Armed force, ordinarily employed for aggressive and defensive purposes in regional and national conflicts, has expanded to situations requiring ‘humanitarian’ assistance. However, there is considerable debate between the practitioners of “real politik” (realists) and the proponents of international law and treaties based on ethical and moral principles (liberals). Numerous international treaties have sought to eliminate the use of force in international relations, such as the Covenant of the League of Nations, the Kellog-Briand Pact and the United Nations (UN) Charter (Breau 2005). However, in some situations, force is necessary to bring an end to large-scale human rights abuses against a large group of civilians. Since the 1990’s, the international community has faced this dilemma repeatedly. On the one hand, there was a responsibility to limit the use of force to self-defence according to the UN Charter. On the other hand, there was strong international pressure to abide by commitments to human rights and the right to life. The convergence of these two principles is reflected in the debate on whether humanitarian intervention can actually be ‘humanitarian’ at all, or, whether it is a political tool of great powers.

In his article, Michael Smith (1998) presents an ‘overview of the ethical issues’ of humanitarian intervention. His account of realism (representing the interests of great powers) versus liberalism (legal and moral principles) provides the basis for examination of the debate. Realists are cynical about humanitarian intervention on the basis of its potential, perhaps inevitable abuse. Liberals hope that humanitarian intervention will address the great powers’ unwillingness to abandon those suffering helplessly at the hands of oppressive regimes. Regardless of legaility, Nardin (2006) reminds us that we have a ‘moral duty to act when institutions fail. That is the lesson of Rwanda. No institution can be counted on to make moral judgement unnecessary’ (p25-26). Therefore, the ultimate goal is to reconcile the realist’s legitimate objections with the liberal’s legitimate moral obligations; to avoid abuse but protect the unprotected. Neither position can fully account for the complex moral challenges and realities we face in humanitarian crises, yet both continue to play an important part in informing subsequent theory and practice.

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1 Articles 2(4) and 51 of the UN Charter.
2 Articles 55 and 56 of the UN Charter, the Universal Declaration on Human Rights and other international human rights treaties.
State sovereignty and non-intervention

Intervention in the domestic affairs of another state is theoretically illegal according to the UN Charter. The principle articles regarding intervention and the use of force can be found in article 2(4) and article 51. The first prescribes that all states shall refrain from the threat or use of force against other states, while the second, as an exception to article 2(4), affirms the right of individual or collective self-defence in the event of an armed attack. Despite such provisions, Schachter (1991) argues that ‘Article 2(4) allows force to be used independently of self-defense in the following circumstances: …for humanitarian ends to prevent or suppress atrocities and massive violations of human rights…assist a people struggling for national liberation…assist a people struggling for democratic rights against a repressive regime…to protect or secure legal rights when no other means are available’ (p133). Indeed, since the end of the Cold War we have seen an increase in the use of force for humanitarian purposes around the world in places such as Somalia, Liberia, the Balkans, Afghanistan, and Iraq (Wheeler 2000). Consequently, some people argue that humanitarian intervention may become a new exception to the principle of non-intervention in customary international law. Kristiosis (1998) makes this point when he claims that, as a result of the Nicaragua case, it is possible to conceive of ‘new exceptions in customary international law...’ (p1013).

However, the legitimacy of military intervention ‘for humanitarian ends’ remains open to vigorous debate. If one assumes for a moment that intervention for humanitarian purposes is gradually becoming accepted as customary international law, how do we decide when such intervention is justified? Who has the authority to authorise it? What would justify a violation of the principle of non-intervention in the first place? The most common example given in answer to the last question is Rwanda.³ Because of political dilemmas and stalemates, the Security Council failed to put forth a resolution to halt the violence, which resulted in the deaths of several hundred thousand Tutsis (Moseley & Norman 2002). In the aftermath of Rwanda, there was also a vast increase in violence in the former Yugoslavia. That time, arising from what many saw as a failed duty of the international community to intervene in Rwanda, a group of states under the auspices of NATO took it upon themselves to intervene in Kosovo when the Security Council failed to authorise force itself (Orford 2003). The reactions to NATO’s use of force were generally divided

³ ‘[T]he genocide in Rwanda will define for our generation the consequences of inaction in the face of mass murder’ (p16). Opening of the UN Secretary-General Kofi Annan’s report to the General Assembly in 1990 (Orford 2003).
between those who saw it as illegal, without proper authorisation from the Security Council, and others who saw it as morally necessary, regardless of legality.

Which, then, do we obey first? Morality or law? Nardin (2006) argues that both ‘principles and institutions are contested, uncertain, and abused. One appeals to procedures when people cannot agree on principles, and to principles when institutions are unjust or ineffective’ (p25). Legality is not the only contentious aspect of intervention; so is legitimacy. A legitimate intervention might depend on who wants to intervene, where they want to intervene, and if their motives for intervention are in their own self interest. These questions fuel our current subject: does ‘humanitarian intervention’ reflect the interests of great powers rather than legal or moral principles?

Liberalism versus Realism

In his article, Smith (1998) offers an analysis of what he deems the principle ethical positions in regards to humanitarian intervention from both a ‘liberal’ and ‘realist’ perspective. A liberal, according to Smith’s formulation, is one that has ‘traditionally valued self-determination, community, and shared history’, yet a liberal also has a ‘more universalist conception of human rights in which sovereignty is a subsidiary and a conditional value’ (p72). Under such a framework, humanitarian intervention would clearly reflect moral and legal principles. Indeed, states who commit genocide or other egregious human rights abuses break nearly all known moral codes and forfeit, according to liberals, their legitimacy and the right to govern their own states free from intervention. Furthermore, Nardin (2006) suggests that the non-intervention principle inherently accounts for exceptions made to it: since ‘a state exists to protect the rights of its citizens, if it violates those rights it loses its moral rationale and therefore its immunity from foreign interference’ (p12).

An obvious objection to this position can be made from a realist perspective. Even if there are clear humanitarian issues at stake, what is there to prevent an intervening state from selective intervention only when it matches its own political and strategic interest? The ‘Reagan policy’ of the 1980’s has been much criticised for its self-interested and imperialistic nature. While covertly attempting to overthrow leftist governments, it emphasised ‘higher values’ of national security and freedom (Schachter 1991). This example demonstrates the complex nature of justifications for interventions because we see mixing of motives and intentions. It is important to distinguish the
two as they have quite different implications, but first to elaborate on the dynamics of liberalism and realism.

In addition to moral arguments for intervention, a liberal could also argue his case using existing international law. The establishment of the International Criminal Court constitutes a large step towards bringing perpetrators of massive human rights violations to justice. Although it is non-military in nature, the indictment and prosecution of heads of state (such as that of Slobodan Milosevic) in a foreign country could be seen as a violation of non-intervention into the domestic affairs of a given state. Granted, some states (including the U.S.) have not given their support for such a court, but the overwhelming majority have done so and see it as a positive step in protecting human rights around the world. Traditional notions of sovereignty appear to have given way to a kind of conditional sovereignty. Sovereignty is an inherent right of any state, until or if that state fails to protect, or indeed directly inflicts, severe human rights abuses and suffering on its own citizens (Chandler 2004).

Realist, on the other hand, refers to those traditionally hostile to any intervention said to be motivated by ethical reasons. Their major criticism is that interventions, humanitarian or not, are always guided by ‘real’ (such as political) interests and thus can never be purely moral in nature. As Smith (1998) puts it, they are ‘unable to act in other than self-interested ways’ (p70). This is an argument heard over and over again that cannot be taken lightly. However, it might be possible to structure a realist, or ‘quasi-realist’, argument for intervention by allowing space for some moral principles to emerge. In order to do so, we would have to expand our concept of national interest as a broad one. For example, the following statement from the U.S. National Security Strategy 2002 states:

As we pursue the terrorists in Afghanistan, we will continue to work with international organizations such as the United Nations, as well as non-governmental organizations, and other countries to provide the humanitarian, political, economic, and security assistance necessary to rebuild Afghanistan so that it will never again abuse its people, threaten its neighbors, and provide a haven for terrorists (p7).

The United States, in its reasoning for intervention in Afghanistan, has attempted to make a direct link between its national interest (military control over terrorists seeking safe haven in Afghanistan) and moral duties (providing humanitarian and other assistance to an abused people). In other words, intervening for national interest, and to save a people from human rights abuse, have become part of one justification. A realist would argue that the former, national interest, is the sole and ‘real’ motive involved. But a liberal would reply by citing an additional humanitarian intention justifying intervention. Regardless of whether or not the United States was justified or
legally authorised in invading Afghanistan after September 11th 2001, it illustrates that motivations for intervention – stated or implicit – are more complex than they may appear at first. The line between humanitarian intervention done for moral reasons, and intervention for political strategic interest, becomes blurred.

**Motives and intentions**

Before deciding whether interventions are justified by moral or legal principles, or whether they are doomed to failure because of states self-interested behaviour, it is important to address the issue of motivation and intention. For an intervention to be ‘humanitarian’, does it have to be selfless in motivation and intention? Or will just one of the two suffice? A ‘humanitarian’ action, generally speaking, is one that is concerned chiefly, if not solely, with the well-being of the victims. However, as we’ve seen from the example of the invasion in Afghanistan, it appears that the United States had more than one concern leading up to its intervention, and the humanitarian concern served only a part of it. Nardin (2006) categorises intentions as the ‘state of affairs it seeks to bring about. A motive, in contrast, is the frame of mind in which agents act – the desires and other passions that propel him’ (p10). It may be noted that Just War theory is often said to include ‘right intent’ among its minimum conditions before resorting to the use of force, but makes no mention of motives. Thus, if a state proclaims ‘humanitarian’ ends as its intention, but is clearly motivated by other reasons, does it then delegitimise an intervention? A realist, or ‘cynic’ might argue that it does. As Thomas Pogge (2006) puts it, ‘there are no…humanitarian heroes out there’ (p166). Conversely, a liberal could respond that ‘a humanitarian act is defined by its intention, not by its motive’ (Nardin 2006, p11). And Just War theory seems to suggest so. Yet in both cases, how can one be sure that motives or intentions are really what they claim – humanitarian or not?

The answers provided by both camps are unsatisfactory. The realist does not account for urgent and real moral intentions involved in the intervention, but neither does the liberal take issue with self-interested motives about which the realist warns. Tesón (2005) points out that critics of ‘the doctrine of humanitarian intervention and of particular interventions have failed to distinguish between intention and motive. To them, all wars on behalf of human rights are spurious because intervenors have nonhumanitarian motives’ (p118). He then goes on to say that this is ‘wrong.’ Despite multiple motives, the very intention of saving lives would make an action humanitarian. Ideally, both motives and intentions should be guided primarily by humanitarian ends. Although, judging from history, this seems an unlikely prospect. In the end, many people have little regard for the stated motives or intentions; they care more about what a state actually does (Tesón 2005). It
is probably safe to conclude that some interventions can be ‘humanitarian’ because of their intentions, but, even well-intended humanitarian interventions are subject to abuse. Most importantly, this does not mean that they should be abandoned. Moral laws still call for action. As Higgins (1994) says, writers ‘make much of the fact that in the past the right [to humanitarian intervention] has been abused. It undoubtedly has. But then so have there been countless abusive claims to the right to self-defence. That does not lead us to say that there should be no right of self-defence today’ (p247). In sum, ruling out humanitarian intervention altogether because of past abuse is both unwise and unethical, just as it is unwise to ignore the past mistakes we should correct. It is there a middle ground?

**The Responsibility to Protect**

In 2000, the Secretary-General of the United Nations reiterated the central moral dilemma of humanitarian intervention in his Millennium Report to the General Assembly:

> If humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that offend every precept of our common humanity?.... Few would disagree that both the defence of humanity and the defence of sovereignty are principles that must be supported. Alas, that does not tell us which principle should prevail when they are in conflict (p48).

Later that same year the Government of Canada responded to the Secretary-General by establishing the independent International Commission on Intervention and State Sovereignty (ICISS). Their goal was to move from polemics and political stalemate on the issue, to a global political consensus on responding to humanitarian crises. The result was a 91-page report that addresses the concerns of the liberals, and, at the same time, hopefully gives some answers to the limitations of humanitarian intervention that realists have correctly identified.

Their first effort focused on changing the terms of the debate. Instead of a ‘right’ to intervention – which at first thought already feels hostile to the non-intervention principle – the ICISS decided to reframe the debate as ‘the responsibility to protect’. This shift from a right to a responsibility has implications for both law and policy. Kriostosis (1998) states that for ‘as long as humanitarian intervention is conceptualized as a right, as opposed to an obligation, of states, the problem of discretionary intervention will remain an intractable one’ (p1032). Therefore, by changing the words we use to discuss the subject, we are already moving from one where states can claim unilateral and self-interested ‘rights’, to one where states are called upon by their ‘obligations’ to others.
The more detailed policy suggestions are numerous. First and foremost, the principle of state sovereignty is one that has not been abandoned, but deemed as the most central priority of any state. Only when a state is ‘unwilling or unable’ to act to prevent serious harm from affecting its population does the non-intervention principle yield to the international community’s responsibility to protect. Therefore, contrary to the realist’s assertion that any intervention is an illegitimate violation of state sovereignty, ‘the responsibility to protect’ is a form of ‘last resort’. No state has the authority to generate or allow massive violation of human rights without interference.

They also identify three elements to this responsibility as prevention, reaction, and rebuilding (with the former earning highest status). Later, in the ‘principles for military intervention’, the ICISS enumerates several ‘precautionary principles’ on the just-cause model before any international military intervention could be authorised. They are: right intention⁴, last resort⁵, proportional means⁶, and reasonable prospects⁷. In addition to these prerequisites, though, there must also be ‘right authority’. Right authority is an interesting concept, as much of the current debate has been influenced by frustration with the Security Council’s ability to react quickly in times of great humanitarian crisis. Part of this frustration stems from fear that resolutions authorizing intervention will be vetoed by some of the more state-sovereignty-friendly and human-rights-unfriendly states, including China and Russia (Holzgrefe & Keohane 2003). Another frustration arises from what some see as the limits of the UN Charter legally restricting the authorization of the use of force to instances of self-defence. Recently, however, Orford (2003) claimed that a ‘range of resolutions passed by the Security Council since the Gulf War, relating inter alia to the former Yugoslavia, Somalia, Haiti and East Timor, have been interpreted as suggesting that the Council is willing to treat the failure to guarantee democracy or human rights, or to protect against humanitarian abuses, as either a symptom, or a cause, or threats to peace and security’ (p3). It is not inconceivable that future humanitarian crises, even those maintained within states’ own borders, may be deemed a threat to ‘international peace and security’ so that

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⁴ Right intention: ‘The primary purpose of the intervention, whatever other motives intervening states may have, must be to halt or avert human suffering’ (pg. XII). Note that they qualify an intervention as humanitarian in regards to intention, regardless of other motives.

⁵ Last resort: ‘Military intervention can only be justified when every non-military option for the prevention or peaceful resolution of the crisis has been explored, with reasonable grounds for believing lesser measures would not have succeeded’ (pg. XII). Therefore it would be prevented from being carried on thoughtless political whims, but must give evidence of their reasons and alternatives already used up.

⁶ Proportional means: ‘The scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the defined human protection objective’ (pg. XII).

⁷ Reasonable prospects: ‘There must be a reasonable chance of success in halting or averting the suffering which has justified the intervention, with the consequences of action not likely to be worse than the consequences of inaction’ (pg. XII).
the Security Council may assume jurisdiction and prescribe an intervention. This should produce more favourable consensus than unilateral and un-checked uses of force by individual states who often, if not usually, have ulterior motives.

**Conclusion**

It seems clear that humanitarian intervention reflects the interests of great powers and legal and moral principles. Criticisms are likely to continue from both camps of realists and liberals. For that reason, working towards creating policies, minimum standards, and learning from past experiences are crucial to reconciling the two sides. The International Commission on Intervention and State Sovereignty has sought specifically to do this. Their solution resolves more than theoretical and moral dilemmas, but some key policy issues as well. Whereas past interventions were poorly guided and lacked identifiable standards, future ones could, if the international community chooses to, use ‘The Responsibility to Protect’ as clear and enforceable prerequisites for military intervention, thereby limiting the amount of manipulation and abuse on behalf of intervening states. There remains another challenge beyond policy goals and enumeration of standards and that is political will. Only when individual states, and the Security Council collectively, have the political will to enforce and monitor such standards will humanitarian intervention afford the protection it is meant to.
Bibliography


