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Humanitarian Intervention in International Law

Definition

Humanitarian intervention is defined as a state's use of military force against another state when the chief publicly declared aim of that military action is ending human-rights violations being perpetrated by the state against which it is directed.

Is there anything unusual?

Permissible humanitarian intervention (Teson) is the proportionate international use or threat of military force, undertaken in principle by a liberal government or alliance, aimed at ending tyranny or anarchy, welcomed by the victims, and consistent with the doctrine of double effect.

I think no one knows what humanitarian intervention means. If I were a person who was non-American, I would think humanitarian intervention is just another name for United States imperialism.

Stanley Hauerwas

Key Elements

- ✓ Humanitarian intervention involves the threat and use of military forces as a central feature
- ✓ It is an intervention in the sense that it entails interfering in the internal affairs of a state by sending military forces into the territory or airspace of a sovereign state that has not committed an act of aggression against another state.
- ✓ The intervention is in response to situations that do not necessarily pose direct threats to states' strategic interests, but instead is motivated by humanitarian objectives

The subject of humanitarian intervention has remained a compelling foreign policy issue, since NATO's intervention in Kosovo in 1999.

Philosophy

John Stuart Mill (1859) – “A Few Words on Non-intervention”

There seems to be no little need that the whole doctrine of non-interference with foreign nations should be reconsidered. There assuredly are cases in which it is allowable to go to war, without having been ourselves attacked, or threatened with attack; and it is very important that nations should make up their minds in time, as to what these cases are.

The disputed question is that of interfering in the regulation of another country's internal concerns; the question whether a nation is justified in taking part, on either side, in the civil wars or party contests of another: and chiefly, whether it may justifiably aid the people of another country in struggling for liberty; or may impose on a country any particular government or institutions, either as being best for the country itself, or as necessary for the security of its neighbours.

Legal Grounds

Humanitarian intervention is a concept that can allow the use of force in a situation when the UN Security Council cannot pass a resolution under Chapter VII of the Charter of the United Nations due to veto by a permanent member. Chapter VII allows the Security Council to take action in situations where there is a "threat to the peace, breach of the peace or act of aggression". However, any resolution to that effect must be supported by all five permanent members.

Although most writers agree that humanitarian interventions should be undertaken multilaterally, ambiguity remains over which particular agents – the UN, regional organizations, or a group of states – should act in response to mass violations of human rights.



Four Approaches

1. Status quo
2. Excusable breach
3. Customary law
4. Codification



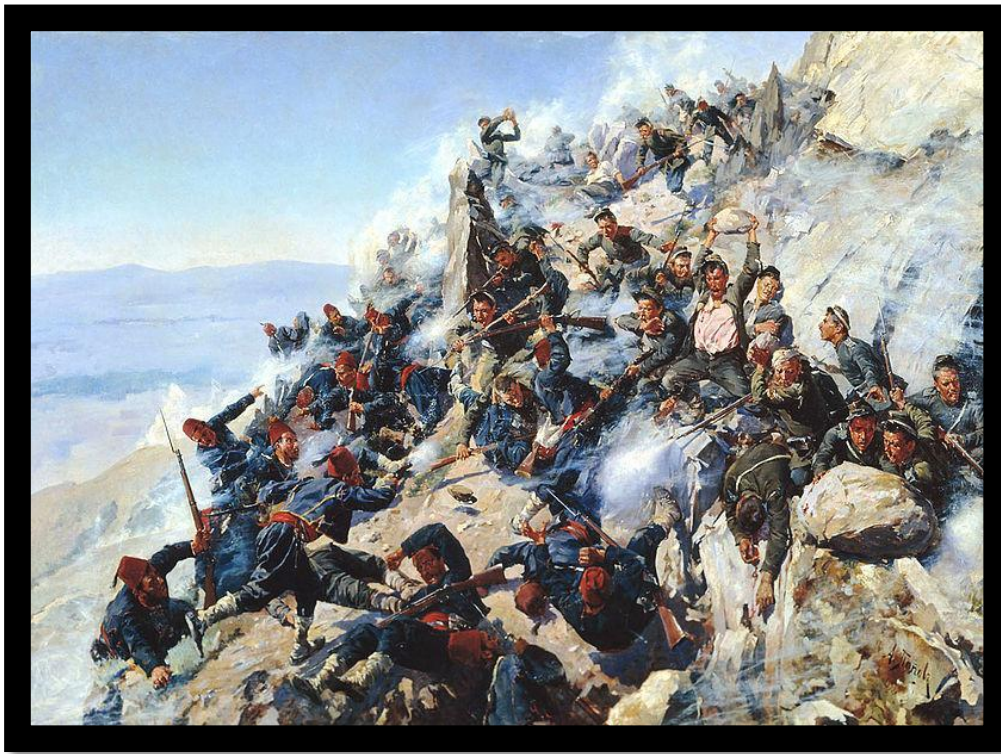
Responsibility to Protect (R2P)



Under Responsibility to Protect doctrine, rather than having a right to intervene in the conduct of other states, states are said to have a responsibility to intervene and protect the citizens of another state where that other state has failed in its obligation to protect its own citizens.

Examples

Russo-Turkish War (1877–1878)



The defeat of Shipka Peak, Bulgarian War of Independence

The Russo-Turkish War of 1877–78 was a conflict between the Ottoman Empire and the Eastern Orthodox coalition led by the Russian Empire and composed of Bulgaria, Romania, Serbia, and Montenegro. Fought in the Balkans and in the Caucasus, it originated in emerging 19th-century Balkan nationalism.

Examples (2)

1999 NATO bombing of Yugoslavia



NATO claimed that the Albanian population in Kosovo were being persecuted by FRY forces, Serbian police, and Serb paramilitary forces, and that military action was needed to force the FRY to stop.

Examples (3)

Military intervention against ISIL (ISIS)

In response to rapid territorial gains made by the Islamic State of Iraq and the Levant (ISIL) during the first half of 2014, and its internationally condemned brutality, reported human rights abuses and the fear of further spillovers of the Syrian Civil War, many states began to intervene against it in both the Syrian Civil War and the Iraqi Civil War (2014–present). Later, there were also minor interventions by some states against ISIL-affiliated groups in Nigeria and Libya.



Discussion

Is Russian humanitarian intervention possible, legal or necessary in Ukraine, DPR & LPR?

During the ongoing war between Ukrainian government forces and the forces of LPR & DPR fighting for their self-determination in the Donbass region of Ukraine that began in April 2014, many international organisations and states noted a deteriorating humanitarian situation in the conflict zone.

