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**HUMANITARIAN INTERVENTION: A LEGITIMATE UNDERTAKING OF STATES
AND THEIR ARMED FORCES**

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HUMANITARIAN INTERVENTION – A LEGITIMATE UNDERTAKING OF STATES AND THEIR ARMED FORCES

ABSTRACT

Complex emergencies have become a more frequent and vexing feature of the international relations landscape over the years since the end of the Cold War. In an effort to respond appropriately to these crises, humanitarian intervention into an affected state has developed as an option, but one that begs serious questions as to its legitimacy. This paper presents a primarily normative argument that humanitarian intervention, including the use of armed force, can be a legitimate tool in addressing complex emergencies in terms of its relevance, legality, morality and effectiveness.

HUMANITARIAN INTERVENTION – A LEGITIMATE UNDERTAKING OF STATES AND THEIR ARMED FORCES

External military intervention for human protection purposes has been controversial both when it happened – as in Somalia, Bosnia, and Kosovo – and when it failed to happen, as in Rwanda.¹

INTRODUCTION

Since September 2001, the attention of most of the politicians, statesmen and international relations theorists in the western world has been focused on the security problem posed by transnational terrorist groups. Even more recently, the attention of the international community has also been transfixed by the events leading up to the ongoing US-led conflict with Iraq, with concern about terrorism kept alive by periodic arrests of Al-Qaeda operatives, and by public announcements of changes in the threat warning level. Somewhat lost amongst all the rhetoric, posturing, genuine concern, and purposeful activity surrounding these two issues has been the debate about ‘humanitarian intervention’. This topic and its multiple dilemmas were at the forefront of international relations thinking and writing before the World Trade Center catastrophe. But the conditions that gave prominence to the concept of humanitarian intervention have not gone away in the interim; it is only the degree of attention being paid that has diminished. Moreover, the world remains just as far from a consensus as to the justifiability, and desirability, of such intervention as it was at the turn of the millennium; and even among those who agree action is called for there is little agreement on how it should be undertaken. Neither the question of whether state intervention into another state in pursuit of humanitarian

objectives may legitimately be undertaken, nor the narrower questions of whether and when these interventions may include armed force, have been definitively answered.

This paper will argue that humanitarian intervention by states, including the use of armed force, can be a legitimate undertaking. For the purposes of this argument legitimate will be defined as “able to be defended with reasoning”² In order to frame the argument, four components of legitimacy will be explored: relevance, legality, morality, and efficacy. While there are certainly other ways to define and deconstruct legitimacy, this approach should afford sufficient rigour without resorting to the arcane. In particular, relevance must be demonstrated because even if the other components were satisfied it would not be logical to devote analysis or effort to an irrelevant undertaking, particularly one on the scale that humanitarian intervention implies. Legality must be considered, because clear limits and boundaries must not only exist, but be practiced in the conduct of international relations. Morality, because the whole point of humanitarian effort is lost otherwise. Efficacy, since an ineffective response, however legal, moral, and relevant, cannot be seen as legitimate, especially if it diverts attention or resources away from approaches that do work. The paper seeks to reopen the debate about humanitarian intervention, at least in a modest way, because the future senior military leadership will be required to advise on and subsequently plan and execute the military components. Military leaders, among others, need to be very familiar with the issues.

This paper is not concerned with the use of military capacity to foster tolerance of the local population of an ongoing military presence for warfighting goals – the familiar ‘hearts and

¹ International Commission on Intervention in State Sovereignty (ICISS), *The Responsibility to Protect*, International Development Research Council, Ottawa, December 2001, p VII

minds' component of a campaign. That technique dates back at least a hundred years to the United States' involvement in the Philippines, when it was termed the "policy of attraction"³. It is often a necessary part of an overall military plan of action, but although the local people may indeed benefit, it does not fit the modern concept of humanitarian intervention. Nor is this argument concerned directly with deployments of military forces where clear and effective consent of the host government has been given, either for classical peacekeeping or for assistance after natural disasters.

BACKGROUND

Instances where profound suffering is faced by a significant proportion of a state's population and where the actions or policies of the controlling government is causing or exacerbating the situation have come to be known as 'complex emergencies', or sometimes 'complex humanitarian emergencies'. This term is used, presumably, to clearly distinguish them from the relatively straightforward humanitarian emergencies caused by volcanic eruptions, earthquakes, droughts or floods in the absence of political malfeasance. Almost inevitably, the repressive actions occur in the context of intrastate conflict. Maynard describes two complete changes in the nature of conflict in this century, leading to the current period of 'identity conflict' in which the underlying differences of interests and aspirations are felt through many strata of society.⁴ While the end of the Cold War is widely cited as the watershed in unleashing

² Catherine Soanes, ed *Pocket Oxford English Dictionary*, (9th ed, New York: Oxford University Press, 2001), p517.

³ Max Boot, "Extracts from Attraction and Chastisement", review of *The Phillipine War 1899-1902* by Brian McAllister Linn, in *The National Interest*, Summer 2000

⁴ Kimberly Maynard, *Healing Communities in Conflict: International Assistance in Complex Emergencies*, (New York: Columbia University Press, 1999), accessed online via <http://www.ciaonet.org/access/maynard> (6 Mar 03), ch 2. Maynard describes the three fundamental types of warfare as Trinitarian War, in which there are clearly separate responsibilities of the military, the state, and the public. These wars were primarily interstate and fought for

these conflicts in which civilians bear the brunt of the suffering, the rise of intrastate conflict is in fact a trend that extends back at least to 1960⁵. The end of the Cold War is sometimes also blamed for the ferocity and intensity of these identity conflicts, due to the concomitant reduction of the restraining effect of superpower interests on their proxy states. But where was this restraining effect in Cambodia, in Biafra, in Bangladesh? Perhaps it is not that the intensity has increased, but that the nature of identity conflicts makes modern complex emergencies less amenable to resolution.⁶

What has changed since the Cold War is the ability of the United Nations Security Council to pass resolutions calling for action.⁷ Until the end of the 1980s, it was usually only non-governmental organizations (NGOs), and certain intergovernmental organizations such as the International Committee of the Red Cross (ICRC) and the United Nations Children's Fund (UNICEF), that could be found in a conflict zone for reasons other than ideology and power. The conflicting interests of the superpowers on either side of the ideological divide almost guaranteed a veto of any resolution calling for intervention. The veto by the 'Permanent Five' of course remains a problematic feature, but there is now a much greater chance that none of them will have a compelling reason to use it. Intervention by states in cases where the vital national interests of the intervening countries are not evidently at stake, in response to the magnitude of the human suffering taking place, is therefore a relatively recent development.

classical reasons of maximizing state power. After the end of WWII, there was the rise of Ideological War, in which the state and all its elements of power struggled with those states of opposing ideology, but with the average citizen somewhat detached. In identity conflict, however, an entire population is made to feel that it is fundamentally connected with one or other faction and therefore stands to lose if that faction loses influence.

⁵ Mark Frohart, Diane Paul, and Larry Minear, *Protecting Human Rights: The Challenge to Humanitarian Organisations*. Thomas J Watson Institute for International Studies, Occasional Paper # 35, (Providence, RI: Brown University, 1999), p 16.

⁶ Maynard, op.cit.,

Despite this short history, humanitarian intervention, literally meaning the “...use of force by one or more foreign powers to intervene in a country whose population is experiencing great suffering to facilitate non-military aid...”⁸ has come to be a recognized option for managing complex emergencies. Since, despite its flaws, the UN Security Council is still the body with the most recognized authority under International Law to authorize the use of force by and between states, such intervention has most often taken place under UN command or with UN authorization.

While humanitarian intervention as defined above is clearly the purview of states or groups of states, Humanitarianism as it developed over the past 150 years or so is not. Secular Humanitarianism (as opposed to religious acts of charity, which have a longer history) was made possible by the rise of civil society⁹ and gained impetus from the reaction of Henri Dunant, a Swiss businessman, to the carnage he witnessed at the Battle of Solferino in 1859. His subsequent efforts led to the first Geneva Convention of 1864, which not only introduced the first internationally agreed-upon (by twelve European states) rules of conduct during war, but also brought into existence the International Committee of the Red Cross (ICRC).¹⁰ While many, many new humanitarian NGOs and Intergovernmental Organizations have been created in the intervening years, with varying areas of expertise and from various religious and ethical

⁷ Peter Wallensteen, *Understanding Conflict Resolution: War, Peace and the Global System*, London, Sage Publications, 2002, p 239.

⁸ David Robertson, *A Dictionary of Modern Politics*, (3rd ed, London: Europa Publications, 2002), p 231.

⁹ ‘civil society’ can be defined as “...the set of institutions, organizations and behaviour situated between the state, the business world, and the family. Specifically, this includes voluntary and non-profit organizations of many different kinds, philanthropic institutions, social and political movements,...” It is generally felt that a certain level of liberalism must exist within a state before its civil society can flourish.

http://www.lse.ac.uk/collections/CCS/what_is_civil_society.htm (28 Feb 03)

¹⁰ David Reiff, *A Bed For the Night: Humanitarianism in Crisis*, (New York: Simon and Shuster, 2002), p 68.

traditions, their methods have all been profoundly influenced by the development of International Humanitarian Law and by the principle that humanitarian assistance should be provided in a manner that respects humanity, neutrality and impartiality.

THE QUESTION OF RELEVANCE

The relevance of humanitarian intervention will be argued in two parts. First, that the situations that call for action by the international community, namely complex emergencies, will continue to exist and may in fact increase in frequency. Second, that that response must include humanitarian intervention if it is to succeed.

As previously stated, the probability of the emergence of a complex emergency has not diminished just because the world's attention has been elsewhere. What features and forces on the international landscape lend credence to this assertion? Relatively recently, these features and forces have come to be referred to as the transnational threats to security; they are the fuel of identity war and key considerations in the concept of 'human security'.¹¹

Sadako Ogata labelled these "rising threats to individual human beings"¹² and further defined them to include poverty, deprivation, unequal benefits and burdens of globalization, "uncivil society" (transnational illegal activity of various types), environmental degradation and

¹¹ Canada, Department of Foreign Affairs and International Trade, *Human Security: Safety for People in a Changing World*, Ottawa, Canada April 1999 Accessed online via <http://www.summit-americas.org/Canada/HumanSecurity-english.htm>

¹² Sadako Ogata, *Overview for the Commission on Human Security*, Introduction to the first meeting of the Commission, 8-10 June 2001. <http://www.humansecurity-chs.org/past/first/overview.html> (Accessed 5 March 2003)

new uncertainties related to the ability to regulate emerging scientific and technological possibilities.¹³ Most analysts of transnational issues would add to that list population concerns such as the overall increase in world population, the urbanization of that population, the increasing flow of refugees and internally displaced persons, and the acute challenge of worldwide infectious disease especially HIV/AIDS. A few examples may help make the point.¹⁴ The world's population today stands at about 6.1 billion people. By the year 2050, it will have increased to about 9.3 billion, of whom 8.3 billion will live in the developing world. The continent experiencing the most population growth will be Africa, even taking into account the horrifying death toll from AIDS. There will be 40 million orphans in Africa by 2010. Over the past 30 years, 30 new infectious diseases were discovered, including such deadly ones as Ebola, Hepatitis C and HIV/AIDS. There is little reason to expect the next decades will not also bring new diseases. The current concern over Severe Acute Respiratory Syndrome, a mysterious form of pneumonia originating in Asia whose cause is unknown at the time of this writing, neatly underscores this issue. One-third of the world's population already lives in areas experiencing moderate to high water stress. As the population grows and agriculture and industry expand, this proportion will surely grow. All of these issues may threaten the security of groups of humans, providing fuel for identity conflict.

The National Security Strategy of the United States draws the link between transnational human security challenges and national security succinctly in observing "A world where some

¹³ Ogata explains the difficulty of regulating emerging scientific possibilities by observing that capabilities such as cloning, genetic manipulations, and endocrine disruptors have developed technologically faster than the world has been able to agree on ethical guidelines for their use.

¹⁴ statistics derived from the following websites: <http://www.unpfa.org/modules/briefkit/05.htm> for population issues, http://www.mod.uk/issues/strategic_context/physical.htm for disease information, and <http://www.wri.org/wr-98-99/popgrow.htm> for resource information including water. (10 Mar 03)

live in comfort and plenty, while half of the human race lives on less than \$2 a day, is neither just nor stable.”¹⁵ Interestingly, that Strategy is made up of eight principal components, of which four deal with issues directly related to human security.¹⁶ Further, Ogata observes that “...when power and resources are unequally distributed between groups that are also divided by, for example, race, religion, or language...we see a breeding ground for conflict”¹⁷ Since power inside a given state is most directly exerted by political control, it is clear that Ogata is referring to political issues. More directly stated: “it is usually the policies of governments, often lacking legitimacy and therefore highly insecure, rather than random or spontaneous violence between communities that precede most humanitarian emergencies.”¹⁸ In other words, insecure governments in areas where intense resource competition coexists with any kind of inhomogeneity of the population are highly likely to trigger conflicts.

Sometimes it is not the policies of governments that are the problem, but rather the absence of any competent government, a situation that has come to be known as a ‘failed state’. Its challenges are neatly summed up by Maynard:

...conflict evolves into a complex emergency when political upheaval and continual violence lead to famine, casualties, deprivation of access to resources, destruction of land and infrastructure, and mass migration. Carried far enough, as in Somalia, this process may cause the existing system of government to collapse, which eliminates any possibility of state-directed humanitarian protection or assistance.¹⁹

¹⁵ United States of America, Executive Branch, *The National Security Strategy of the United States*, <http://www.whitehouse.gov/nsc/nss.pdf> (28 Jan 03).

¹⁶ The eight principal components of the US National Security Strategy are: Champion aspirations for human dignity; Strengthen alliances to defeat global terrorism and work to prevent attacks against us and our friends; Work with others to defuse regional conflicts; Prevent our enemies from threatening us, our allies, and our friends with weapons of mass destruction; Ignite a new era of global economic growth through free markets and free trade; Expand the circle of development by opening societies and building the infrastructure of democracy; Develop agendas for cooperative action with the other main centers of global power; and Transform America’s national security institutions to meet the challenges and opportunities of the twenty-first century. Of these, the first, fifth, sixth and in my opinion the seventh address human security issues, albeit in a way that promotes US interests.

¹⁷ Ogata, op.cit.

¹⁸ Kalevi Holsti, *The Politics of Humanitarian Emergencies*, quoted in Frohardt, Paul and Minear, op.cit., p 16.

¹⁹ Maynard, op.cit., ch 2

One can dispute which is the cause and which the effect in this evolution. Indeed, Ogata and Maynard have started from differing points of view, but it is plain to see that the interactions left to themselves will be cyclic. It is easy to produce a list of places in the developing world and in the former Soviet republics where this cycle is in danger of producing conflict and complex emergencies. The recent examples are excruciatingly well known: Bosnia, Somalia, Rwanda, Kosovo. Longstanding examples that have not attracted much attention from the UN or Western powers include Colombia and Sudan.²⁰ What does the future hold for Afghanistan, for Tajikistan, for Myanmar/Burma? What would befall some of the Persian Gulf monarchies if ever the world reliance on oil declines? There is no intent here to offer answers to such questions. The intent is to reaffirm that the international community will certainly face complex emergencies in the future and will need a more effective approach to resolving them than it was able to mount in the 1990s.

What are the necessary components of a response to complex emergencies? Are humanitarian relief efforts undertaken by non-governmental organizations insufficient? Must intervention be a feature? It will be taken as a given that NGOs will continue to be important players, despite recent concerns about relief supplies sometimes fuelling conflicts and unwittingly prolonging them. MacFarlane has examined these complaints about humanitarian aid in significant detail and has found the effect to be relatively minor, provided aid agencies leave open the option to depart if their aid is significantly co-opted or diverted.²¹ But it is evident that NGOs acting by themselves will not bring an end to the emergency – in fairness,

²⁰ Wallenstein, *op. cit.*, p 243. This is a table listing fifteen conflicts that occurred in the period between 1986 and 1999 about which not a single Security Council Resolution was passed.

they have never claimed that they can. MacFarlane also examined this possibility and concluded “the role of assistance in fostering sustainable peace is limited.”²² Writing about efforts in

Chechnya, Hansen and Seely observed:

...the requisite political-security framework for an adequate humanitarian response inside Chechnya did not materialize. Humanitarian actors were left to their own devices to deal with access limitations, serious security problems, and political interference. Many found activity in Chechnya untenable and departed...²³

It seems from this that the option to a combination of state intervention alongside NGO efforts may not be an NGO response alone, but in the worst case an essentially absent response. NGOs sometimes react rationally in the face of a security threat and withdraw their services. Rieff expresses the need for intervention to include the option of armed force clearly in describing refugee camps in Eastern Zaire in 1994: “The refugee camps were filled with armed Hutu fighters, both regulars and militia. Aid workers were in no position to disarm them; indeed, what relief they could provide depended on the acquiescence of the gunmen.”²⁴, and more directly: “Confronted by a Bosnia or a Rwanda, I have longed for Western military intervention, and argued for it often and unashamedly.”²⁵

Less emotionally, both Wallensteen and Walter independently undertook quantitative analyses that offer insights into why internal conflicts are seemingly so difficult to resolve. Both reached similar conclusions about the importance of the problem of security in reaching a

²¹ Neil MacFarlane, *Humanitarian Action: The Conflict Connection*, Thomas J Watson Jr Institute for International Studies Occasional Paper # 43, (Providence, RI: Brown University, 2001), p viii.

²² *Ibid*, p 66.

²³ Greg Hansen and Robert Seely, *War and Humanitarian Action in Chechnya*. Thomas J Watson Jr Institute for International Studies, Occasional paper #26, (Providence, RI: Brown University, 1996), p 49.

²⁴ Rieff, *op. cit.*, p 181.

²⁵ *Ibid*, p 329.

workable solution to an intrastate conflict.²⁶ This holds true even after a negotiated settlement has been reached on seemingly mutually advantageous terms. Wallensteen states: "...ending violence in a way which removes this security dilemma has to be part of any settlement."²⁷, while Walter is more specific about the specific security challenge of disarmament: "If adversaries truly wish to resolve their wars they must...dismantle their separate militaries...But once groups dispose of their military forces and hand over valuable assets they become paralyzed either to protect themselves...or enforce subsequent terms."²⁸ This is an obvious role for an international military force operating under suitable authority and control.²⁹ Further, both writers agree that the other required element in a settlement is the establishment of a viable political and social system, which must deal at some level with the representation of all parties to the conflict. In this we see clearly the relevance of humanitarian intervention, both militarily, to address security concerns and political, to encourage development of durable institutions. Lakdar Brahimi stated it more simply: "...force alone cannot create peace; it can only create a space in which peace can be built."³⁰

It may be that struggles for independence and self-determination that characterized the post-colonial and immediate post-breakup of the Warsaw pact periods will eventually run their course. As far back as 1992 the UN Secretary-General was attempting to dampen the fervour for

²⁶ Wallensteen, op.cit., p 133; and Barbara Walter, *Designing Transitions From Violent Civil War*, Institute on Global Conflict and Cooperation, University of California, December 1997. Accessed online via <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1013&context=igcc>

²⁷ Wallensteen, op. cit., p 133.

²⁸ Walter, op.cit.

²⁹ Ku and Jacobsen explored this challenge of responsibility, authority and accountability and summarized the issue as one of "...shifting authority to international institutions while maintaining democratic accountability". Charlotte Ku and Harold Jacobson, *Using Military Forces Under International Auspices and Democratic Accountability*, International Relations of the Asia-Pacific, Vol 1 (2001), pp 21-50.

³⁰ Lakdar Brahimi, *Comprehensive Review of the Whole Question of Peacekeeping Operations in all their Aspects a.k.a. The Brahimi Report*. United Nations, 21 August 2000, p 1.

outright statehood on the part of every ethnic group, by pointing out that the resulting fragmentation would greatly complicate issues of both security and economic development.³¹ In fact, there does seem to have been a moderate decrease in the number of internal conflicts since the mid-1990s.³² Against that somewhat optimistic prospect one must consider that all of the transnational security issues are worsening in those areas of the world least able to adapt to the pressures. Where governments are fragile and democratic institutions almost nonexistent, identity conflicts germinate and the risk of complex emergencies rises. This is also where the implications of the observation that “insecure and weakly legitimate governments rather than primordial hatreds or spontaneous communal strife”³³ are the proximate cause of conflict, can least well be withstood.

The question of relevance can be summarized as follows: The world has entered a period of identity conflict. This type of conflict is fuelled by, among other things, the worsening of the transnational threats to security. In a vicious cycle, these internal identity conflicts themselves further worsen the transnational threats. At some point in the cycle a complex emergency is likely to develop. The attention of the international community may be awoken by either pure compassion or by the realization that globalization and interdependence mean that no state’s interests are immune to transnational threats. Humanitarian relief activities alone cannot bring the conflict to an end and therefore cannot definitively solve the humanitarian crisis. Outside

³¹ Boutros Boutros-Ghali, *An Agenda for Peace: Preventive Diplomacy, Peacekeeping and Peace-Keeping*. Report to the UN Security Council 17 Jun 1992. <http://www.un.org/Docs/SG/agpeace.html> (10 Mar 03). Estimates of the total number of identifiable ethnic groups in the world range from 6,000 to 10,000; it seems obvious that not all can or should aspire to complete sovereignty.

³² Nils Petter Gleditsch, et al, *Armed Conflict 1946-99: A New Dataset*, Paper prepared for Civil Wars and Post-Conflict Transitions, Conference co-sponsored by the Center for Global Peace and Conflict Studies and the World Bank, Development Economics Research Group, 18-20 May 2001, University of California, Irvine, CA May 2001, p 10

³³ Holsti, in Frohardt, Paul and Minear, op.cit., p 106-107.

intervention may be needed in order to create space for humanitarian relief, and will be required to develop and implement a lasting settlement. The security of all parties must be assured as part of the plan, or else the factions will logically undermine implementation. Therefore humanitarian intervention that includes armed force is a relevant undertaking.

THE QUESTION OF LEGALITY

International Law is at once the most important determinant of conduct between states and the least potent. It can be simply defined: “The body of legal standards, procedures and institutions governing the social interaction of sovereign states.”³⁴ Its enforcement mechanisms have historically been weak, and yet its relevance to states can be inferred from the effort devoted by them to the negotiation of treaties and agreements whether bilateral, multilateral or international. The specific provisions of international law generally arise from two distinct sources, first, from properly negotiated, signed and ratified treaties and conventions, and second, from customary rules to which states have given at least tacit agreement. It is thus perhaps not surprising that clear and final determinations of legality are not easily forthcoming. Nonetheless, in presenting a normative argument from a predominantly Idealist perspective it would be unthinkable to ignore the element of international law.

As an institution born out of the desire to regulate conflict, and intended by its creators to do so, the UN would appear to be the body that has the most at stake in seeking comprehensive solutions to complex emergencies. Not only is it the most inclusive international organization,

³⁴ Joel Krieger, ed, *The Oxford Companion to Politics of the World*, (New York: Oxford University Press, 1993), p 440.

with the broadest range of programs and activities, but as Madeleine Albright observed; "... the UN is a great norm-setter in terms of discussions of human rights..."³⁵. Perhaps more cynically, the credibility of the UN is called into question every time it either fails to act or acts inadequately. The human rights in question in complex emergencies, of course, are those set out in articles 3 and 5 of the Universal Declaration of Human Rights (UDHR), namely "...the right to life, liberty and security of person.", and the right not to "... be subjected to torture or cruel, inhuman or degrading treatment or punishment."³⁶ But its efforts to gain access and to exert influence on intrastate conflicts in order to defend these rights are not helped by its own Charter, where article 2.7 states clearly that "[n]othing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state...". Article 2.4 of the Charter is equally clear in prohibiting the use of force to do so: "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..."³⁷. So it can be seen that two documents, each of which can justifiably claim to be important components of international law, seem to be at cross purposes. Perhaps more accurately they are not at cross purposes, but simply do not intersect, as the UDHR makes essentially no provision for enforcement of its articles.

The movement to realign internationally-accepted norms away from the position that respect for state sovereignty effectively bars intervention into internal affairs can probably be traced back to Boutros Boutros-Ghali's "An Agenda for Peace", published in 1992. While it did reaffirm "...the importance and indispensability of the sovereign State as the fundamental

³⁵ Albright, Madeleine and Kirkpatrick, Jeane. "The United Nations: What's in it for the United States?". Council on Foreign Relations, 16 September 1996 (Transcript)

³⁶ Universal Declaration of Human Rights <http://www.un.org/Overview/rights.html> (Accessed 1 March 2003)

³⁷ UN Charter <http://www.un.org/aboutun/charter/> (Accessed 1 March 2003)

entity..”, and as a consequence “[i]n ... situations of internal crisis the United Nations will need to respect the sovereignty of the State...”³⁸, it also asserted that “The time of absolute and exclusive sovereignty, however, has passed...”³⁹ It is well to remember that this document was written before Srebrenica, before Somalia; in the optimism that the end of the Cold War-induced Security Council paralysis was giving way to a kind of ‘golden age’ of UN conflict resolution.

By the start of the new millennium, the setbacks of Somalia, Srebrenica and Rwanda, along with the controversy over intervention in Kosovo, made a thorough rethinking of the UN approach to peacekeeping necessary. The resulting document, the Brahimi report, is dominated by internal procedural recommendations and did not address the question of humanitarian intervention vis-à-vis state sovereignty directly. But it did recognize practical problems even where consent for a mission has technically been given: “...in the context of intra-State/transnational conflicts, consent may be manipulated in many ways.”, and further: “Impartiality for United Nations operations must... mean adherence to the principles of the Charter: where one party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the United Nations... may amount to complicity with evil.”⁴⁰ Recognizing the power of the sanction of the UN as an embodiment of International Law, he identified the need for mandates to be clear and robust enough to allow the mission to proceed as intended even when new factions emerge or when previously given assent for the UN mission is abrogated or manipulated.⁴¹ However, the report still falls well short of providing a

³⁸ Boutros-Ghali, op.cit.

³⁹ Ibid

⁴⁰ Brahimi, op. cit., p ix.

⁴¹ Ibid, p 9

framework around which the international community can move the difficult issue of humanitarian intervention towards becoming customary practice.

Current Secretary-General Kofi Annan has been resolute in his support for moving this issue forward. In an April 2000 statement to the General Assembly he challenged the member states to find "...better ways to enforce humanitarian and human rights law... [n]ational sovereignty offers vital protection to small and weak states, but it should not be a shield for crimes against humanity."⁴² Shortly thereafter, the International Commission on Intervention and State Sovereignty (ICISS) was established by the Government of Canada, with the support of several private institutions. Its twelve members wrestled with the issue over the course of a year, and published their report in December 2001. While their report, titled 'The Responsibility to Protect' recognized the importance of state sovereignty as being not only a key functional principle, but also a recognition of the equal worth and dignity of different states and peoples,⁴³ it clearly enunciated limits to sovereignty. Importantly, the Commission observed that nowhere in their consultations among diplomats was state sovereignty interpreted so absolutely as to include "the unlimited power...to do what it wants to its own people."⁴⁴

Their breakthrough contribution was to redefine state sovereignty away from a concept of control over territory and population. As their report states, "But there is a necessary re-characterization involved: from *sovereignty as control* to *sovereignty as responsibility* (italics in

⁴² Kofi Annan, *Millennium Report*. Statement to UN General Assembly. 3 April 2000, <http://www.un.org/millennium/sg/report/state.htm> (8 Mar 03)

⁴³ ICISS, *op. cit.*, p 7.

⁴⁴ *Ibid*, p 8.

the original) in both internal functions and external duties.”⁴⁵ further stating “Sovereignty as responsibility has become the minimum content of good international citizenship.”⁴⁶ They also define the international community’s dilemma not as one of deciding when it has the right to intervene, but one of determining when the international community must take over “the responsibility to protect”.⁴⁷

The need to produce agreed-upon guidelines for acting on this responsibility, in order to prevent abuse, is fully understood, and that discussion occupies the bulk of the report. Drawing from Just War theory, the first important conclusion sets the ‘threshold criteria’ for the use of force being “Just Cause”, here defined as the need to halt or avert “large scale loss of life” or “large scale ‘ethnic cleansing’”, whether the state concerned is deliberately causing the deaths, is merely neglecting the problem, or is incapable of acting.⁴⁸ Other key concepts include the ‘precautionary criteria’ for justifiable intervention of ‘Right Intention’, ‘Last Resort’, ‘Proportional Means’, and ‘Reasonable Prospects’. These four concepts help to make it clear that intervention will not be frequent, nor automatic even when the ‘Just Cause’ threshold criterion is met. There is clearly room for differences of opinion as to whether the ‘Last Resort’ and ‘Reasonable Prospects’ criteria are satisfied in any given case. If the ICISS framework were to be adopted, this could give individual states adequate justification for choosing to intervene in some humanitarian emergencies but not others, thus enabling reasonable answers to the frequent simplistic argument that ‘if we intervene in country X, then we must also intervene in country Y where the humanitarian situation is just as grave’.

⁴⁵ Ibid, p 13.

⁴⁶ Ibid, p 8.

⁴⁷ Ibid, p 11

⁴⁸ Ibid, p 32.

It must be recognized that the ICISS report only makes recommendations. It remains to be seen how broadly these recommendations are accepted. Certainly we are a long way from elevating any of these principles to the level of International Law, even that part of International Law based on customary practice. International Law is still rooted in the dealings between and among states, not inside them.⁴⁹ Debate about the ICISS report has been muted, not least because of the timing of the report's release in December 2001, when the attention of international affairs theorists was understandably elsewhere. And debate, particularly about the more specific recommendations, is still highly necessary.

The tendency of the report to move beyond a permissive stance into one that *obliges* intervention is a matter that needs clarification. This is likely to be opposed by many Western governments who feel it may not be in their interests to continually be obliged to commit personnel and resources in this way. It may be that an obligation on the international community or the UN Security Council may not in turn oblige individual states, but it is certain that the most capable of those states will face increasing pressure to intervene if the framework is accepted.

There is a significant dissenting community that contains many states of the developing world – those most likely to be the ‘beneficiaries’ of such international attention. Leaders of these states are frequently suspicious that the nature of these interventions are not as altruistic as they are made out to be, particularly when it is Western nations carrying out the intervention.⁵⁰ However, interventions cost money, and as O’Brien demonstrated in the specific case of Africa,

⁴⁹ Maynard, *op.cit.*, ch 1.

there is little chance that non-Western regional organizations can assume a significant portion of the burden of financing humanitarian action anytime soon.⁵¹ Since the UN's Consolidated Appeals Process raises money for each humanitarian undertaking separately, as long as substantial funding remains dependent on Western nations they can, and will, vote with their contributions. This in itself is a way of controlling actions on the ground. Further, it is by no means certain that regional actors are more purely altruistic in their motives for intervention. As Oudraat put it, "... neighbors are the international actors most prone to having ulterior political motives for intervention. Indeed, they often meddle in unhelpful ways in such conflicts."⁵² Further, she wryly observes that: "Those who fear that the formulation of a new legal framework for humanitarian intervention would lead to abuse - particularly western abuse - should be reassured by western behavior in Chechnya, East Timor, Sierra Leone and the Democratic Republic of Congo."⁵³ She shares with many others the sentiment that the sins attributable to inaction have been far more serious than those attributable to action.

Despite these concerns, the ICISS report nevertheless makes a significant contribution towards eventual international consensus on the legality of humanitarian intervention. Just as the concept of national security is broadening to include respect for human security, so too will International Law broaden to place emphasis on respect for the most basic of human rights.

THE QUESTION OF MORALITY

⁵⁰ Simon Chesterman, *Humanitarian Intervention: Perspectives from Africa*. Notes from the International Peace Academy consultation on humanitarian intervention, Gaborone, Botswana 12 December 2000.

⁵¹ David O'Brien, *Regional Burden-Sharing for Humanitarian Action*. New York University Center on International Cooperation, April 1999. Online edition via Columbia International Affairs Online, <http://www.ciaonet.org/wps/obn01/> (6Feb 03)

⁵² Chantal deJonge Oudraat, *Intervention in Internal Conflicts: Legal and Political Conundrums*. Global Policy Program Working Paper #15, (Washington, DC: Carnegie Endowment for International Peace, August 2000), p 8.

Writing from an American perspective, Binder analyzed the United States' actions with respect to Somalia, Haiti and Bosnia and attributed the failures to "...the absence of any serious effort to integrate a consistent ethical position into the explanation of the role that we believe the United States should play when the international community is faced with issues of humanitarian intervention."⁵⁴ His observations about the desirability of a coherent 'moralpolitik' are not only relevant to policy and decision-making in the United States but broadly applicable to individual states and to international bodies, recognizing that these bodies cannot be more than the sum of their parts, and in the search for acceptable wording frequently retreat to the least common denominator of those parts.

Moral arguments can produce differing answers depending on how one defines 'Good' and whether one does or does not believe the state is a moral actor. Smith describes a liberalist view that offers a moral rationale for subordinating state sovereignty in some cases:

Both the nation...and the state...derive their moral standing and their rights from the will and the rights of the individuals that compose the nation and over whom the state rules. Neither the group nor the nation nor the state can be seen as possessing inherent rights. ... When they define their rights and duties in a way that tramples the basic rights of individuals they forfeit their legitimacy.⁵⁵

Any moral justification for humanitarian intervention is liable to be challenged by Realists, who see little benefit and much danger in committing scarce military resources where a nation's interests are not threatened. They argue that there is a long-term risk to combat effectiveness of

⁵³ Ibid, p 7.

⁵⁴ Leonard Binder, *The Moral Foundation of International Intervention*. Institute on Global Conflict and Cooperation Policy Paper #22, February 1996, p 5.

⁵⁵ Michael Smith, *Humanitarian Intervention: An Overview of the Ethical Issues*, Annual Journal of the Carnegie Council on Ethics in International Affairs, Volume 12, 1998, http://www.ciaonet.org/olj/cceia/cceia_99smm01.html (6 Feb 03)

the troops involved in repeated humanitarian interventions; or worse, that engagement on humanitarian missions may interfere with the size and quality of response available to meet more classic national security needs.⁵⁶ But even these thinkers, or at least the governments whom they influence, would concede that there are levels of perfidious behaviour by states that they would not tolerate. The proof? The very existence of the Genocide Convention of 1948, which now boasts over 130 Contracting Parties, including all the permanent members of the Security Council.⁵⁷

Occupying the ‘moral high ground’ in international affairs can be an important element of a nation’s ‘soft power’, and so it can be in a state’s interest to elaborate a value-based justification for any intervention. Moreover, the very notion of what is in a state’s national interest is broadening in other ways as time goes on. The increasing global economic interdependence and the growing appreciation of the importance of the transnational threats to security has led to an increasing sense that, at least in some cases, values and interests can be congruent. Western nations have interests in avoiding the uncontrolled influx of refugees. They have economic interests in zones of conflict. Every state has a long-term interest in environmental stewardship – although they may disagree vehemently about how to go about it. As we have seen in the discussion about relevance, these transnational threats are increasing in significance; one of the most important effects of globalization and interdependence may be that the common ground for Idealists and Realists will expand over time.

⁵⁶ Alton Frye, ed, *Humanitarian Intervention: Crafting a Workable Doctrine, Three Options Presented as Memoranda to the President*. A Council Policy Initiative. Council on Foreign Relations, New York 2000, p 47.

⁵⁷ Summary of the Genocide Convention available online via <http://www.un.org/millennium/law/iv-1.htm> (29 Mar 03).

A disquieting moral question arises whether an obligation on the international community to intervene in any way shifts the blame for the crisis away from the perpetrators. Consider how much more analytical writing has blamed the UN or Western powers for their failure to act in the case of Rwanda, than has addressed the responsibility of the Hutu government, military, and media. Being blamed in the press and in academic literature is uncomfortable, to be sure; and in the case of Rwanda, among others, much blame is deserved. But Western government officials and UN staff are not awaiting trial in Arusha or Kigali or The Hague, so at the moment this concern is more theoretical than real. The danger, though, is that expert thinking and research will focus on optimizing the international community's ability to intervene, without adequately researching and trying to influence the circumstances that trigger the interventions.

Another source of moral discomfort is whether humanitarian intervention may be undertaken unilaterally. Most writers would agree that collectivity is preferable, if only as a "check on an individual state's tendency to intervene for self-interested purposes."⁵⁸ The ICISS report calls this issue 'Right Authority' and endorses the UN Security Council as the logical candidate, with the proviso that the Permanent Five undertake formally not to veto any resolution where their vital national interests are not at stake.⁵⁹ But if we accept Smith's proposal that states and nations have no inherent rights, then they cannot have more moral authority than their people. The same is true, at one level removed, of the UN Security Council. There is therefore a danger in assuming that the failure of the Security Council to authorize action means that such action must necessarily be morally wrong. There is a clear need for further thought on this issue of 'Right Authority'.

⁵⁸ Smith, *op.cit.*

⁵⁹ ICISS, *op.cit.*, p 51.

One source of dissent that is frequently couched in moral terms comprises certain NGOs. To the casual reader, this may come as a surprise. After all, aren't they working to achieve the same things that humanitarian intervention desires? Some NGOs are particularly wary of politicization of humanitarian assistance and guard their impartiality extremely fiercely. The ICRC was approached during the ICISS deliberations as being a possible 'impartial authority' to determine when the 'Just Cause' threshold had been passed; they declined in no uncertain terms in order to protect their neutrality.⁶⁰ Medecins Sans Frontieres (MSF) has been a vocal and passionate advocate of separation of the political (and especially of the military) from the humanitarian. They responded to the ICISS report by saying their activities "should be kept separate and independent from the kind of armed intervention, often labelled humanitarian intervention, carried out by political and military bodies."⁶¹ They feel strongly enough about this to have made it a key component of their 1999 Nobel Prize acceptance speech:

The debate on...the right of state intervention for so called humanitarian purposes is further evidence of this ambiguity. It seeks to put at the level of the humanitarian the political question of the abuse of power, and to seek a humanitarian legitimacy for a security action through military means. ... We must reaffirm with vigor and clarity the principle of an independent civilian humanitarianism. And we must criticize those interventions called 'military-humanitarian'. Humanitarian action exists only to preserve life, not to eliminate it.⁶²

Military professionals understandably may take offence at this provocatively unidimensional assessment of their function. Other NGOs take a more pragmatic view:

As long as NGOs see their work as separate and distinct from the politics of foreign policy, or in its most condescending form as superior to politics and foreign policy, they will not be

⁶⁰ Ibid, p 35.

⁶¹ Catherine Dumait-Harper, *Regarding 'The Responsibility to Protect.'* http://www.doctorswithoutborders.org/publications/speeches/2002/cdh_protect.shtml (Accessed 6 March 2003)

⁶² James Orbinski, *The Nobel Prize Acceptance Speech,* http://www.doctorswithoutborders.org/publications/speeches/1999/jo_nobel.shtml. (Accessed 28 January 2003)

considered serious players and will be unable to influence the policy debate except at the margin. The suffering people they seek to serve will be the greatest losers.⁶³

It is hard to believe that humanitarian NGOs really believe their actions to be apolitical. The very decision where to work is a political decision, and the work undertaken influences the local politics in the area concerned.⁶⁴ And it is important to note that, while they seek to distance humanitarian action from political intervention, they do recognize that the ultimate resolution of a humanitarian crisis demands political action. MSF, indeed, frequently stridently calls for it, but seems to think that political resolutions can arise out of thin air without impeding or even intersecting the actions of NGOs: “If civil society identifies a problem, it is not theirs to provide a solution, but it is theirs to expect that states will translate this into concrete and just solutions.”⁶⁵

At the root of these antithetical points of view lies the way that the term ‘humanitarian’ is used by the various groups. Interestingly, I have not found this to be explicitly stated. The different understandings must therefore be inferred from the contents. Writers from the UN, from national governments, and from militaries would interpret ‘humanitarian’ first in terms of result (i.e. that the ordinary people, who were the initial subject of concern, do derive substantial benefit from the intervention) and secondly in terms of motive (i.e. that values, and not naked self-interest, are the driving force behind intervention; or if there is an element of self-interest, at

⁶³ Andrew Natsios, former vice president of World Vision US, quoted in Neil MacFarlane, *Politics and Humanitarian Action*, Thomas J Watson Jr Institute for International Studies and the United Nations University, Occasional Paper #41, July 2000, p 1.

⁶⁴ Joanna Macrae and Nicholas Leader, *The Politics of Coherence: Humanitarianism and Foreign Policy in the Post-Cold War Era*, Humanitarian Policy Group Briefing, Overseas Development Group, London, July 2000, p 1.

⁶⁵ Orbinski, op.cit.

the very least the recipients will benefit as much as the donor⁶⁶). Method, if considered at all, is of tertiary importance. To the NGO community, however, the word ‘humanitarian’ is inseparable from the concept of Humanitarianism. For that reason their implicit definition is all about method, all about following the key principles derived from the International Committee of the Red Cross: Impartiality, Neutrality, Independence, Consent of parties, and Assistance based on evaluated needs.⁶⁷ If any of these principles are violated, then no matter how pure your motives and no matter how much benefit accrues to the local population, you are not conducting a humanitarian operation. Since a state intervention, even one that would meet the proposed ICISS criteria, may well strive to be impartial, but will rarely if ever be neutral –after all, one of the parties to the conflict is playing a role in worsening the crisis, and the military force is being deployed to dissuade this role from continuing – and never independent, an ideologically pure NGO would deny that state intervention can ever be humanitarian. A narrow semantic argument it may well be, but it lies at the heart of the lack of communication between NGOs and other actors wrestling with how to deal with these crises. It may be that different language needs to be found, but the alternatives so far suggested, like “coercive intervention for human protection purposes”⁶⁸ just seem far too clumsy to be taken seriously.

In summary, moral coherence has not been discernable in the approach of either individual nations or the UN to addressing complex emergencies so far. Agreeing that neither nations nor states possess inherent rights separate from the rights of their citizens makes the concept of

⁶⁶ Eric Belgrad and Nitzza Nachmias, eds, *The Politics of International Humanitarian Aid Operations*. (Westport, CT: Praeger, 1997), p 5.

⁶⁷ International Committee of the Red Cross, <http://www.icrc.org/Web/eng/siteeng0.nsf/iwpList109/96EA842943A5CF97C1256B66005A02C6> (Accessed 9 March 2003)

⁶⁸ ICISS, op. cit., p 67.

sovereignty conditional on respect for those rights. While this may seem to be a values-based argument, the common ground between values and interests clarified by the transnational threats to security will continue to expand over time. Undertaking interventions under the 'Right Authority' is highly desirable, but the moral authority of the UN is not superior to or separate from that of its member states and therefore, their people. NGOs, the UN, and states contemplating intervention are hindered in developing a morally coherent approach because their different histories has led to the use of subtly different language.

THE QUESTION OF EFFICACY

Any serious discussion of the legitimacy of a form of intervention must take into account the effectiveness of that intervention. This is a perilous field of analysis, for the available data are the products of a large number of variables. These variables are probably not independent, but it is accurate to say that the exact manner of their dependency is insufficiently understood. Even the criteria of success are unclear: is it the minimizing of civilian deaths? The number of refugees? The duration of the conflict? This paper has postulated intrastate conflict as the key cause of complex emergencies, so it follows that bringing an end to the conflict is a key determinant of success. Since there have been few humanitarian interventions to date, objective data that withstand tests of significance are hard to obtain. Some generalizations can be drawn from analyses of civil conflicts in general, however, that relate to the question of efficacy.

Walter reviewed civil conflicts between 1940 and 1992 and found that only 29 percent ended with "successful negotiated settlements", as compared with 60 percent of interstate wars

over the same period.⁶⁹ If we accept Maynard's assertion that current intrastate conflicts are identity conflicts, reflecting more deeply ingrained differences in all strata of society than were characteristic of ideologically-driven conflicts, then data on civil conflicts since 1992 should be even less encouraging. Looking specifically at the post-Cold War experience, Wallensteen broke down the 110 armed conflicts that took place between 1989 and 1999 by outcome, and found that only 21 ended with peace agreements, 22 as a result of clear victory, while 35 had not been terminated.⁷⁰ These data included interstate conflicts of the period, but since the dataset identified only seven of those as compared with 103 intrastate conflicts, the skewing effect on the overall data is small. While these analyses leave other relevant questions unanswered, such as whether negotiated settlements occur more often under international pressure than they do spontaneously, both authors argue that implementation of the terms of any agreement is dependent upon adequate assurances of security.

Luttwak would almost certainly disagree that intervention is effective in terminating conflict or minimizing suffering. In his provocative article 'Give War a Chance', he argues that intervention of any kind (including humanitarian relief efforts) into conflicts is misguided and counterproductive. He states: "War brings peace only after passing a culminating phase of violence. Hopes of military success must fade for accommodation to become more attractive than further combat."⁷¹ If it were true that decisive victory led to lasting peace, this argument would be more persuasive. Yet, as Wallensteen points out, victory is not as common as other

⁶⁹ Walter, op.cit.

⁷⁰ Wallensteen, op. cit., p 29. The threshold for inclusion as an armed conflict in this work is that of the Uppsala project, a relatively low threshold of 25 battle-related casualties per year. Nonetheless, 32 of the 110 conflicts were listed as having 'other outcomes', meaning that they either continued, but at such a low level as to not reach the 25 deaths criterion, or that a clandestine agreement of some type was reached.

⁷¹ Edward Luttwak, *Give War a Chance*, Foreign Affairs July/August 1999, online edition accessed via http://www.ciaonet.org/olj/fa/fa_99lue01.html (19Mar 03)

outcomes, even where there is little to no outside intervention; and further, "... victory may not be the end of the story."⁷² His strong argument is that internal conflicts require settlements that deal equitably with issues of "participation and influence in a society"⁷³ in order to be durable. There is a real risk that decisive victory will embolden the victor and in fact produce a government that further marginalizes the vanquished. A conflict that ends in this way will probably re-erupt at some time in the future.

Perhaps what we cannot yet assert is that intervention is known to be effective, but that the absence of intervention is known not to be effective. Leading on from there, are there any lessons to be learned about who is the best agent to undertake various components of an intervention? The OECD conducted an analysis that broke down recent humanitarian missions into ten component parts and looked at whether the military or the NGO sector held a comparative advantage (determined somewhat subjectively, admittedly, by assessing experience, unique capabilities, relative cost, timeliness, reliability and impact on subsequent development) in each part. They concluded that civil society is better at most relevant tasks than the military, but the military had almost a monopoly on security tasks in spite of certain concerns about whether military security had the effect of making aid and aid workers more attractive targets. The military also had comparative advantage in: intelligence functions; certain aspects of logistics; command, control and communications; chemical, biological and radiological response; and maritime operations.⁷⁴ The report does recognize extenuating circumstances in which these generalizations might not hold true, and therefore advocates case-by-case

⁷² Wallenstein, op.cit., p 173.

⁷³ Ibid, p 133.

assessment and assignment of tasks. A caution for military planners is found in their observation that due to fear of taking casualties, in certain missions the military has avoided performing security tasks and has seemingly been engaged in every task except the one for which it is most uniquely suited.⁷⁵ This is directly relevant to why the ICISS felt it necessary to include in their report an admonition that force protection cannot be allowed to take precedence over protection tasks: “force protection for the intervening force must never have priority over the resolve to accomplish the mission”.⁷⁶ Military planners will be understandably uncomfortable with the stipulation, although the sentiment behind the statement is understood. It stems from failures to take positive military action in places like Srebrenica and Rwanda; places where there was ample scope for heroic action but where such action had no realistic chance of success, given the resources available.

Given this, it is a weakness of the ICISS report that it endorses incrementalism and gradualism in the conduct of military aspects of humanitarian interventions.⁷⁷ This is likely to make the issue of force protection more problematic. Where force is warranted in a humanitarian intervention, the force deployed should be clearly and visibly capable of imposing control. This will have the quickest effect on quelling the conflict while at the same time affording the surest force protection for intervening troops. When the UN mission in Bosnia was replaced by NATO’s Implementation Force, there was an almost immediate cessation of overtly hostile acts. This was not due to any sudden rise of community feeling, and not because the

⁷⁴ David Bosco, Dennis Gllagher and Michel Moussalli, *Civilian and Military Means of Providing and Supporting Humanitarian Assistance During Conflict – Comparative Advantages and Costs*. OEDC/DAC, Paris 1998, pp 11-15.

⁷⁵ *Ibid*, p 13.

⁷⁶ ICISS, *op.cit.*, p 67.

⁷⁷ ICISS, *op. cit.*, p 63.

NATO troops were individually qualitatively better; but because there were far more of them, they were armed with serious weapons, and the United States played a key role. The force was simply more credible.

In summary, the question of efficacy remains a difficult one to answer. While data remain scant, it is clear the desired result of humanitarian intervention has not often been achieved. The ICISS report probably does not offer helpful guidance in this area. The OECD analysis emphasizes that military interventions should address themselves primarily at the security situation on the ground. Nevertheless, it can be shown that political action and often military force are needed both for the immediate objective of creating humanitarian space within which NGOs can work, and for the longer term objective of resolving the conflict sufficiently so that peace-building activities can be undertaken. Much effort remains to be expended before these interventions become highly effective, and yet the fundamental importance of assured security to the resolution of civil conflict demands that this effort be made.

CONCLUSION

Far sooner than anyone would wish, the world will be reminded that it has yet to agree on how to respond to complex emergencies. The rising seriousness of transnational threats to security coupled with the clear understanding that stability *between* states is a necessary but not sufficient condition for advancing human security implies that the international community will be repeatedly faced with difficult decisions about when and how to influence events *within* a state. Humanitarian intervention, in the case of widespread loss of life or widespread ethnic

cleansing, is a necessary part of the overall international response. To maximize sanction under International Law, this intervention should take place subsequent to a UN Security Council resolution, but in its current configuration it is unrealistic to expect that body to consistently act when action is warranted. Because adequate security is necessary for the resolution of internal conflict, and because resolution of the conflict is necessary for any lasting improvement in the humanitarian situation, the intervention should encompass the use of military force for certain tasks.

No matter how the intervention is sanctioned and led, military tasks, particularly the provision of adequate security, must be undertaken with clearly sufficient resources and most importantly with resolve. Since International Law has developed primarily to address the interactions among sovereign states, general acceptance of humanitarian intervention as legal under International Law is far from complete. The emerging concept of sovereignty as responsibility offers a valuable tool that may allow both legal and moral consensus to develop in this regard. Despite uncertainty about how to maximize effectiveness, humanitarian intervention has a legitimate future, and armed forces can expect to be part of this future.

What is at stake here is not making the world safe for big powers, or trampling over the sovereign rights of small ones, but delivering practical protection for ordinary people, at risk of their lives, because their states are unwilling or unable to protect them.⁷⁸

⁷⁸ Ibid, p 11.

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