, “Strategic Thinking in Policy Planning,” January 17, 2002.
- ⁴⁰ *Ibid.*
- ⁴¹ *Ibid.*
- ⁴² Department of Foreign Affairs and International Trade. *Ibid.* p. iii.
- ⁴³ Department of National Defence. *Shaping the Future of Canadian Defence – A Strategy for 2020*. Ottawa: Government of Canada, 1999.
- ⁴⁴ Williamson, Roger (ed). *Some Corner of a Foreign Field – Intervention and World Order*. London: MacMillan Press Ltd, 1998. An excellent volume of essays covering all aspects of intervention for human protection.
- ⁴⁵ ICISS. *Ibid.* p. 7.
- ⁴⁶ DUPI. *Ibid.* p. 44.
- ⁴⁷ Metcalf, Fred (ed). *The Penguin Dictionary of Modern Humorous Quotations*. London: Penguin Books Ltd, 1987. p. 86. From George Orwell’s *Animal Farm*, 1946. The actual quote is, “All animals are equal, but some animals are more equal than others.”
- ⁴⁸ Morgenthau, Hans and Thompson, Kenneth W. *Ibid.* pp. 142-146.
- ⁴⁹ Luttwak, Edward. “Give War a Chance.” *Foreign Affairs*. Vol 78 No 4, July/August 1999. p. 44.
- ⁵⁰ *Ibid.* p. 36.
- ⁵¹ Ignatieff. *The Warrior’s Honour: Ethnic War and the Modern Conscience*. Toronto: Viking, 1998. p. 160.
- ⁵² Delvoie. *Ibid.* p. 17. From Department of External Affairs, Statements and Speeches, No.73/23, Ottawa, 1973, pp. 3-4.
- ⁵³ Kanter, Arnold. “Memorandum to the President-Policy on Armed Humanitarian Intervention.” *Humanitarian Intervention-Crafting a Workable Doctrine-Three Options Presented as Memoranda to the President*. Project Director, Alton Frye. New York: Council on Foreign Relations, Inc., 2000. p.1.
- ⁵⁴ *Ibid.* p. 5.
- ⁵⁵ Helton, Arthur C. and DeVecchi, Robert P. “Human Rights, Humanitarian Intervention & Sanctions.” *Issue Briefs*. New York: Council of Foreign Relations, Inc., 16 January 2002. www.foreignpolicy2000.org/library/issuebriefs/IBHumanRights.html
- ⁵⁶ Department of National Defence. *Canadian Forces Operations*. Ottawa: Government of Canada, October 2, 2000. There is campaign planning doctrine that is applicable to multi-disciplinary intervention operations.
- ⁵⁷ *Ibid.* pp. 17-19. The limitations of this paper do not permit discussion of what Kanter suggests are the questions that “should be answered when considering whether the United States should deploy its troops to counter genocide or crimes against humanity.” pp. 24-26. Similarly, these questions are equally applicable to Canada.

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<http://www.dfait-maeci.gc.ca/foreignp/humansecurity/HumanSecurityBooklet-e.asp - P4> 64

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