

## RECONCILING THE TENSION BETWEEN SOVEREIGNTY AND HUMANITARIAN INTERVENTION IN THE INTERNATIONAL LEGAL ORDER

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### **ABSTRACT**

One of the major challenges the international community has been facing in the past decade is the intervention of powerful states in the domestic affairs of legally recognized sovereign states. Humanitarian intervention in sovereign states is a controversial issue. It raises the complex issues of internal governance, human rights, and the responsibility of the international community to protect the vulnerable in situations of war. For more than a century now, a central objective of international law has been to secure interstate peace, but the best ways of doing so are not necessarily clear and are likely to extend beyond Article 2(4) of the United Nations Charter that clearly states: “*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.*”

**Key Words:** *Sovereignty, military intervention, international law, human rights, United Nations*

## INTRODUCTION

The recent Russian invasion of Ukraine is considered a violation of Article 2(4) of the United Nations Charter, which prohibits the use of force against the territorial integrity of another state. In his speech on February 24, 2022, President Vladimir Putin argued that Russia's military action is legal by pointing to the intervention by the West in Kosovo, Iraq, Libya, and Syria. Interventions in those countries were justified by the United States and its allies based on humanitarian intervention, expansive claims of individual and self-defense, the protection of human rights, and supported by United Nations Security Council resolutions. Putin cited these precedents to refute the prohibition on the use of force to invade another sovereign state and supported his actions as self-defense justifiable in the context of international law (Wuerth, 2022). 141 members of the United Nations (UN) condemned the use of military force to invade Ukraine as a sovereign state and considered it a violation of the international legal order. The Russia-Ukraine war and the implication of NATO could have escalated to World War III, especially if China and North Korea became involved in support of Russia. The consequences could be tragic for Europe and the rest of the world

given the high possibility of the use of nuclear weapons by the belligerents.

This paper is an attempt to address the tension between sovereignty and humanitarian intervention in the international legal order. In other terms, under what conditions is military intervention in a sovereign state justifiable or legal? Can the UN still reconcile the tension between sovereignty and humanitarian intervention in the international legal order?

### Background

The modern international system and the traditional notion of state sovereignty emerged from the Treaty of Westphalia in 1648, which ended the Thirty Years War (1618-1648). The concept is rooted in both customary international law and Article 2(4) of the UN Charter. It remains an essential component in the maintenance of international peace and security and the protection of the weak states against the powerful ones. At the same time, the concept has been challenged, either in law or in practice (Patton, 2019).

After the First World War, the victorious allied powers sought to protect the sovereignty of nation states by the Covenant of the League of Nations. Under Article 10 of the Covenant, the members of the League

agreed to “respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League.” It was through this Covenant that the Treaty of Versailles and other treaties would be enforced and future aggression by the defeated powers would be kept in check. This early attempt to prohibit countries from violating the national sovereignty of other states was later embodied in the Kellogg-Briand Pact (1928). Even though both agreements failed to ensure peace in the end, they served as important precursors to the prohibition against the use of force and the protection of national sovereignty embodied in the United Nations Charter.

### **United Nations Charter**

Following the Second World War, the principle of national sovereignty and non-intervention was incorporated into Article 2 of the United Nations Charter (1945). The idea was to protect the integrity of these two sacred principles by making each one a pillar upon which the Charter rests. Article 2(1) states generally that the United Nations is based on “the sovereign equality of all its Members.”

Paragraphs 4 and 7 set forth the standard for how individual Member nations and the United Nations as a collective entity are to

view the concepts of sovereignty and non-intervention under international law. Article 2(4) provides that “All Members shall refrain in their international relations from 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.” This paragraph incorporates the rule set forth earlier in the League of Nations Covenant prohibiting nation states from interfering in the internal affairs of other states and even extends the rule to “threats” as well as the use of force by nation states.

Article 2(7), on the other hand, does not address the principle of national sovereignty in terms of individual states intervening in the affairs of other states. Instead, it applies the idea of non-intervention to the United Nations as a whole. According to paragraph 7, “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to commit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.”

The drafters of the Charter wanted to assure governments around the world that the

United Nations would continue to treat the nation states of the world as sovereign and independent but, at the same time, they did not want to exclude the possibility of UN intervention in certain circumstances.

Paragraphs 4 and 7 of the Charter prohibit the use of force or intervention in the domestic affairs of another state. In addition, Article 2(7) specifically preserves the right of the United Nations to take enforcement actions under Chapter VII, which is an important warning to what would be considered an absolute right of sovereignty for every nation: “The caveat is a definite limitation on the principle of national sovereignty embodied in the Charter and a continuing subject of controversy to this day” (Alexander, 2000, p. 6). Though the language of Article 2(4) does not make any reference to Chapter VII’s enforcement powers, such enforcement action applies in instances where Article 2(4) has been breached by another state.

The UN Charter provides conciliatory and investigatory power to the General Assembly and the Security Council. Under Chapter VII, the United Nations has the power to authorize the use of force to maintain or restore peace and security both inside and outside of a nation’s borders. Article 39 provides the UN Security Council with the discretion to be able to “determine the existence of any threat

to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.” In authorizing the use of force under Article 43, the Security Council may ask all members to provide “armed forces, assistance and facilities, including the rights of passage, necessary for the purpose of maintaining international peace and security.” Moreover, under Chapter VIII, the Security Council may use regional arrangements or agencies for enforcing military action (Article 52). However, no enforcement action should be taken by a regional arrangement or by regional agencies without consulting the Security Council and gaining its authorization (Article 53).

It is important to note that the Charter’s text guarantees that a nation’s political independence and territorial integrity is inviolable unless that nation breaches the peace, threatens to breach the peace, or commits an act of aggression against another state. Then the international community will act when a violation of human rights is taking place within that state’s borders. Even though there is no clear language in the Charter which authorizes a state to intervene in the domestic affairs of another state to prevent

that state from abusing its own people, over the years individual states and the Security Council have interpreted Articles 51 and 39 of the Charter to justify armed intervention on humanitarian grounds (Delbruck, 1992).

### **Unilateral Interventions**

During the Cold War, on several occasions there were unilateral interventions by various states in the affairs of other states for humanitarian reasons without the prior consent of the Security Council. “The intervention by a state to protect its own nationals who were either being held hostage or being threatened with violence in foreign countries has been justified on several occasions under Article 51 of the Charter. In most of these cases, the self-defense argument was interpreted rather broadly, extending the concept of ‘political sovereignty’ under Article 2(4) to nationals who were located within the territorial jurisdiction of a foreign state” (Alexander, 2000, p. 9).

At the end of the Cold War, military intervention in the internal affairs of sovereign states with the purpose of protecting civilians from being slaughtered by their own government became the norm rather than the exception in international relations. The murder of civilians in Iraq, Somalia, Yugoslavia, and many other states

encouraged the United Nations to assume a more active role in preventing serious human rights abuses and preserving order around the world. For example, “The decision by the United States and NATO to intervene in Kosovo for humanitarian purposes is part of an emerging norm in international law. This norm permits armed intervention in the internal affairs of a nation if the aim is to protect civilians from being slaughtered or displaced from their homes” (Alexander, 2000, p. 3). The growing number of humanitarian interventions over the past decades, some authorized by the Security Council and others not, have challenged the old notion of national sovereignty as inviolable. For a long time, the perception of sovereignty as an “almost absolute right to govern freely within one’s own borders has gradually been eroded by the idea that certain governmental policies which violate their citizen’s basic human rights will not be tolerated by the international community” (Alexander, 2000, p. 3).

The Israeli military force intervention at Entebbe in Uganda to free Israeli hostages from a hijacked plane is a specific example of a state that took unilateral responsibility to act to protect its own nationals. The basis for the attack lies in the argument of self-defense and was claimed without the Security

Council's approval. The Israeli Government argued that the inherent right of self-defense embodied in Article 51 of the UN Charter extended to the protection of citizens being held hostage in another nation's borders. However, it is not clear whether the framers of the UN Charter intended to include foreign interventions aimed at protecting one's own nationals in a hostage situation under Article 51. "The reality in terms of state practice, however, indicates that even in the absence of consent from the state possessing proper jurisdiction or authorization from the Security Council, such interventions to protect nationals in a hostage situation are permitted under international law" (Alexander, 2000, p. 10).

A similar case is the Belgian intervention in the Congo in 1960. The intervention occurred just after the Congo gained its independence from Belgium on June 30, 1960. The national army of the Congo began to aggress Belgian nationals, and, to protect its nationals, Belgium deployed military forces without the consent of the UN Security Council. The Congolese government argued that the intervention was an aggression and a violation of its sovereignty. The UN Security Council refused to adopt the Congolese perspective on the case, and in 1961 in response to the situation passed the Security

Council resolution 161 (1961), which called for the immediate withdrawal of Belgian troops from the Congo and the introduction of UN forces to restore control and stem the "systematic violations of human rights" in the Congo (Alexander, 2005, p. 14).

In each of these situations, an individual state bypassed the Security Council's authority to enforce peace on the basis that self-defense, or the protection of one's own nationals, required unilateral military action. Since then, unilateral humanitarian intervention has become more widely used and accepted in circumstances where a country's own nationals are faced with impending death or harm. (Alexander, 2000, p. 12).

### **Internationally Recognized Interventions**

During the Cold War there were cases of unilateral military intervention by a state for the purpose of protecting civilians who were not nationals of that state - the Indian action in Bangladesh in 1971 and the Tanzanian overthrow of Ugandan leader Idi Amin in 1979 are two examples. In each of these cases humanitarian concerns were accompanied by security interests.

India's invasion of Bangladesh in December 1971 was the first internationally recognized humanitarian intervention to protect non-nationals since the birth of the UN Charter. The Pakistani army was murdering its own

civilians in East Pakistan. About a million people were slaughtered and millions more were forced to flee the country. Finally, India invaded Pakistan. When the UN Security Council failed to address the crisis, India was left alone to decide to intervene unilaterally to secure its borders and protect non-national civilians from being killed. In this intervention, no territory was taken away from the Pakistani government, and the government remained in power in East Pakistan. The International Commission of Jurists argued that India's actions were justified based on the principles of humanitarian intervention. This invasion, because it was well justified, became an opportunity for future interventions based on humanitarian grounds (Alexander, 2000, p.13).

In 1979, Tanzania invaded Uganda to overthrow Uganda's leader Idi Amin. The seven years of Idi Amin's reign was marked with terror as the government forces executed approximately 300,000 people. Again, the United Nations did not act to avoid this humanitarian tragedy. Finally, Tanzanian forces invaded Uganda and overthrew Amin. During the invasion Tanzanian forces caused only limited destruction in Uganda. This act was a sign to the rest of the world that Tanzania's actions were driven primarily by

humanitarian reasons, rather than political interests (Alexander, 2000, pp.14-15)

After the Cold War, the UN Security Council played a more active role in protecting human rights around the world. Consequently, the United Nations authorized military intervention in sovereign states for humanitarian reasons. The international community became accustomed to this. Also, such recognition gave legitimacy to the United Nations and gave it a clear role in conflict resolution. At the same time, humanitarian intervention has met some challenging situations. The clash between national sovereignty and humanitarian and military intervention in international law has become more visible since the UN's most recent incursions into Iraq, Somalia, and Yugoslavia. In each of these cases, the Security Council authorized the use of military force to regimes that were abusing their own people within their nation.

#### *Iraq*

Following the Gulf War in 1991, the Security Council gave authorization for a collective humanitarian intervention in Iraq. The UN Resolution 678 authorized member states to use force to oust Iraq from Kuwait. The resolution allowed the UN effort led by the United States to protect and provide support to the Kurdish minority. The Security



Council justified its actions based on international security concerns. Kurds were being killed by Saddam Hussein's forces. The mistreatment of the Kurds and the resulting flood of refugees into neighboring Turkey and Iran became a threat to international peace and security in the region. The Security Council acted under Article 39 of the Charter by calling for all measures to be taken to prevent further breaches of the peace by Iraq. Moreover, Iraq was to stop acts of aggression against the Kurdish people. This intervention was considered by Baghdad as an action that violated Iraq's national sovereignty.

The decision of the Security Council to authorize collective military intervention in Iraq was a significant one. First, it represented a larger definition of what constitutes justifiable intervention under the UN Charter. Killings of a minority group by a government inside that government's borders using chemical weapons and other means was a threat not only to the Kurds, but also to international peace and security. Finally, the UN's decision to intervene in the internal affairs of Iraq sent a powerful signal to oppressive regimes around the world. This offered hope that no government could easily hide behind the notion of national sovereignty and non-intervention to commit

serious human rights violations. It clearly showed that the United Nations could authorize the use of military force within a nation's borders to prevent such human rights violations (Alexander, 2000, pp. 16-17).

In the contrary, the second invasion of Iraq was not sanctioned by the UN security council or in accordance with the UN's founding charter. Kofi Anan, UN secretary general said "I have indicated it was not in conformity with the UN charter. From our point of view and from the charter point of view it was illegal." The security council had warned Iraq in resolution 1441 there would be "consequences" if it did not comply with its demands. But he said it should have been up to the council to determine what those consequences were. In the contrary, the Bush Administration argue the fact that Saddam Hussein was a dangerous dictator and threat to the entire international community and the use of force was not illegal in overthrowing him. In November 2002 to March 2003 :The UN's Monitoring, Verification and Inspection Commission fails to find weapons of mass destruction despite carrying out 700 inspections in Iraq (Byers, 2004).

### *Rwanda*

In October 1993, The United Nations sent a peacekeeping mission for Rwanda. The



mission was to monitor a cease-fire agreement between the Rwandan Hutu government and the rebel Rwandese Patriotic Front. The use military force was prohibited to achieve its aims. It was limited to investigating breaches in the cease-fire, helping humanitarian aid deliveries and contributing to the security of the Kigali, the capital city of Rwanda. On April 6, 1994 the rwandan president plane was shot and the government attacked the minority tutsi and slaughtered about 800,000 including moderate Hutus, the mission failed to assure protection of the vulnerable. Even though the Canadian Lt. Gen. Romeo Dallaire on Jan. 11, 1994 warned the UN of the risk of genocide, in January 11, 1994, the UN failed to intervene when it was necessary to prevent the genocide. The United Nations and Security Council simply ignored a groundbreaking assessment by the UN human rights investigator for Rwanda who raised the possibility in August 1993 that a genocide might occur (Nicole, 1999). The international community certainly learned the lessons of the Rwanda genocide. The world was horrified by the slaughters of innocent civilians in Rwanda. At the 2005 UN World Summit, Member States of the United Nations concluded that it was necessary to protect populations from mass

atrocities crimes. Reflecting on the tension between state sovereignty and humanitarian intervention and supported by some pioneering Member States, the Responsibility to Protect (R2P) was adopted by consensus in the World Summit Outcome Document. The Responsibility to Protect is a principle of international law that affirms that all states have an obligation to prevent and respond to mass atrocity crimes such as genocide, war crimes, crimes against humanity, and ethnic cleansing. The Responsibility to Protect is, first a national obligation however when the states failed its duty, which consist of protecting innocent civilians the international community must intervene to prevent possible genocide consistent with the requirements of the UN Charter. (Genser, 2022).

### *Somalia*

In 1991, the humanitarian crisis in Somalia prompted the UN peacekeeping forces to intervene. The Resolution 751 (1992) was adopted by the Security Council at its 3069th meeting, on 24 April 1992. The collapse of the Somali government was accompanied by a severe drought which led to tribal conflict. This resulted in serious violence against civilians and mass starvation among the Somali people. Thousands of people from Somalia had died or fled the country. More

than a million were being threatened with imminent death. In response to this serious humanitarian crisis, the Security Council decided to intervene. Acting under the Charter's Chapter VII enforcement authority, in January 1992 the Security Council imposed an arms embargo under Article 41 of the Charter.

However, the death toll in Somalia continued to rise over time. Finally, the Security Council sent peacekeeping forces to the country to make sure that humanitarian aid reached the people of Somalia. Unfortunately, the UN's initial effort at peacekeeping failed because Somali clans invaded the warehouses where food and medicine were kept and stole supplies from UN trucks.

In November of 1992, the United States decided to intervene to make sure that humanitarian supplies reached civilians. The Security Council authorized the unilateral intervention of American troops under Article 42 of the Charter on December 9, 1992. For six months, American forces not only provided protection for those who were delivering food and medicine to the people, but also they would arrange and facilitate negotiations between clan leaders. The United States Forces passed control of

operations to the UN Blue Helmets commander on May 4, 1993.

The joint operation of the UN and the US in Somalia was an important change in how humanitarian interventions occurred. It showed that the United States and other nations could demand support and authorization from the United Nations when deciding to intervene unilaterally in the internal affairs of another state to protect basic human rights. For the first time since the establishment of the UN Charter, a humanitarian intervention operation was both unilaterally and collectively under the authority of the Security Council. Second, the fact that the United Nations, conjointly with the United States, intervened in a situation that could not easily be perceived as a threat to international peace and security in a region was a remarkable advancement in international law. The Security Council's decision to intervene under Chapter VII was motivated primarily by the need to prevent a humanitarian disaster from worsening (Alexander, 2000, pp. 18-19).

#### *Former Yugoslavia*

The international effort to restore peace in former Yugoslavia has been the United Nations' greatest challenge during the post-cold war period. The conflict began in June of 1991 after Croatia and Slovenia declared

independence from Yugoslavia, prompting Serb forces in Croatia and Bosnia-Herzegovina to take up arms against Croatian and Muslim forces. Ethnic conflict between Serbs, Croats, and Muslims was nothing new to the Balkans, but in this instance the level of violence committed by three parties which resulted in ethnic cleansing, expulsions, and gross violations of human rights was unprecedented.

In May of 1992, following UN recognition of Croatia, Slovenia, Bosnia, and the former Yugoslav Republic of Macedonia as independent states, the Security Council took more aggressive actions by calling for economic sanctions against Serbia and Montenegro for supporting Serb military activities in Bosnia.

The authorization to use force however did not come until after different attempts were made to end the hostilities. Under article 42 and 53(1) of the UN Charter, the Security Council passed Resolution 770 calling upon “states to take nationally or through regional agencies or arrangements all measures” to facilitate the delivery of humanitarian assistance to Sarajevo and whenever needed in other parts of Bosnia-Herzegovina. In consequence, a “no-fly” zone was established over Bosnia to “ensure the safety of the delivery of humanitarian assistance in

Bosnia.” Moreover, safe areas were established to protect civilians in towns because there were food shortages and violence against civilians throughout Bosnia. These measures were implemented to prevent more atrocities against Bosnia’s civilians and to restore order and peace in the region. Based on Chapter VIII, Article 53 of the UN Charter, NATO was given responsibility in Bosnia to secure the region. This was a new development in the emerging area of human rights law. For the first time in history, the Security Council authorized NATO, a regional military organization, to intervene in a conflict for humanitarian reasons (McIlmail, 1994, pp.37-48).

#### *Libya*

The United Nations Security Council Resolution 1973 (2011) on Libya authorized Member states acting either alone or through regional organizations or arrangements “to take all necessary measures to protect civilians under threat of attack in the country including Benghazi” (paragraph 4). The resolution was a response to allegations of killings and mistreatment of civilians in parts of Libya by the country’s government following anti-government protests.

In Resolution 1970 (2011), which had preceded Resolution 1973, the Security Council had expressed serious concerns

about civilians being under threat in Libya. It also deplored “the gross and systematic violation of human rights including the repression of peaceful demonstrators, expressing deep concern at the deaths of civilians and rejecting unequivocally the incitement to hostility and violence against the civilian population made from the highest level of the Libyan government” (United Nations Security Council Resolution 1970, 2011). The members of the Security Council who voted in favor of Resolution 1973 (2011) were clear that the resolution was only for humanitarian reasons. According to the Security Council states which voted for the resolution, it was agreed that strong action was necessary “solely to protect civilians from further harm” because the Gaddafi regime was about to unleash more violence on the civilians in the opposition party in the Eastern part of the country. Following the passage of Resolution 1973, military action was commenced by a coalition of states led by the USA, France, the UK, and NATO. However, the situation in Libya did not constitute a threat to, or breach of, international peace and security. The violence against demonstrations, protests, armed rebellion, or insurgency was a domestic matter that had little implication for international peace and security. Also, the

violation of human rights and the crimes committed did not endanger international peace and security since they did not have an international dimension. There was no indication that neighboring countries were being threatened, or likely to be threatened, by Libya. Therefore, there was no indication that neighboring countries were involved, or going to be involved, in the conflict. Interestingly when the situation in Syria, which was like the situation in Libya, came up for discussion at the Security Council, even a condemnatory statement could not be agreed upon because some of the members insisted that the situation did not breach or threaten international peace and security.

It was true that the situation in Libya raised issues of human rights and humanitarian concerns, but it did not fall under the responsibility of the Security Council. The situation in Libya should have been addressed primarily by the Human Rights Council (HRC) to determine whether the threshold for humanitarian intervention had been reached and to recommend to the General Assembly whether a collective humanitarian response should be undertaken. The General assembly should then vote on authorization for necessary action. The Human Rights Council, created by the UN General Assembly on March 15 2006, is

responsible for strengthening the promotion and protection of human rights around the world.

A decision made by the General Assembly in accordance with the HRC would have been a genuine collective decision. Moreover, the involvement of the HRC and the General Assembly would remove major obstacles to the decision and provide a valuable reason for humanitarian intervention. The five permanent members have been observed to “have used their veto power to limit the scope of the Security Council action and have consistently adjudicated on matters with political considerations to the fore” (Hehir, 2010, p. 137).

The military operation in Libya was principally designed as the creation of a non-fly zone to prevent the bombardment of civilians from the air. To achieve this, the interveners destroyed “the government’s fighter jets, anti-aircraft guns, airport and airstrips and launching pads. These operations might be justified by the necessity to take control of the Libyan airspace by eliminating or minimizing danger to the intervener’s aircrafts. However, having crippled the Libyan air capabilities and defenses, the interveners proceeded to target telecommunication installations command and control facilities, government troops and

other softer targets such as Gaddafi’s compound and his hometown of Sirte even though no fighting was going on there” (Modeme, p. 20).

#### *Darfur*

It is difficult to end this discussion without mentioning the case of Darfur. The failure to authorize a collective military intervention in Darfur has been the subject of controversy within the United Nations (Alexander, 2005, p. 40). This controversy in part can be explained by the refusal by the UN to recognize the serious ongoing human rights violations that have taken place in Darfur and that the government of Sudan in Darfur was committing genocide. The commission finally concluded in its report to the Secretary General that the government of Sudan had not intentionally pursued a policy of genocide in Darfur. This conclusion was based on the finding that “the crucial element of genocidal intent appears to be missing, at least as far as the central Government authorities are concerned” (International Commission of Inquiry on Darfur, 2005, p. 4).

#### **The Dilemmas of Military Intervention**

All the above-mentioned cases conclusively reveal that the tension between sovereignty and humanitarian intervention in the international order has been a serious matter

since the twentieth century and continues to draw the international community's attention. According to former Secretary-General of the United Nations Boutros Boutros-Ghali (January 1992 to December 1996), "The time of absolute and exclusive sovereignty, however, has passed; its theory was never matched by reality. It is the task of leaders of states today to understand this and to find a balance between the need of good internal governance and the requirements of an ever more interdependent world" (Boutros-Ghali, 1995).

His successor Kofi Annan perceived the issue of sovereignty and human rights in a similar way, stating: "States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty—by which I mean the fundamental freedom of each individual, enshrined in the charter of the UN and subsequent international treaties—has been enhanced by a renewed and spreading consciousness of individual rights. When we read the charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them" (Annan, 1999).

Additionally, Alex Bellamy, Professor of Peace and Conflict Studies at The University of Queensland, Australia explains the

legitimacy of military intervention based on St Augustine's argument between just and unjust war, supporting that war must be waged with proper intent. For him, "The central difference between a just and unjust war is that a just war attempts to both restore peace and repair an injury received" (Bellamy, 2007).

Scholars are still debating these important questions and there seems to be no simple answers.

1. In what context military intervention in a sovereign state is justified or legal?
2. How is a decision made for military intervention in a sovereign state?
3. In case of violation of the principle of non-intervention; how the international community must address the issue?

### **Conclusion**

In conclusion, the non-intervention in the affairs and territory of sovereign states remains a fundamental and necessary law. However, this doctrine may be, and has been, displaced several times by a collective humanitarian intervention where acts or cruelty were committed. Also, if an intentional wrongful act has been perpetrated by the government of a state against its own people, the international community should take responsibility to protect innocent

civilians. However, in facing such acts, the requisite authority authorizing an intervention should be the UN Security Council specifically when the situation involves aggression, and breach of, or threat to, international peace and security. The Security Council's authorization of the use of force should have the main objective of maintaining international peace and security or to stop aggression.

In the case of no aggression and no threats to, or no breaches of, international peace and security, the requisite UN organ to authorize humanitarian intervention becomes the General Assembly by virtue of its powers residing under the Charter. The General Assembly will act on the advice of the Human Right Council responsible for the principles of humanitarian intervention.

The tension between sovereignty and military intervention in the international order will remain unresolved if the situation is not properly engaged by the Security Council whose responsibility is to authorize humanitarian intervention. For a military intervention order to remain lawful, there must be a prior agreement by members of the UN. The military force must be under the management, direction, and control of the Military Staff Committee established by the Security Council. Moreover, the intervention

must only be taken where peaceful means have been exhausted or are manifestly incapable of achieving the humanitarian objective. Military intervention should be only for a just cause, with the right intention, as the last resort with a reasonable prospect of success. Military intervention does not only involve political issues but also legal matters. The fact that China and Russia have been historically reluctant to support intervention in sovereign states made the issue a highly contested area of international laws. The use of force to intervene in sovereign states affects not only the population but also sharpens the geopolitical factors. It is clear that the General Assembly resolution reiterates that "the sovereignty, territorial integrity, and national unity of States must be fully respected in accordance with the Charter of the United Nations". However the role of the permanent members of the security council remains essential for legal intervention with a moral agenda and the collective responsibility to protect the vulnerable population. It is certainly time for the United Nations and the security council to revisit its mission which consisted to maintain peace and security in the world since its creation on 24 October 1945. Certainly there is need to reform of the UN security council so that it can play a better



role in maintaining peace and security in the world.

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