Gone With the Wind
The UN, Sovereignty, Intervention and International Law

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ABSTRACT: The United Nations is continuously facing old and new challenges since the collapse of the Soviet Empire and the coming of the new world order. Nothing is more controversial in this Post-Communist Era than the questionable right of States and the International Community to intervene in so called 'internal affairs' of other States in order to protect the rights and lives of persons in conflict areas.

Intervention into the affairs of independent States has left modern international law, international politics and international relations in a quagmire. Many questions are being asked, among them being: Is there a justification for intervening in the affairs of another State? If so, when is it deemed justifiable and who decides so and what are the criteria? The argument pities two fundamental principles of the United Nations Charter against each other: the principle found in article 1(3) that proclaims the respect for human rights and fundamental freedoms; and that in article 2(4) that forbids member states from interfering into the internal affairs of another state, vis-à-vis the respect of state sovereignty.

For 350 years, international order has been buttressed by the notion of sovereignty: that what goes on within the borders of a nation-state is its business and its business alone. The notion of sovereignty was itself an advancement that promoted order by discouraging the meddling that could all too easily lead to conflict. But over the past half century and especially during the past decade, a new reaction against absolute sovereignty has gained strength. Today sovereignty is increasingly judged as conditional, linked to how a government treats its citizens – when the inherent contract between the government and the people is violated – the leadership forfeits its normal right to expect others to keep their distance. It falls then on the international community to act, either diplomatically (utilizing persuasion, sanctions, or aid) or with force, under the banner of humanitarian intervention.

In this paper, I look at the mentioned conflicting principles and conclude by stating the new understanding of sovereignty and democracy.

Introduction:

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[1] Haass, Richard N: What To Do With American Primacy; In: Foreign Affairs, September/October 1999 Volume 78 No. 5 p40

Overview

The Preamble of the Charter of the United Nations begins with the words, "We the Peoples of the United Nations Determined to save succeeding generations from the scourge of war, which twice in our life-time has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of human person, in equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom". Unfortunately the goal of universal peace, security and justice for mankind is still a myth in this divided world of today as the politics of peace, security, human rights and justice are determined by the national interests of a few powerful countries.[2]

The formation of the United Nations Organization (UN) was an after-result of World War II. The scourge of this war forced the world to recognize that man-kind was at threat, unless wars between and among Nations were abolished. At that time, the UN was not only viewed as a forum where problems, conflicts between the different countries and peoples of the world would be solved amicably without resorting to war at the first instance, but was also expected to play a fundamental role in the promotion of peace and security, hence the early intention for the UN to be a main actor on the international arena.

Peace and Security in the world has always been and still is a topic that different people and organizations have tried to answer. From the Vienna Congress of 1815 to the present, the quest and search for peace is still on. Actually, 'proposals for the organization of international society in a way which would avoid war were developing form the XV to the XVIII century. The *Abbé de Saint Pierre's* celebrated *Project to make Perpetual Peace in Europe* dates from 1713 while *Kant's Perpetual Peace* dates from 1795'.[3]

In 1928, over 60 Nations, including the Great Powers, signed the Pact of Paris. The Nations present renounced war as an instrument of national policy and agreed to settle all disputes peacefully. The signing of the pact is a milestone in the search for peace and security in the world. This was the first time, in history, that war was considered illegal in certain circumstances.

Although the Paris Pact made war illegal, however it did not abolish it. War was considered lawful on the following grounds:

- As a means of legally permissible self-defense;
- As a measure of collective action for the enforcement of international obligations by virtue of existing instruments such as the United Nations Charter;
- As between signatories of the Pact and non-signatories;

[2]Ejalu, William A.E: How Can Justice Be Universal?; In. Global View Nr 5/99 November 1999 p14

[3] Bertrand, Maurice: The United Nations: Past, Present and Future; Kluwer Law International 1994., p8

- As against a signatory who has breached the Pact by resorting to war in violation of its provisions.

The founders of the United Nations were challenged to form a respectable international organization that would be able to operate with the full support of the international community and not one that would end up like the League of Nations, which proved to be ineffective, a problem aggravated when the United States Senate failed to ratify its founding documents.

The lessons which the founders of the United Nations drew from the failures of the League of Nations were, firstly, that the concept of collective security had failed to operate correctly because the Articles of the Covenant failed to establish an express obligation in each member state to participate in the repression of an act of aggression; and, secondly, that the League of Nations lacked teeth, i.e. it had no army which would have allowed it to intervene directly, and thus to have exercised credible pressure.[4]

The foundations of the United Nations were laid in the midst of the World War II in August 1941. Four months before the United States entered the war, President Franklin D. Roosevelt agreed on the Atlantic Charter with Britain's Prime Minister, Winston Churchill. The latter's strong preference for a clear statement about a collective security organization in the post-war world was diluted by Roosevelt, who feared a negative reaction from Congress. Nevertheless, on New Year's Day 1942, less than a month after the American entry into the war, twenty-six governments signed the Declaration of the United Nations, which called for mutual support among the allied signatories and a *more permanent system of general security*.[5] At the time, the countries concerned did not want to take 'the risk of ignoring two lessons of World War II; the inability of the League of Nations, weakened by the United States' absence and lack of any military resources to prevent war, and the failure of U.S. isolationism to keep the U.S. out of war once it had become a global conflagration'.[6]

The actual foundation of the United Nations Organizations started off at the Georgetown Estate of Dumbarton in the United States where the hosts the United States, Great Britain, the Soviet Union and China met and drew up plans for a post-war organization to maintain permanent peace. 'At the time what was needed, therefore, was a world organization capable of maintaining the peace and bringing the menace of conquest finally to an end'.[7]

Although the purpose, that is, the need of an international organization to promote peace and security, was identical among the four mentioned countries, approaches differed due to different strategic interests. In other words, the means to peace and security were viewed in different terms leading to many arguments and long

[4] Bertrand, Maurice: The United Nations: Past, Present and Future; Kluwer Law International 1994., p9

[5] Weiss, Thomas G; Forsythe, David P; Coate, Roger A: The United Nations and Changing World Politics: 2nd edition, Westview Press, 1997, p28

[6] Noyes, John E: The United Nations at 50; Proposals for Improving Its Effectiveness, p1

[7] Hilderbrand, Robert C: Dumbarton Oaks: The Origins of the United Nations and the Search for Post-War Security; The University of North Carolina Press, p11

negotiations during the conference. One of the main arguments was on role the future organization would play. Should it restrict itself to peace and security or should its activities involve other problems facing the world? 'In view of the Soviet Union, therefore, the primary and indeed the only task of the international organization should be the maintenance of peace and security'.[8]

Divergence in the intended purposes of the organization made the negotiations cumbersome and long. Besides the intended purpose, the structural organization proved to be a headache, especially when it came to the role of the Security Council and the question concerning membership to the organization.

The Soviets thought that the organization should have three principles: the maintenance of general peace, and security through measures for the prevention or suppression of aggression, the settlement by peaceful means of international disputes that might lead to breaches of the peace, and the adoption of the other measures to strengthen world peace and to develop friendly relations among nations.[9]

A number of differences among the conferees could not be settled at Dumbarton Oaks. The British government opposed any attention to colonial territories, while the United States thought this a major task for the new organization, despite the dissent of U.S military leaders who feared that considering the matter might negatively influence the war effort. The Soviet Union objected to the Anglo-U.S. notion that a party to an international conflict should not participate in voting in the Security Council on such an issue. Great Britain and the United States argued that this exclusion would be needed in order to obtain cooperation from the smaller countries, but the Soviet Union feared it could be used against it.[10]

The United Nations

The United Nations is the most pivotal organ of world government, and the most important of all international institutions[11] since it involves almost all the nations of the world. The drawing up of the United Nations Charter, based on the proposals of China, the Soviet Union, United Kingdom and the United States, took place at the Opera in San Francisco, The United States on 25 April 1945. Right from the beginning, the UN was considered as the principle force in advancing the rule of law in the world. At that moment in time, 'a totally new security system had now been established very much on the lines the great powers had originally planned'.[12]

The establishment of the organization was deemed, then, to be the long awaited answer to the unacceptable suffering and destruction that had been caused during the just ended World War II. By that time, security in the

[8] Hilderbrand, Robert C: Dumbarton Oaks: The Origins of the United Nations and the Search for Post-War Security; The University of North Carolina Press, p88

[9] Hilderbrand, Robert C: Dumbarton Oaks: The Origins of the United Nations and the Search for Post-War Security; The University of North Carolina Press, p85

[10] Baehr, Peter R. and Gordenker, Leon: The United Nations: Reality and Ideal; Praeger Publishers 1984, p13

[11] Shearer, I. A: Starke's International Law; 11th edition, Butterworths 1994, p567

[12] Laurd, Evan: A History of the United Nations: Volume I; The Years of Western Domination 1945-1955, Macmillan 1982, p86

world was only viewed in terms of war and preventing of wars between states, which was thought to promote international security. One should not make the assumption that the founders of the organization were not far-sighted; no, it is the unforgettable experience of the World War II that guided their efforts in creating a stable and safe environment for the peoples of the world.

Security, traditionally defined, was supposed to be the primary task of the world organization. With the signing of the UN Charter on June 26, 1945, the world undertook a new experiment in organizing states to control war. Two world wars within two decades, the holocaust, and the advent of the nuclear age produced the political will to improve on the League of Nations. The international community rejected isolationism and committed itself to trying to safeguard the peace that had been won at great cost. In the inspiring words of the Charter's Preamble, the UN's role was to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind.[13]

The purposes and principles of the organization are clearly stated in Articles 1[14] and 2[15].

It is eminent that the United Nations was established on two principles: Sovereignty of member states and non-interference in the domestic affairs of the member states. The principles embedded in the Charter were derived from the conceptions and plans

[13] Weiss, Thomas G; Forsythe, David P; Coate, Roger A: The United Nations and Changing World Politics: 2nd edition, Westview Press, 1997, p21

[14] 1)To maintain the international peace and security, and to that end: to take effective collective measures for prevention and removal of the threats to peace, and for the suppression of acts of aggression or other breaches of peace, and to bring about by peaceful means, in conformity with the principles of justice and international law. Adjustment or settlement of international disputes or situations which might lead to a breach of the peace; 2) To develop friendly relations among nations based upon respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measure to strengthen universal peace; 3) To achieve international co-operation in solving international problems of economic, social, cultural, humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and; 4) To be a centre for harmonizing the actions of nations in the attainment of these common ends.

[15] The organization and its members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following principles. 1) The organization is based on the principle of sovereign equality of all its members, 2) All members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter; 3) All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice is not endangered; 4) 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, or any other manner inconsistent with the purposes of the United Nations; 5) All members shall give the United Nations every assistance in accordance with the present Charter, shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action; 6) The organization shall ensure that the states which are not members of the United Nations act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any sate or shall require the members to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

of wartime Allies, which first found expression in:

- The Atlantic Charter subscribed to by the President of the United States and the Prime Minister of Great Britain in August 1941;
- The United Nations Declaration signed by 26 nations on New Year's day 1942 after Japan had opened hostilities in the Pacific;
- The Moscow Declaration of October 1943, issued by the governments of the United States, Great Britain, the Soviet Union and China, recognizing the need for establishing a general international organization based on the principle of all sovereign equality of all peace-loving states, and open to membership of all states large and small, in order to maintain international peace and security.[16]

The Security Council

Of all the organs[17] of the United Nations, the Security Council is the best known. It is a continuously functioning body of the United Nations and is made up of 15 members.[18]

The non-permanent members of the Council are chosen on the following geographical basis: 3 Africans, 2 Asians, 1 Eastern European, two Latin Americans and two from Western Europe and other States.

Originally the Security Council had 11 members. In 1965, an amendment to the Charter came into force, increasing the membership of the Council to 15, making it more representative of the growing organization.

Each member has only one representative in the Security Council. Each member of the Security Council has only one vote. All decisions on procedural matters shall be made by an affirmative vote of nine members and decisions on all matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members.

The Security Council is 'given primary responsibility under the Charter for maintaining peace and security, in order that, as a smaller executive body with a permanent core of membership of the Great Powers, it can take effective decisions to ensure prompt action by the United Nations.'[19]

By endowing the Security Council with "primary responsibility for the maintenance of peace and security" and granting a right to veto on non-procedural matters to its five permanent members, the founding United Nations members sought to take into account the realities of power and hierarchy in international relations. The right of veto, given to the United States, the United Kingdom, France, the Union of Soviet Socialist Republics[20] and China, was tacit recognition

[16] SHEARER, I. A: Starke's International Law; 11th edition, Butterworths 1994, p568

[17] The General Assembly, The Security Council, The Secretariat, The Trustee Council and The International Court of Justice

[18] 5 permanent members that are China, France, Great Britain, Russia and the United States and 10 members who are elected on an agreed geographical formula for a two year period. Of the 10 members no retiring member is eligible for immediate re-election.

[19] Shearer, I. A.: Starke's International Law; 11th edition, Butterworths, 1994, p571

[20] Russia is the successor state

that it would not be enough to merely admonish States to settle their disputes by peaceful means.[21]

The Security Council may hold periodic meetings. It may hold sessions at any other places other than the seat of the Organization as in its judgment will best facilitate its work. The Council adopts it own rules of procedure including method of selecting its President.

Other members of the United Nations who are not members of the Security Council may participate, without vote in the discussion of any question/s before the Council whenever they consider that their interests are specially affected. Any member who is a party to a dispute under consideration may be invited by the Council to participate without vote. The council shall lay down conditions for the participation of States that are not members of the United Nations.

The Security Council has both conciliatory and coercive powers in promoting peace in the world as vested in chapters VI and VII of the Charter.

Chapter VI deals with the pacific settlement of disputes. Article 33 of the Charter states that,

> "1. The parties to any dispute, the continuance of which is likely to endanger the maintain of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
>
> *2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means."*

If the parties to dispute fail to settle it as indicated in Chapter 33, they shall refer it to the Security Council. It is also provided for that if the Security Council deems that the continuance of a dispute may endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate. Article 36 provides that,

> *"1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or a situation of like nature, recommend appropriate procedures or methods of adjustment.*
>
> *2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted.*
>
> 3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by parties to the International Court of Justice in accordance with the provisions of the Statute of the Court."

Powers and Functions of the Security Council

- the pacific settlement of international disputes,
- preventive or enforcement action to maintain peace and security,

[21] Berdal, Mats R.: The Security Council, Peacekeeping and Internal Conflict After the Cold War: In. Duke Journal of Comparative and International Law; VOL. 7 No. 1, Fall, 1996, p73

- regional agencies and regional agreements,
- the control and supervision of trust territories classified as 'strategic areas',
- the admission, suspension and expulsion of members,
- amendments to the charter,
- the election in conjunction with the General Assembly, of the fifteen judges of the International Court Judge.

Chapter VII of the charter vests the Security Council with the so called "Chapter VII powers". This chapter gives the Council the powers to take any actions with respect to threats to peace, breaches of the peace, and acts of aggression.

In case of a direct threat to peace, the Security Council may legally take stronger action under Chapter VII of the Charter. To begin with, it must decide if the matter before it does indeed threaten the peace (Article 39). It may recommend provisional measures or move directly to a call on Member States to apply diplomatic and economic sanctions (Article 40 and 41). Such a call may constitute a legal obligation if the Council so decides. The Council was also intended to be able to use armed forces placed at its disposal by Members (Article 42 and 43). In such enforcement action, members of the Council who are parties to the dispute may vote, although they must abstain in matters of peace settlement under Chapter VI of the Charter.[22]

Maintenance of International Security

The actions of the superpowers immediately after the foundation of the United Nations minimised the idea of collective security from the word go, as the Cold War created its own notion of security in the eyes of the strategic interests of the two poles, the East and the West.

The United Nations' Security Council became and is a playing ground for the five permanent members since no resolution may pass without all the five positive votes or such a rare occurrence like the time when a resolution was passed to intervene in Korea when the U.S.S.R representative was absent hence could not use its veto. A veto is always used to show disagreement with a fellow permanent member, sometimes to the detriment of the peoples that the same organization is supposed to protect.

Starting from the late 1980s we saw a change in the traditional role played by UN in preserving peace. Due to the change of events and type of conflicts, majority being civil wars, some do argue that intervention in these conflicts did not necessary require an invitation from the warring parties, due to the enormous amount of indiscriminate suffering and destruction. The only incidence when all the permanent members did seem to agree was in 1991 when Iraq invaded Kuwait and the ensuing Gulf War but this also had a few examples of slight disagreement between the United States and other allies especially France. This was easier in my opinion because it was a clear and strong violation of the sovereignty of the another member state of the United Nations which could not and should not be tolerated and mainly because Kuwait was not only an ally of the United States but also a strong supplier of crude oil. Therefore its occupation by Iraq which

[22] Baehr, Peter R. and Gordenker, Leon: The United Nations: Reality and Ideal; Praeger Publishers, 1984, p24

is referred to as a 'rogue' state by the Americans was in fact a direct threat to USA's dependable oil supply.

Unfortunately, the Great Powers did not then - or do they now accept the Universal Collective Security Commitments to which they paid lip-service.[23]

It is an agreed fact that the great powers took the first initiative to undermine the very system that they had created with the hope of stopping wars among nations. It is questionable now as to whether the allies considered collective security as a remedy for the basic insecurity witnessed in the international system.

It is an unfortunate result that the international military force that was to be created under the control of the Security Council never materialized due to the so-called veto power politics that was being practiced by the two superpowers of the time.

Since 1945, untold numbers of wars have broken out and tens of millions of people have perished as a result. According to the logic of the Charter, the leadership for United Nation's peace and security duties rests on the shoulders of a small segment of the international community, notably the great powers. Conflict between Washington and Moscow poisoned the atmosphere and prevented their working together on most issues of security during the Cold War. World politics often made it impossible to act collectively, and states often chose to disobey or ignore the prohibitions and restrictions on the use of force to pursue *raison d' état.*[24]

This clearly shows that, 'the mutually antagonistic global policies of the guarantors of world peace preclude the functioning of the concert as enthroned in the Security Council.'[25]

One should understand that when the 'collective security' system was being planned the main cause of world insecurity was thought to be wars. War was as an instrument of policy used by states when it is appropriate from the point of view both of the objectives sought and of the strength of the prospective enemy. It was seen as the ultimate form of settling international disputes. So the main aim of the United Nation was to discourage and eradicate this way of thinking as it had earlier on been expressed in the Paris Pact of 1928.

Although the 'collective security' is considered to have been a failure due the influence of the Cold War, it was successful in a way that the world never experienced a wide scale war since the end of World war II. The polarization of peace and security tended to keep peace to a certain extent in the different ideological groups.

The Yalta scheme of the four policemen worked up to a point and in an unintended fashion from 1945 to the 1980s. The Soviet Union and China each kept their part of the world in order, at the point of the bayonet where

[23] Haas, Ernst B.: Types of Collective Security: An Examination of Operational Concepts; In. Lerche, Charles O., Jr; Lerche, Margaret E.: Readings in International Politics: Concepts and Issues; Oxford University Press, Inc., 1958, p202

[24] Weiss, Thomas G.; Forsythe, Daid P.; Coate, Roger a.: The United Nations and Changing World Politics, 2nd edition, Westview Press, 1997, p46

[25] Haas, Ernst B.: Types of Collective Security: An Examination of Operational Concepts; In. Lerche, Charles O., Jr; Lerche, Margaret E.: Readings in International Politics: Concepts and Issues; Oxford University Press, Inc., 1958, p204

necessary. The United States policed the Caribbean and Central America. Western Europe built up defenses and the West safeguarded its vital interests in the Middle East. Without the Cold War, the policemen's roles diminished. A conflict in a country or region not vitally affecting the interests of the West or East was likely to find its own bloody solution.[26]

When talking about the maintenance and promotion of international peace and security one should realize that both international and internal conflicts are a threat to this phenomenon as it has been vividly proved in recent times.

Immediately after the United Nations had been born it was faced with challenges that tested its ability as a universal organization to promote and maintain peace and security. The Korean war is an example in case, where the absence of the Soviet delegate at the Security council meeting, thus he could not veto the proposal, made it possible for the Americans to commandeer a Council approval.

As a whole the United Nations represents an attempt to create the most effective instrument ever designed to maintain peace and security. Its Charter reflects a quest for better means than the League of Nations had for this purpose.[27]

The League of Nations, the first universal membership and general purpose international organization, developed from the ashes of World War I; the desire to prevent another war and insure international collaboration was the primary motivation for the creation of that organization. The failure of the League of Nations, culminating in World War II, did not diminish the enthusiasm of the world community for seeking institutional safeguards against threats to international peace and security.[28]

The first issue at hand was the beginning of the Cold War. From then on, every aspect of security was defined in terms of East and West.

The collapse of Nazi Germany and the need to fill the resulting power vacuum led to the disintegration of the wartime partnership. The purpose of the allies were simply too divergent. Churchill sought to prevent the Soviet Union from dominating Central Europe. Stalin wanted to be paid in territorial coin for Soviet victories and the heroic suffering of the Russian people. The new President, Harry S. Truman, initially strove to continue Roosevelt's legacy of holding the alliance together. By the end of his first term, however, every vestige of wartime harmony had vanished. The United States and the Soviet Union, the two giants were now facing off against one another in the very heart of Europe.[29]

It was this very rivalry that led to the establishment of the North Atlantic Treaty Organization (NATO).

This environment at times referred to as the 'containment policy' whereby the Western Allies tried to stop Soviet expansion to the West and other parts of the world.

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[26] Grenville, J.A.S: A History of The World in The Twentieth Century; Harvad University Press 1994, p926

[27] Baehr, Peter R. and Gordenker, Leon: The United Nations: Reality and Ideal; Praeger Publishers, 1984, p65

[28] Diehl, Paul F.: International Peacekeeping; p1, The John Hopkins University Press 1994, p1

[29] Kissenger, Henry: Diplomacy; Simon and Schuster 1994, p424

"Containment", as it developed, consisted of three pillars. One was military preparedness and strength and the ability to counter and Soviet moves with adequate force in order to preempt them or stop them; secondly, economic - the sheer strength of the American economy would allow the country to develop the appropriate weapons faster and at less of an economic drain in terms of its gross national income than it was the case for the Soviet Union. An increase in the productivity and the standard of living of the United States and the allies would challenge the leaders and peoples in the communist bloc and undermine their faith in their own system. Finally, politically and ideologically, if democracies were able to stand up to Soviet pressures, they would become an object of emulation.[30]

The Cold War gave reality to fears, or suspicions, that the centralized collective security system, managed by the Security Council, might not prove to be effective.

The inability of the United Nations to function perfectly as a promoter of peace was not only due to out break of the Cold War. Another source of unexpected change in circumstances was the process of decolonization leading to the creation of many more small independent states, hence an increment in the number of Members of the Organization. These new states did also have their own priority list and many did not have promotion of peace and security at the top of their lists.

Another general source of disagreement that has undermined the UN concerns when international rules should be made. Americans prefer after-the-fact, corrective laws. They tend to favor leaving the field open to competition as long as possible and view regulations as a last resort, to be employed only after free markets have failed. Europeans, in contrast, prefer preventive rules aimed at averting crises and market failures before they take place. Europeans tend to identify ultimate goals, try to anticipate future difficulties, and then strive to regulate in advance, before problems develop. This approach suggests a preference for stability and predictability; Americans, on the other hand, seem more comfortable with innovation and occasional chaos. Contrasting responses across the Atlantic to emerging high-technology and telecommunications industries are a prime example of these differences in spirit. So are divergent transatlantic reactions to the use of force.[31]

The change of the political environment in the world following the end of the World War II promoted to thoughts of what global security ought to be. 'The first is the old fashioned, best expressed in the Preamble to the Charter of the United Nations: it is the desire to free future generations from the scourge of war. The other is the enlarged sense of security which was first defined by the Nuremberg process, expanded at Helsinki and which has recently been given authoritative restatement in the Report of the Governance.'[32]

[30] Macridis, Roy C.: Foreign Policy in World Policies, 8th edition; Prentice-Hall Int, Inc., 1992, p407

[31] Glennon, Michael J: Why The Security Council Failed, Foreign Affairs, May/June 2003

[32] PRINS, GWYN: Global Security and Military Intervention, Volume 27. No. 1, March, 1996, p8

From this step on security was now linked to human rights.

The United Nations has not been a total failure in promoting universal peace and security though the achievements are way behind the aims that had been expressed in 1945.

Events after 9/11[33] go further to illustrate the inability of countries, especially the United States of America to fully involve the United Nations and work within its given guidelines, before resorting to the use of force and intervening the in the domestic affairs of another country. The American Government proclaimed the eminent right for pre-emptive attack to defend itself, decided to initiate attacks against the Taliban Government in Afghanistan and Saddam's regime n Iraq.

Intervention and Humanitarian Intervention

Although intervention is an ambiguous phenomenon, the disastrous consequences witnessed during conflicts on the community and infrastructure in an area of strife calls for a revision of the way conflicts and conflict resolution ought to be viewed. Following the atrocities witnessed in Bosnia, Rwanda, Sierra Leone, Somalia, Angola to mention but a few, there has been an outcry for the international community to intervene in order to minimize the loss of life and suffering in the conflict areas.

Although there is still no generally accepted and definite definition for intervention, it is considered the situation when a third party or external party intervenes in a conflict without the invitation of the warring parties for its own interest. The interests are various, unlimited and undefined. It may be due to national interest, protection of human rights and democracy, protection of economic interests and advantage.

The word 'intervention' is often defined in a rather loose way to denote a wide array of effects of one country upon another, whether intended or not. Such a definition makes any posture by a powerful country have an 'interventionary' impact on a weaker one, including the decision not to act. In this usage intervention is simply a reflection of an interdependent world of unequal states. Others regard intervention as extending to all uses of force in international political life, thereby conflating intrusions in internal affairs, as in Somalia, with strictly battlefield undertakings, as in the Gulf War, whose principle object was to restore Kuwaiti sovereignty. This breadth of definition misses the crucial distinction between occasions when military force almost never works, namely, when the goal is internal political restructuring, and when it may well succeed, namely, in battlefield confrontations of opposed military forces contesting boundaries.[34]

The term 'intervention' refers generically to a broad range of activities that encompass many, if not most, of the activities directed by one state toward another. The activities can be political,

[33] In the morning hours of September 11, 2001, four hijacked civilian planes were used in terrorist attacks for the first time. Two of them were flown into the World Trade Centre in New York, one into the Pentagon in Washington D.C and the fourth, failing to reach its intended destination crashed in a field in Shanksville, Pennsylvania.

[34] Falk, Richard: Intervention Revisited: Hard Choices and Tragic Dilemmas;: In The Nation December 20, 1993 p 755

diplomatic, economic, or military; they can have various levels of intensity and scope, and they represent a balance between the intervener's interests, power, and opportunities and the structural vulnerabilities of the target state (e.g., a weak but domestically stable state offers fewer opportunities for intervention than an unstable one does) and its determination to bear the costs of resisting the intervener.[35]

Intervention is the dictatorial interference by a state in the affairs of another state for the purpose of maintaining or altering the actual condition of things. Such intervention can take place by right or without right, but it always concerns the external independence or the territorial or personal supremacy of the state concerned, and the whole matter is therefore of great importance for the position of international position of states. That intervention is, as a rule, forbidden by international law, which protects the international personality of states, there is no doubt. On the other hand, there is just as little doubt that this rule has exceptions, for there are interventions which take place by right, are nevertheless permitted by international law.[36]

The concept of intervention refers to the deliberate actions taken by individual states, organizations, or a coalition of states in the international community to assist other states or national entities in the favorable resolution of pressing matters of humanitarian, regional security or international economic interest.[37]

Although there lacks a definite definition, there is a generally accepted norm that the act of external interference does involve a third party/s in a problem that is considered an internal affair by either one or all the parties actively entangled in the conflict. But due to the immense suffering witnessed in conflict areas, the norm of humanitarian intervention was created. Although international law considers intervention illegal it was viewed that there should be exceptions to this rule and intervention on behalf of the civilians was considered one of them. Many states, especially the smaller, poorer and weaker ones do not agree with this phenomenon since they see this as a trick used by the stronger, bigger and richer countries to interfere in their home affairs. With the majority of the smaller countries having been under colonialism, they consider this as a mode of neo-colonialisation.

Humanitarian intervention, *vis-à-vis* intervention to protect civilians whose rights are being grossly violated in the mode of interference being advocated for. Incidentally humanitarian intervention has not and is not as effective as it should be because of the surrounding controversy. It is not the plight of the civilians that leads to intervention by the big powers, but rather the strategic interests of the intervening powers.

Humanitarian intervention is understood in various ways. I do understand it to be, *'the unwelcome but justified intervention in a conflict in order to protect the civilians by stopping the*

[35]Vertzberger, Yaacov Y.I: Risk Taking and Decisionmaking: Foreign Military Intervention Decisions; Stanford University Press 1998 p114

[36]Opphheim, L: International Law: A Treatise; David McKay Company Inc. 1955 p305

[37]Lipsey, Roderick Von: The Intervention Circle: In. Breaking The Circle; Macmillan 1997 p4

gross violation of human rights and humanitarian law in an area of combat'.

Fernando R. Tesón defines humanitarian intervention as *the proportionate transboundary help including forcible help, provided by the governments to individuals in another state who are being denied basic human rights and who themselves would be rationally willing to revolt against their governments*. The problem with Tesón's definition is that humanitarian intervention should be based on the fact that the people should be willing to revolt against the oppressive government. This raises a question: Is humanitarian intervention only justified when the government is oppressive? Inhumane and degrading treatment of civilians is not an act of governments only as evident in Angola, Cambodia Sierra Leone and Uganda among others.

I do tend to agree with Wil Verwey's definition that states humanitarian intervention as,

'*the threat or use of force by a state or states abroad, for the sole purpose of preventing or putting a halt to a serious violation of fundamental human rights, in particular the right to life of persons regardless of their nationality, such protection taking place neither upon authorization by relevant organs of the United Nations nor with permission by the legitimate government of the target state.'*

It is seen from the above there is not yet a generally accepted definition of humanitarian intervention although it is evident that it should be practiced to promote human rights. I am of the opinion that whenever the following general criteria are present then humanitarian intervention is not only justified but also an obligation the international community owes the innocent people in the area of conflict. These are:

- Gross and indiscriminate violation of human rights and humanitarian law by one or all the parties involved in the conflict;
- Escalating violence that may endanger peace, security and stability in a country/territory;
- Non-involvement in the conflict by the intervening party preferably under the auspices of a regional or international organization;
- Should not depend on the willingness of the warring parties to allow the neutral party to intervene.(difference with peace keeping)

Richard Haass in his article 'What To Do With American Primacy' in the September/October 1999 edition of Foreign Affairs makes a very important point when he states among other foundations of the post Cold War international society, a limited doctrine of humanitarian intervention based on a recognition that people- and not just states- enjoy rights, and economic openness.

Therefore 'humanitarian intervention may be defined as the justifiable use of force for the purpose of protecting the inhabitants of another state from treatment so arbitrary and persistently abusive as to exceed the limits within which the sovereign is presumed to act with reason and justice'.[38]

[38]D' Amato, Anthony: International Law Anthology ; Anderson Publishing Company 1994 p208

The Use of Force

When one talks of the international system or community, one basically means a principality of states, defined politically and territorially and this implies the freedom from interference. It was and is the necessity of preserving the institution as a gathering of peaceful and friendly states that made the limitation of the use of force a paramount drive in the promotion of universal peace and security.

The formation of The United Nations was an after-result of World War II. The scourge of the war made the world realize that man-kind was at threat because of war and that war among nations ought to be stopped. The United Nations was not only viewed as a forum where problems, conflicts among different countries and peoples of the world would be solved amicably without turning to war at the first instance but was also expected to play a fundamental role in the promotion of peace and security, hence becoming the major actor in this area.[39]The Charter not only sought to outlaw war but also to add substance and structure to the notion of international government by basing itself on the principles of territorial integrity, juridical equality, and political independence of states.[40]

One of the cornerstones of the Charter of the United Nations is the prohibition of the use of force. It is envisaged in article 2(4) of the Charter that Member states shall refrain from the threat or use of force against other states. The only instance when it would be justified is when the action is authorized by the Security Council. This clarifies that the most important aim of founding the organization was to eradicate wars among nations.

Under international law any threat or use of force without prior authorization from the Security Council would be deemed an aggression and illegal. There are two exceptions to this rule: that is in the case of self-defense including individual and/or collective defense and as earlier stated with the permission of the Security Council under its Chapter 7 powers.

As a build up to the core of this paper, one has to understand the differences that exist between the United Nations family immediately after World War II and the present. When the UN was established the majority of the developing world was still under colonial rule hence their views were not represented at the founding summit. At the time peace was seen in the eyes of victorious powers and their interests. At the moment the UN is an organization with more than 180 members, all with diverse interests. An element that draws most of former colonial territories big or small to the organization is the principle of sovereign equality whereby no other state may interfere in the affairs of another. This gives these nations a sense of independence. The controversy concerning intervention entwines the principle of sovereignty.

By sovereignty it is understood to mean 'a jurisdiction, *prima facie* exclusive, over a territory and the per-

[39]Ejalu, William A.E: The Role of The United Nations and NATO in The Promotion and Maintenance of International Security ; Szakdolgozat 1999(unpublished) p7

[40]Schachter, Oscar: The Role of International Law in Maintaining Peace: In. Approaches to Peace: An Intellectual Map: Edited by Thompson, Scott W& Jensen, Kenneth M with Smith, Richard N and Schraub Kimber M; United States Peace Institute 1992

manent population living there, a duty of non-intervention in the area of exclusive jurisdiction of other states, and independence of obligations arising from customary law and treaties on the consent of the obligor.[41]

But in legal literature the prohibition of the use of force and its limits in international law have remained the subject of a long-standing controversy, inspired by the wide gap between official rhetoric and inconsistent actual practice of states in view of the numerous armed conflicts since 1945 and the ineffectiveness of the United Nations collective security system during the Cold War period, which has given rise to the question whether the norm laid in Article 2(4) can still be regarded as valid.[42] More than anything else, however, it has been still another underlying difference in attitude -- over the need to comply with the UN's rules on the use of force -- that has proved most disabling to the UN system. Since 1945, so many states have used armed force on so many occasions, in flagrant violation of the charter that the regime can only be said to have collapsed. In framing the charter, the international community failed to anticipate accurately when force would be deemed unacceptable. Nor did it apply sufficient disincentives to instances when it would be so deemed. Given that the UN's is a voluntary system that depends for compliance on state consent, this short-sightedness proved fatal.[43]

On one hand, under the United Nations Charter the authority 'to maintain or restore international peace and security' was invested in the Security Council. It is only the Council that may authorize the use of force on any state that is deemed to have broken the peace. Until the Gulf War, the use of force by the United Nations had only been evident in peacekeeping, which is not provided for in the Charter. This has become a well established role of the UN and it is supported by most of the member states. 'The use of military force by the United Nations for both of these purposes--enforcement and peacekeeping--is surely essential to a world order in which international security is heavily dependent on the Security Council'.[44]

One notices that the use of force is dependent on the will of the Security Council. The Council is composed of 15 members, five (China, France, Russia, the United Kingdom and the United States of America) of which are permanent members holding a veto and the remaining ten are elected on an agreed geographical formula for a two year period and none is eligible for re-election.

The two judgments by the International Court of Justice in the area of the use of armed force support the present authors' interpretation of the ban on force. In the *Corfu Channel Case*, the United Kingdom argued that its minesweeping operation carried out by the Royal Navy (Operation Retail) in Albanian territorial waters 'threatened neither the territorial integrity nor political independence of Albania [because] Albania suffered neither ter-

[41]Brownlie, Ian: Principles of Public International Law ; 4th Edition, Clarendon Press 1990 p287

[42]Malanczuk, Peter: Akehurts's- Modern Introduction To International Law ;7th Edition, Routledge 1997 p311

[43] Glennon, Michael J: Why The Security Council Failed, Foreign Affairs, May/June 2003

[44]Bruce, Russet and Sutterlin, James S: The UN in a New World Order; Foreign Affairs 70.2 (Spring 1991) p69

ritorial loss nor [loss to] any part of its political independence'. The Court rejected this contention:

The Court cannot accept such a line of defense. The Court can only regard the alleged right of intervention as the manifestation of a policy of force, such as has, in the past, given rise to most serious abuses and such as cannot, whatever be the present defects in international organization, find a place in international law. Intervention is perhaps still less admissible in the particular form it would take here; for, from the nature of things, it would be reserved for the most powerful States, and might easily lead to perverting the administration of international justice itself.
The United Kingdom agent, in his speech in reply, has further classified 'Operation Retail' among the methods of self-protection or self-help. The Court cannot accept this defense either. Between independent States, respect for territorial sovereignty is an essential foundation of international relations.
This significant judicial pronouncement not only supports the view that the prohibition of the use of force is a norm independent of the effectiveness or otherwise of international organizations, but it also scotches the argument that article 2(4) is somehow limited. Indeed the Court uses the term 'territorial sovereignty' as an amorphous concept covering all aspects of a state unless performed in genuine self-defense or under authorization by the Security Council is unlawful. This analysis of the ban on force was strengthened by the World Court in the *Nicaragua Case*. The Court emphasized the link between the 'principles of the prohibition of the force and of non-intervention' and 'the principle of respect for state sovereignty'. Thus the phrase 'territorial integrity or political independence' has been interpreted to mean the totality of a state's sovereign rights.[45]

For or Against Intervention

For one to understand the arguments behind humanitarian intervention, it is recommendable to first become familiar with the aspects surrounding the intervention and/or the non-intervention dilemma. The altercation for and against intervention is based on many aspects including legal, moral and advancement on international law and modern society to mention just a few. This dilemma has been the center of debates for many years and will remain so for some time to come.

Non-Intervention

The United Nations is an association of sovereign States, and sovereign states do tend to be extremely jealous of their sovereignty. Small states, especially, are fearful of intervention in their affairs by great Powers. And indeed, our century has seen many examples of the strong "intervening" – or interfering – in the affairs of the weak, from the Allied intervention in the Russian civil war in 1918 to the Soviet "interventions" in Hungary, Czechoslovakia and Afganistan.[46] Non-intervention is neither a moral nor an ethical norm but a legal one in

[45]McCoubrey, Hilaire and White, Nigel D: International Law and Armed Conflict; Dartmouth Publishing Co. 1992 p26
[46]Annan, Koffi: UN Chronicle No. 3, 1998 p2

international law and relations. The discussion about non-intervention and sovereignty is one of the most common topics in international law and relations. When the United Nations Organization was set up in 1945, the powers of that time considered the principle of sovereignty as one of the most important parts of the Charter. It is envisaged in the text of the treaty that, '*The organisation is based on the principle of the sovereign equality of all its Members*'[47] and continues that, *'All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations'*[48]

Those against intervention claim that no other state and/or organization have the right to interfere in the internal affairs of another country. These people view the act of intervention as an aggressive provocation on a UN Member and consider it illegal under international law, unless approved by the UN Security Council. During the cold war era intervention was seen as a struggle for influence by one of the super powers and their allies.

Regional organizations in different parts of the world have decried the intervention by states in the affairs of others when unwelcome. The Charter of the Organization of American States declares that:

> *(18) No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements.*
>
> *(19) No State may use or encourage the use of coercive measures of an economic or political character in order to force the sovereign will of another State and obtain from it advantages of any kind.*
>
> *(20) The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measure of force taken by another State, directly or indirectly, on any grounds whatever. No territorial acquisitions or special advantages obtained either by force or by other means of coercion shall be recognized.*[49]

In the good old days of the cold war the left had little difficulty with the question of interventionism. It was uniformly opposed for clear political, legal and moral reasons. The modal case, of course, was Vietnam. Intervention seemed, correctly, to hide neocolonialist motivations behind the banner of anti-Communism. Recourse to intervene deprived Third World peoples of their right of self-determination. Besides interventionism was cruel and bloody, and put the

[47]Article 2(1) of The Charter of The United Nations 1945

[48]Article 2(4) of The Charter of The United Nations 1945

[49]Quoted in Brilmayer, Lea: Justifying International Acts, Cornell University Press 1989 p106

United States squarely on the reactionary side of the historical ledger. Further, a contested intervention often resulted in counter intervention, raising the geopolitical ante and poising risks of wider war, with the superpowers committed on opposite sides. Interventionism also often denied poor peoples a progressive, socialist option, and it gave right-wing militarist approaches to foreign policy the upper hand in Washington.[50]

One should understand that at the time the Charter of The United Nations was written there were fewer independent states compared to the present, with most of the Third World still under colonial rule. The promoters of non-intervention base their argument on the principle of sovereignty and state equality. They claim that as independent nations, it is only on their invitation that a state may get involved in the internal affairs of another. This is treated as a sacred rule in relations among states. Intervention is viewed as a violation of sovereignty, territorial integrity and the principle of legal equality of states. Most of these states view non-intervention as an avoidance of not only territorial occupation but also colonialism, political subversion and at times economic blackmail. 'In essence, international intervention is viewed with suspicion and fear since it conjures up memories of imperialism, colonialism, racism and humiliation which militate against any broadly based formulation of principles regarding intervention'.[51]

Brownlie goes on to state in his book the principles of public international law that 'the sovereignty and equality of states represent the basic constitutional doctrine of the law of nations, which governs a community consisting primarily of states having a uniform legal personality. If international law exists, then the dynamics of state sovereignty can be expressed in terms of law, and, as states are equal and have legal personality, sovereignty is in a major aspect a relation to other states (and organizations of states) defined by law'.

Intervention

Intervention tends to have one of two types of meanings. On the one hand there is action undertaken in the name of international peace and security. This now has a long history, involving a spectrum of activities from offering the services of mediators, providing monitors and peacekeepers to ensure that agreements are being honored, supporting directly those offering humanitarian aid to victims of warfare, interposing forces between belligerents, and, at the extreme, entering a conflict on behalf of the most aggrieved party. On the other hand intervention can mean interference in another country's internal affairs. This too can take a variety of forms, from prodding its leaders in the directions of certain policies and deterring them from others, encouraging and sponsoring particular political tendencies and, at this extreme, attempting to take direct control of its affairs.[52]

[50]Falk, Richard: Intervention Revisited: Hard Choices and Tragic Dilemmas; In. The Nation p755 December 20, 1993

[51]Abiew, Kofi Francis: Assessing Humanitarian Intervention in the Post-Cold War Period: Sources of Consensus: In. International Relations Volume XIV No. 2 August 1998 p68

[52]Freedman, Lawrence: Nature of Intervention: In. Military Intervention in European Conflicts;

A growing number of states and authors have interpreted the principle of sovereignty and state equality as more of a legal norm than a practical issue. The claim that the principle is not absolute and the states may have the right to intervene in the internal affairs of another country if there is reason to. There is an understanding that although most of the witnessed interventions during the Cold War were more of ideological based; nevertheless some were justified in the name of peace and justice.

The world is becoming more and more interdependent and with this the principle of sovereignty has lost meaning and those in support of intervention do suggest that it ought to be redefined to fit in the modern times. The number of issues that no longer affect a single nation are on the increase giving other states a chance to have a say in such affairs.

The Gulf War would be a good example in that although it was evident that Iraq had invaded and occupied Kuwait, an act unactable by the United Nations and the international community, another cause of concern was the threat to the continuous supply of oil to the United States and this gave the American politicians no excuse but to intervene in their own interest.

States have claimed to have responsibility over their nationals and in case their lives are in threat then, they may intervene on their behalf. This is quite a debatable point but has been used a number of times.

In international law intervention is permitted in cases when it is being carried out with the permission of the Security Council, the organ of the United Nations responsible for the maintenance of peace and security. Regional organizations like NATO are also permitted to play a role under article 52 of the Charter as long as their activities do not infringe the principles of the United Nations. These regional organizations may use force only when serving as instruments of the Security Council.

Pro-interventionists do affirm that the UN Charter only prohibits the use of force in international relations and not domestic use of force leaving the peoples vulnerable to mistreatment by internal warring parties.

Humanitarian Intervention

As I stated in the introduction I am going to mainly concentrate on humanitarian intervention after 1989 with reference to some of the earlier interventions. In this paper I am to write about intervention in general and will not draw on the differences between unilateral and collective humanitarian intervention but rather look at the argument for and against intervention for humanitarian purposes. Though I use the words 'humanitarian intervention' in this paper, what I actually mean is military humanitarian intervention. As we all witnessed the events taking place immediately after the collapse of communism, especially in the newly independent states that were formally under communist rule making most of the actors in the international legal and political sphere question majority of the norms engraved in the United Nations Charter like intervention. In this period of time many thought it even wiser that the Charter be amended to keep in track with the development of times. One of

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Edited by Freedman, Lawrence; Blackwell Publishers 1994 p1

the causes of constant and continuous debate in international law, politics and relations in the post-Communist era is the norm of humanitarian intervention, an action when a state/s and or international organizations decide to militarily get involved in a civil conflict or war in order to protect and promote human rights and democracy without the consent of the parties involved. International law does not provide for humanitarian intervention in a concrete form and neither does it give a criteria for the form/s of interference. Many do argue that humanitarian intervention is a result of the progressive development of international law and the changing of times in adjacent to the universal and compulsory acceptance and respect of human rights. Even the supporters of this kind of intervention are still divided on whether it should only be carried out with or without the authorization of the Security Council. Those that think that it is not important to first get prior-authorization from the Security Council prefer to be considered as acting on behalf of the 'international community' and not only the United Nations as an organization of states.

Although article 2(4) of the Charter prohibits interference in the domestic affairs of another country, supporters of humanitarian intervention argue that this only stands if the state respects and promotes the principles of the United Nations. They do affirm that article 1(3) of the Charter states that one of the purposes is ,"*To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion;"*

Any country that does not respect this norm and terrorizes its inhabitants cannot claim for non-intervention, giving the excuse that it is a domestic affair. 'I argue that conventional methods of treaty interpretation, when applied to article 2(4), are incapable of yielding a solution to the hard case of humanitarian intervention. That solution can only be reached by presupposing an ethical theory of international law. Only then shall we be able to dissolve the tension between the two principles that underlie international legal doctrine-the entitlement to fundamental human rights and the prohibition of law'.[53]

The existence of a right to intervention is controversial. The most frequently quoted example of humanitarian intervention was India's intervention in Pakistan in 1971 in support of Bangladeshis. More recent examples have included the Tanzanian intervention in Uganda which ultimately led to the downfall of Idi Amin. In all examples apart from Bangladesh, however, the intervening State has justified its action by reference primarily to the doctrine of self-defense. These measures, therefore, are unsatisfactory examples of state practice which can be used to justify a right of humanitarian intervention.[54] However, the right of the sovereign state to act without interference within its own territory, even though it be no more than a presump-

[53]Tesón, Fernando R: Humanitarian Intervention: An Inquiry into Law and Morality; Transnational Publishers, Inc 2nd Edition 1997 p149

[54]Editors: Templeman, Lord and MaClean, Robert M: Public International Law; Old Bailey Press 1997 p323

tion, is of such importance to the well-being of international society, that states in their wisdom, as evidenced in their practice, have been jealous of lightly admitting the pleas of humanity as a justification for action against a sister state; and we find the intervention on this ground has been rather rigidly limited to specific cases, and conditioned in each of them upon the existence of a certain state of facts. It is true that the appreciation of the facts and the determination as to the existence of the justifying situation still remains to a certain degree a matter entrusted to the conscientious discretion of the intervening state; nevertheless, the general and salutary attitude of suspicion serves as a rough check upon its abuse. The counterpoise which serves as the sanction to prevent aggression and subsequent conquest under the guise of humanitarian intervention is perhaps to be found in the general readiness of states to act in defense of the balance of power and in order to preserve the society of independent states.[55]

The debate surrounding humanitarian intervention does not only concern whether it is permitted for under the United Nations Charter or not, it is also on whether the reaction to the different crisis is the same or not, how to guarantee the independence of the state involved, who is the authority behind the intervention, when should the intervention take place and when should it come to an end, in short, there is no criteria that would be suitable to all areas of crisis. In short, humanitarian intervention is dependent on the foreign policy and interests of the intervening state/s. Many do not argue on the merits and demerits of the different humanitarian missions but instead on the international community's reaction towards atrocities in the different continents. Following NATO's bombardment of Serbia, even without the Security Council's prior-authorization, most of the Africans see it as double-standardness and betrayal of the same principles promoted by humanitarian intervention when the major powers pay lip-service to the events in the Democratic Republic of Congo, Angola and Sierra Leone, mentioning a few.

Many would-be interveners are skeptical of getting embroiled in the local politics of the areas of conflict which would not get public support that the politicians depend on before making a decision to intervene or not. 'Intervention for humanitarian purposes leads inevitably to political tasks, which, although not outside the experience of the United States and its allies, are expensive. On the evidence of the post-Cold War era, the American public is not inclined to pay for such interventions'.[56]Therefore one realizes that the decision to intervene may be influenced by many factors and actors; however, this makes the whole institution of humanitarian intervention complicated and unclear in a situation that needs a quick, efficient and effective reaction. The phenomenon of humanitarian intervention becomes a common topic of discussion in the early 1990s following the outbreak of ethnic conflicts in the former Yugoslavia and Rwanda.

[55]D'Amato, Anthony: International Law Anthology; Anderson Publishing Co. 1994 p208

[56]Mandelbaum, Micheal: The Reluctance to Intervene :In Foreign Policy 93 Summer 1994 p3

Another important aspect humanitarian intervention is the role played by regional organizations in some of the conflicts. Under the United Nations Charter it states that, *Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations*[57].

The actions of the North Atlantic Treaty Organization (NATO) in the former Yugoslavia and the Economic Community of West African States (ECOWAS) in Liberia and Sierra Leone does prove that regional organizations have got a paramount role to play in the promotion of peace and security in a region and the world as a whole. The question that has been frequently raised is that should these organizations only act if there is a United Nations Security Council Resolution supporting their missions or because of the politicking in the United Nations, the Security Council should be by-passed in certain cases in order to save more peoples' lives. One of the detriments of intervention with the UN's authorization is the slow pace at which decisions are made at the United Nations. Behind all these arguments is the role of human rights in the whole controversy. The main argument for humanitarian intervention is that it is mainly to put a stop to the gross violation of human rights. 'Human rights are seen as being universal because of their status as inherent and inalienable and they therefore lay the foundations of a 'world society' of individuals, creating the basis of a universal system of justice. Such an approach asserts that a political order which is unjust because it denies these rights to individuals is unlikely to generate a sustainable order. Therefore the international system cannot allow abuses of human rights not only because they are unjust but because they threaten the basis of order'.[58]However, arguments have been made that article 2(4) allows force to be used independently of self-defense in the following circumstances;

1. where force is used in a foreign state with the consent of the *de jure* government of that state (referred to sometimes as 'intervention on invitation');
2. where force is used to recover territory illegally occupied by a foreign state;
3. where force is used for humanitarian ends to prevent or suppress atrocities and massive violations of human rights;
4. where force is used to assist a people struggling for democratic rights against a repressive regime;
5. where force is used to protect or secure legal rights when no other means are available.[59]

It was in the early 1990s that we started seeing a change in how the United Nations and its bodies viewed peace and order in the world. It was in this period, following the violence in

[57]Article 52(1) of the United Nations Charter 1945

[58]Williams, John: The Ethical Basis of Humanitarian Intervention, the Security Council and Yugoslavia :In. International Peacekeeping Volume 6 Summer 1999 No. 2 p4

[59]Schachter, Oscar: International Law in Theory and Practice; Martinus Nijhoff Publishers 1991 p113

the Balkans that the respect of human rights was equated to the promotion and maintenance of human rights. Before that, the institution of peace and security was seen in the balance of power and the arms race. But with only one super power left, no one could continue to minimize the role of human rights in promoting a good, stable and peaceful environment for mankind to live in.

Contemporary international law establishes beyond any doubt that serious violations of human rights are matters of international concern. Such international concern has crystallized into impressive networks of rules and institutions both at the universal and regional levels. In case of human rights violations reaching the magnitude of the Kosovo crisis, these developments in international law allow states, acting individually, collectively or through international organizations, a whole range of peaceful responses. According to the dominant doctrine in the law of State responsibility (developed by the UN International Law Commission), the obligations on States to respect and protect the basic rights of all human persons are the concern of States, i.e., they are owed *erga omnes* ("towards all"). Consequently, in case of material breaches of such obligations, every other State may lawfully consider itself legally "injured" and thereby entitled to resort to countermeasures (formerly called reprisals) against the perpetrator. Under international law in force since 1945, confirmed in the General Assembly's Declaration on "Friendly Relations" of 1970, countermeasures must not involve the threat or use of armed force. In the Kosovo case, such pacific countermeasures were employed, for instance, by the European Union last year through the suspension of the landing rights of Yugoslav airlines within the EU. Aside from the question whether this particular measure proved to be effective, it is somewhat surprising that a major member State of the EU, at least initially, did not regard itself in a position legally to have recourse to these peaceful means of coercing the FRY to respect the human rights of the Kosovar Albanians while not expressing respective doubts about the legality of its participation in the NATO threat of armed force built up a few weeks later.[60]

Conclusion

First and foremost there is a lot of inconsistency in the different interventions that are initiated due to humanitarian reasons. Although I have not been able to thoroughly give an infinitive and exact description of humanitarian intervention, I have tried to approach the topic by first looking at international peace and security in general and the United Nations, then the use of force and last and not least humanitarian intervention. The examples given are not exhaustive but give a glimpse of intervention in different regions.

Majority of the conflicts that became more violent in the 1990s have got their origin during the Cold War and/or are the result of the decisions taken by the victorious powers after World War I & II.

Security and peace in the world must not only be seen in terms of wars between and within states. The security of humanity is affected by five major

[60]Simma, Bruno: NATO, the UN and the Use of Force: Legal Aspects; http://www.unausa.org/issues/sc.simma.htm p5

factors: military, political, economic, societal and environmental.
Unless wars between and within states are abolished, they are bound to abolish human beings.
Security in the 90s has greatly been affected by the rise in the number of internal conflicts. From Bosnia, Kosovo, Rwanda, Angola, Liberia to mention but a few, masses of people have lost lives and have been forced to leave their homes. Regional organizations like NATO and ECOMOG have been successful to a certain extent but have not been able to stop the carnage that has been going on and is still going on. One reason of this failure has been the historical attachments some of the international players have with the parties to a conflict for example Russia and the former Yugoslavia which hinder the use of force when it ought to be due to their objections.
The Europeans countries actually do not want to get involved directly in the problems on Europe and that is why they depend on the United States. But the actions of the United States do depend on the American public opinion, which creates an awkward situation since America is not in Europe and the people might not realize that humanity is at stake.
To promote peace and security attention should be paid to all other sectors of life.
States must come together and stop selling arms to parties involved in conflicts. It is humanity at stake and something must be done. States must also actively make sure that the perpetrators of genocide and crimes against humanity are brought to justice. The United States and other members must pay their dues to the United Nations to enable it carry on its work not only in the field of peace and security but in other fields as well.
The framework for peace and security throughout the universe does exist, it is now time to forget our differences and effect it. The United Nations, NATO and other regional organization have done a commendable job but they can do better to serve mankind from self destruction.

Sovereignty

Principle of state equality and national sovereignty should be respected but only if a particular state does respect human rights. The effect of globalization and interdependence do illustrate that this norm should be redefined to keep in step with the changing times.
The question of sovereignty is proving to be more and more controversial in the present Global village as the so called "international community" plays a deeper and deeper role in the national politics of states.
One must realize that we are moving from inter-dependence (if this policy ever even existed) to dependency at a very fast rate though few of the world politicians can publicly accept this.
The present definition and understanding of Sovereignty is outdated thus should be either recreated according to the changing times or the word itself should be withdrawn from existence as it no longer makes sense.
Sovereignty of states has/is always equated with equality of states. International lawyers could say that all states are equal regardless of wealth, size but this is actually misleading. (I am not considering the different types of sovereignty e.g. territorial sovereignty in this essay but looking at it generally). As an example let me look

at the role of the Security Council of the United Nations.

The Charter of the United Nations proclaims among states and yet the Security Council is made up of only twelve members of which five that is the United Kingdom, France, China, Russia and The United States and the remaining seven seats revolve among the others members of the United Nations every two years.

The five permanent members have veto over all the decisions of the council. Is this the modern day equality of states whereby five out of more the hundred nations have all this power invested in them?

History and time have been witness to the Security Council's inability to prevent and solve problems at an early stage due to the fact that before the so called "powers" support any action by the United Nations their own political and economic interests take a paramount role. Other than the recent Gulf war where all the permanent members voted for the use of force against Iraq if it did not adhere to the outcries of the "international community" to pull out of Kuwait, no other incidence exists where all five agreed to one thing. Presently differences have started coming up as the sanctions against Iraq go on with France, Russia as an example not actually agreeing with the United States.

The creation of the International Criminal Tribunal for the Former Yugoslavia by a decision of only the Security Council is a blow to the theory of Sovereignty, but clear acknowledgment of the primacy of human rights.

Countries are being bound to a statute that they do not even negotiate or join. What has happened to the fact that States are only bound by treaties, statutes declarations that they have expressly agreed to!

The role of sovereignty in International relations is on the decline. Let us look at the positions of the North Atlantic Treaty Organization (NATO) and the European Union.

These Organizations have taken over many roles that before were considered to be in the hands of National Governments. Before joining, all interested parties have to fulfill certain conditions like modernizing the armies and so on. This used to be the responsibility of States but it seems that before one joins any international organization, one has to give up responsibility that before were considered to be in the sovereign control of states.

The role of the European Union is even more evident. Many decisions are made in Brussels and sent to the different capitals of members states to be implemented. Issues like the Social security, Pension, Taxation and so on are no longer considered as sovereign rights of member states. It is even wore off for states that want to join the Union as they have to change all their policies so that they rhyme with the Union's before being accepted. This makes me wonder as to whether a term should not be concocted to mean a "new type of sovereignty."

My essay would not be complete before my looking at the role of donor agencies in pushing out of fashion the present definition of Sovereignty especially in the case of developing countries. These days getting loans and aid from the World Bank and the International Monetary Fund (these are examples but there are many more

including countries), countries have to first agree to the conditions given, many of which are out of touch with the social structures of the different states, "money with strings attached".
Governments have been forced to reduce the number of civil servants, reform health systems etc., just because they are getting money from somewhere. Some of these forced policies, which had been the sole responsibility of national parliaments have been total failures as they are drawn up by people who never take time to consider as to whether they will be applicable or not. This is actual interference in the internal affairs of states and a mimic of the definition of Sovereignty.
I could go on, for pages, with examples but it makes no sense since it should be clear by now to the reader of what I am trying to pinpoint but it would be unfair to stop here without looking at the role of the United States' bid to have Boris Yelstin re-elected. Boris Yelstin has failed in all but managed to prove to the rest of the world that he is always sick, unable to govern and a down to earth drunkard, and yet the United States did its level best and with success to have him re-elected in the name of democracy. I do doubt as to whether the United States is in a position to make decisions that pertain to the peoples of Russia.
I am not saying that their fears were unfounded, what I would like to stress is that this was evidently interference in the internal affairs of another country by the other.
The above mentioned examples show clearly that the classical meaning of sovereignty is out of touch with the changing systems especially in the field of international relations and that a new one should be invented.

Humanitarian Intervention
Humanitarian intervention should be uniform in all parts of the world and should be based on the gross violation of human rights. It is very important to involve the United Nations from the beginning and not after the intervention like the case in Kosovo and then blaming the organization for its inability to make any changes. The United Nations' inability has been caused by the 'veto' of the five permanent members and I think it is time the Charter was amended to accommodate more regional powers as permanent members in the council and also to signify the change of times since the time the organization was created.
Regional organizations should be given a larger role but only with the support and expertise of the United Nations and its agencies. It is true that the further the conflict is from Europe and America the lesser the Western Powers are concerned and bothered. This has led to a great loss of life and property. It is time that those in different regions get the point that they must learn how to cope with conflicts in their area and not just depend on the so called major powers who are answerable to their voters and not the international community.
Earlier on I did refer to a criterion for humanitarian intervention; this is not perfect but will go a long way in some of the arguments.
Humanitarian intervention should only be acceptable in rare and grave situations and no single state should have the right to intervene without the consent of the Security Council except in cases where this is not possible and it has the support of a regional organization of that area.

Human Rights Violations

Unfortunately the goal of universal peace, security and justice for mankind is still a myth in this divided world of today as the politics of peace, security, human rights and justice are determined by the national interests of a few powerful countries.

The establishment of the Criminal Tribunal on The Former Yugoslavia in 1993 and the Criminal Tribunal on Rwanda later on conceived the precedent that the international community will not stand by and watch when international humanitarian law and human rights law are being grossly violated. Until the creation of the International Criminal Tribunals, the international community under the auspices of the United Nations had been slow or rather inactive in bringing to justice those responsible for atrocities committed during 'conflicts'.[61]

Forced to act by the "CNN Effect" that brought the vivid horrors of the war in Yugoslavia to our own living rooms, the United Nations Security Council pursuant to the Chapter VII powers through Resolutions 808 and 827 established the Criminal Tribunal on The Former Yugoslavia to prosecute those accused of having violated international humanitarian law and human rights law during the conflict starting 1991. 'The factual basis for the Security Council's conclusions was ample. The expulsion of great numbers of inhabitants, the creation of a major refugee problem spilling over frontiers, and the possibility of the conflicts expanding into Kosovo, Macedonia, and triggering even a broader Balkan conflagration, provided strong rationales for the Security Council'.[62]

Without going into the arguments that surrounded and still do surround the establishment of the Tribunal, I would like to point out some important questions raised:

- whether the Security Council had the competence to establish a judicial subsidiary organ;
- whether the Tribunal had jurisdiction over individuals;
- whether the Tribunal had primary jurisdiction over national courts.

In answer to critics of the Tribunal, the Appeals Chamber of the International Tribunal came to the following decision in the Dusko Tadic Case on October 2, 1995. The Tribunal decided that the Security Council had the power in the circumstances to invoke Chapter VII of the Charter, that the establishment of the Tribunal was an appropriate measure in the circumstances under Article 41 of the Charter, and that the Tribunal was established in accordance with the rule of law in that it was in accordance with the appropriate procedures under the United Nations Charter and provides all necessary safeguards of a fair trial.[63] The Appeals Chamber also stated that the Tribunal had primary

[61]By conflict I do not make a difference between internal and international conflict. It is my opinion that all conflicts are international since all do have an international element e.g financial support from individuals and organisation based abroad.

[62]Meron, Theoder: The Normative Impact On International Law Of The International Tribunal For The Former Yugoslavia p213 In: War crimes in international law; Edited by Dinstein, Yoran and Tabry, Mala.

[63]Aldrich, George H: Editorial Comments: Jurisdiction of The International Criminal Tribunal For The Former Yugoslavia p65; American Journal of International Law, Volume 90 January 1996 No. 1.

jurisdiction over the National Courts and that it had the power to try the case.

I am not questioning the powers of the Tribunal/s to try the cases, but rather queries the role of the Security Council in bringing the perpetrators of Genocide, Crimes Against Humanity and War crimes to justice. In establishing both the International Criminal Tribunals for Yugoslavia and Rwanda, the Security Council took a step further to confirm itself as a promoter of peace and security in the world whenever there is gross violation of human rights and humanitarian law. The U.N Security Council established the tribunal (Yugoslavian) on May 25, 1993, when it adopted the Statute of the International Tribunal proposed by Secretary-General Boutros Boutros-Ghali. The council created the tribunal in response to the deliberate, systematic violations of human rights and humanitarian norms committed in the territory of the former Yugoslavia. Atrocities committed included summary executions, torture, rape, arbitrary mass internment, deportation and displacement, hostage-taking, inhuman treatment of prisoners, indiscriminate shelling of cities, and unwarranted destruction of private property.[64]

Innocent people have been maimed, raped, killed, displaced in Angola, Burundi, Congo, East Timor, Liberia, Sierra Leone, Sudan and Uganda to mention but a few. Those who have committed heinous crimes are working around free. The likes of Idi Amin are living comfortably in other countries after overseeing massacres of thousands of their own citizens.

With the creation of the International Criminal Court not expected in the near future mainly due to the delaying tactics of countries like the United States, the only way of promoting peace, security and justice for all is for the Security Council to follow its own examples and establish other *ad hoc* tribunals to try those accused of committing abuses against innocent populations in other parts of the world and not only in Europe, whenever necessary.

Although I am a critic of the way the tribunal/s was established, I do understand the urgency and necessity of the Security Council's actions. Incidentally events in other parts of the world have shown that this is not the case. It seems that the reason as to why the tribunal was established was because of the close proximity of the conflict to the borders and/or interests of four out of the five permanent members of the Security Council.

If it is true that there exists universal justice, then the Security Council had better take more serious steps to promote peace, security and justice for all persons in the world. It is time to give up the 'backdoor' thinking and act accordingly.

While I do encourage the establishment of truth commissions and investigation committees since we have to coexist, however this is on the condition that the perpetrators of the mentioned crimes are not involved in this process. There is no excuse for the crimes committed and they must answer for them.

The inability of the Security Council to act as chief promoter of peace, se-

[64]Meron, Theodor: Answering For War Crimes p2; Foreign Affairs January/February 1997.

curity and justice in other parts of the world does provide an extra argument to those in favor of reforming the United Nations, the Security Council in particular. Let not the violations of human rights and humanitarian norms be seen only through the prism of national interests of the five permanent members of the Security Council. It is of my opinion that, since the establishment of the international criminal court is not in the foreseeable future and that it may create both logistical and legal problems to create an *ad hoc* tribunal whenever and wherever there is a conflict, the jurisdiction of both the Yugoslavian and Rwandan tribunals should be revised to include not only Yugoslavia and Rwanda but the rest of the world.

I do quote Richard Butler who stated, "The five major powers were given permanent seats on the council to ensure their commitment to the new body. They were given the veto for a very limited and specific reason: to allow them to prevent a council decision authorizing the use of force against them. Beyond that, they were expected to exercise collective responsibility for 'the maintenance of international peace and security'" .[65]
All the peoples of the world deserve peace, security and justice regardless of geographical location.[*]
Events in Kosovo, Liberia and Sierra Leone have shown that not only the combatants violate human rights and humanitarian law but even the interveners do. Therefore any individual and organization should be held responsible for any crimes and/or offences committed. NATO is known to have caused uncalled for collateral and environmental damages and should answer for this. Nigerian soldiers serving with ECOMOG have been guilty of committing some of the crimes in Sierra Leone.

Closing Remarks

It is hard to sum up this topic due to the controversies. The international community looked on as Amin slaughtered his people, events unfolded in Rwanda and Burundi and Milosevic started his cleansing campaign. Either the international community never acted or by the time they did it was already too late.
I would like to quote Chantal Oudraat's words, 'Armed intervention and the military can help stop the violence and that is the first step toward reconciliation and getting parties back together to help. But this is just the first step. You then have to go into more nation-building types of exercises, you will have to develop institutions through which different parties in society can voice their desires, their complaints, and so that they can voice them not by means of arms, but through dialogue, through institutions, through the buildings of parliament and democratic institutions.'

Partly Oudraat is right but these mentioned institutions should not be forced onto the people as it is in Bosnia and Kosovo. The people must be ready otherwise the conflict will continue. I am of the opinion that humani-

[65]Butler, Richard: Bewitched, Bothere, and Bewildered; Repairing the Security Council, Foreign Affairs Vol.78 No. 5 September/October 1999

[*] Part of the article, 'How Can Justice be Universal' that appeared in the Global View Nr. 5/99 November 1999

tarian intervention should be based on putting an end to a grave humanitarian or pending humanitarian crisis only and not on democratic principles for the following reasons:

Democracy has been stated to mean:

- a government of the people
- rule of the majority
- a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections
- a political unit that has a democratic government
- the principles and policies of the Democratic party of the U.S
- the common people especially when constituting the source of political authority
- the absence of hereditary or arbitrary class distinctions or privileges
- a government of the people, by the people, for the people as stated by Abraham Lincoln

The above points illustrate what is thought as democracy, in a western sense if I may say. This is a problem Americans are and will be facing in Iraq. It is almost impossible for the US Administration to accommodate all the various interest groups but then if democracy in the American sense takes place without any safeguards, Iraq is bound to become an Islamic state under the control of the Shi'ites. 'In the wake of the war, important questions about Iraq remain. Will the newly energized Shi'ite majority seek an Islamic government modeled after Iran, or will its members agree to share power with other communities? Will the United States succeed in establishing itself as a credible broker, especially in Shi'ite eyes? The future of Iraq may well depend on the answers'.[66]

In a homogenous society and where the political culture witnessed democracy for hundreds of years this is the expected norm and nothing short of this should/will be accepted.

The people who described democracy as above, I could surely say only considered only one type of society and that is the one they were in. In this world especially in Africa and Asia, States are made up of people from different clans, tribes and ethnic origins.

Before States were created, taking Africa as an example, these people lived separately in their own groups, tribes etc with different systems of government. (Kingdoms, Chiefdoms). In a Kingdom or Chiefdom different clans had different roles to play in the affairs of government and very few internal conflicts prevailed.

Then came the white man scrambling for Africa, destroying the ways of life and afterwards demarcating countries without taking into consideration the plight of the people, thus at times dividing a tribe into two or more countries.

Democracy was introduced, but only in the ruling circles. I do believe this could have been done and still should be done by initiating it from the grassroots and the culture has to be taken into consideration.

The only way to introduce western democracy successfully in such regions is first to improve on the education system making it accessible to more and more people and also help solve basic problems like providing

[66] Nakash, Yitzhak: The Shi'ites and the Future of Iraq, Foreign Affairs, July/August 2003

drinking water, good and free health system etc.
When the number of literates is at an increase then political parties and so on can work successfully for people do not have to only depend on hearsay as has been the case thus a decrease on voting based on tribal, religious affiliations etc.
If this cannot be initiated then those complaining from the west are not justified as they think.
I believe that democracy is a collective right meaning that if people are comfortable with the system of government then it is democratic regardless of the above given definitions.
A case to take into consideration is Uganda which has had a frightening experience of Multi-partism since independence. Now people are voted to parliament as individuals and not on party lines and this system is working.
Uganda, I could say is considered peaceful if we look back at its history and with the fastest growing economy in Africa at the moment (1998). The question is, who is right? The theorist who defined democracy on paper or the one who looks at his nation and invents a systems that works and does the permanent members did seem to agree was in 1991 when Iraq invaded Kuwait and the ensuing Gulf War but this also had a few examples of slight disagreement between the United States and other allies especially France. This was easier in my opinion because it was a clear and strong violation of the sovereignty of the another member state of the United Nations which could not and should not be tolerated and mainly because Kuwait was not only an ally of the United States but also a strong supplier of crude oil. Therefore its occupation by Iraq which is referred to as a 'rogue' state by the Americans was in fact a direct threat to America's dependable oil supply.
In consideration of the above, one could state that the whole idea of an international community living together in peace and harmony is a failure and a myth if we look at peace in a literal sense, and the statements issued on behalf of international organizations and the major powers are never taken seriously since the majority especially the United Nations does not have the capability to enforce their decisions.
not divide the people on party, tribal lines.
Let us hope that a time will come when a humanitarian intervention will be based on nothing else but an enforcement that will lead to the respect and promotion of human rights.
The United Nations' Security Council is a playing ground for the five permanent members since no resolution may pass without all the five positive votes or like the time when a resolution was passed to intervene in Korea when the U.S.S.R was absent hence could not use its veto. A veto is always used to show disagreement with a fellow permanent member, sometimes to detriment of the peoples that the same organization is supposed to protect. Starting from the late 1980s we saw a change in the traditional role played by UN in preserving peace. Due to the change of events and type of conflicts, majority being civil wars, some do argue that intervention in these conflicts did not necessary require an invitation from the warring parties, due to the enormous amount of indiscriminate suffering and destruction. The only incidence when all

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