

Debating Humanitarian Intervention In Complex Emergencies: Moral And Ethical Questions

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Abstract: This paper examined humanitarian intervention in complex emergency, moral and ethical questions. The argument for humanitarian intervention is hinged on the premise that a state which is not able to safeguard its citizens from mass atrocities, such a state has failed in its duty and as such has no justification to make claims to sovereignty or the integrity of its territory. In view of this, external actors have not only the right but also the duty to move in and rescue the citizens of that country from genocide or any other mass atrocities. According to Bellamy (2010: 154), sovereignty should be understood as an instrumental value because it derives from a state's duty to safeguard the interests of its citizens. Therefore, when states prove incapable of performing their duty, they lose their sovereign right (Teson, 2003: 93). The argument against intervention is that it encourages powerful nations to exercise overbearing influence over weaker ones.

Keywords: Humanitarian intervention, complex emergency, just war theory

I. INTRODUCTION

The question of whether or not it is right for outsiders to intervene in the internal affairs of independent nations, in situations of genocide or other mass atrocities, is one of the most controversial issues in international relations. It has been the general position of international law, that the sovereignty and territorial integrity of an independent nation remain inviolable. This is a central principle of the United Nations Charter. However, developments in history had raised the need for that principle to be re-assessed. Leaders such as Idi Amin of Uganda and Cambodia's Pol Pot, to name just two, had wreaked havoc in their respective national spaces, shocking the entire world with their limitless capacity for evil. In circumstances such as that, intervention by external actors to save the situation appears to be an imperative; but then, armed intervention, even on humanitarian grounds, offends the international system. The United Nations does not expressly recognize the right of external actors to use force to protect the people of a state, even in situations of complex emergency, such as genocide or widespread violence (Murphy, 1996).

This leads to a moral dilemma: should members of the international community remain indifferent in the face of

wanton human rights abuse of citizens of a country, in deference to international conventions? Or should they act, thereby contravening a law to which they are signatories? Our task in this paper is to look at the questions arising from these competing moral demands.

II. CONCEPTUAL CLARIFICATION

Rice and Loomis (2007) define humanitarian intervention as the armed engagement by outside parties in a sovereign state on behalf of the local population facing an imminent or ongoing violation of their human rights. For J. L. Holzgrefe (2003: 18), humanitarian intervention is the threat or use of force across state borders by a state (or group of states) aimed at preventing or ending wide-spread and grave violations of the fundamental human rights of individuals other than its own citizens without the permission of the state within whose territory the force is applied.

Because states which are culprits in the mass atrocities going on within their territories are always reluctant to consent to intervention from outsiders; and also because the United Nations is always reluctant to authorize intervention in 'fully

functioning states', the international community is confronted with a moral dilemma: violate the Charter and rescue an imperiled population, or respect the Charter while a mass of innocents face extermination.

The argument for humanitarian intervention is hinged on the premise that a state which is not able to safeguard its citizens from mass atrocities, such a state has failed in its duty and as such has no justification to make claims to sovereignty or the integrity of its territory. In view of this, external actors have not only the right but also the duty to move in and rescue the citizens of that country from genocide or any other mass atrocities. According to Bellamy (2010: 154), sovereignty should be understood as an instrumental value because it derives from a state's duty to safeguard the interests of its citizens. Therefore, when states prove incapable of performing their duty, they lose their sovereign right (Teson, 2003: 93). The argument against intervention is that it encourages powerful nations to exercise overbearing influence over weaker ones.

Complex emergency, on the other hand, is a 'virtually total collapse of a state authority either as a result of armed conflict or due to natural disasters often leading to violation of the rights of the citizens of that state.' The official Office for the Co-ordination of Humanitarian Affairs (OCHA) Handbook defines complex emergency as 'a humanitarian crisis in a country, region or society where there is a total or considerable breakdown of authority resulting from internal or external conflict which requires an international response that goes beyond the mandate or capacity of any single agency and/or the ongoing United Nations program' (IASC, December 1994). Complex emergencies can therefore result from either natural or man-made causes.

There has been a sharp increase in situations of complex emergency since the end of the Cold War. According to the OCHA report (2008), some of the world's 'ongoing' complex emergencies were: Nigeria, Central African Republic, Chad, Congo, East Africa Drought, Eritrea Ethiopia, Kenya, Somalia, Sudan, Uganda, East Timor, Iraq, Nepal, Occupied Palestinian Territory, Chechnya, Indonesia, Haiti, Colombia, Sri Lanka, etc.

Typical features of complex emergencies include:

- ✓ Extensive violence and loss of life
- ✓ Massive displacement of people as the of herdsmen and Boko haram in Nigeria
- ✓ Widespread damage to societies and economies
- ✓ The need of large-scale, multi-faceted humanitarian assistance
- ✓ The hindrance or prevention of humanitarian assistance by political and military constraints
- ✓ Significant security risks for humanitarian relief workers in some areas

III. HISTORICAL DEVELOPMENT OF HUMANITARIAN INTERVENTION

In the years immediately following the end of World War II, the need arose for the international community to create a legal framework to respond to the gross human costs of that war. Consequently, on the 9th day of December, 1948, the

United Nations General Assembly approved the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention), which defined genocide and made it punishable as a crime under international law (Rice and Loomis, 2007).

The United Nations had itself emerged three years and six months earlier, precisely on the 29th of June, 1948, supplanting the League of Nations, in San Francisco, USA. It was originally a conglomeration of all the nations who had fought against Adolf Hitler. Their stated aim was to establish a world in which, relieved of the menace of aggression, all may enjoy economic and social security. The Security Council comprising USA, China, UK, France and Russia acted as the highest decision making organ of the UN, and had priority on questions of global peace and security. Now, that number has increased to fifteen, with the additional ten elected on rotational bases.

Emergence of the United Nations gave the world hope that a successful framework for global peace had at last been achieved. But that hope soon proved to be misplaced. It transpired that the defeat of the two great Military and Industrial powers, Germany and Japan, had left an immense vacuum to the East and West of the Soviet Union. Taking advantage of such exceptionally favourable circumstances, the Soviet Union made full use of the combined strength of the Red army and Communism to conduct an expansionist policy which was soon to threaten peace and collective security. Sensing danger, ten European countries joined the United States of America and Canada to form the North Atlantic Treaty Organization (NATO), pledging mutual security support for one another. The NATO treaty was signed on the 4th of April, 1949. Today, NATO has membership of 28 independent nations, from 12 at inception..

Other parts of the world, Africa inclusive, were not 'left behind in the regional and sub-regional alliances in pursuit of peace and security. Organizations such as OAU (later AU), ECOW AS, etc, emerged. Amnesty International was launched in 1961, Human Rights Watch in 1978, and many other non-governmental organizations also emerged, championing human rights all over the world. As awareness for human rights increased, the world began to witness a shift from the inviolability of state sovereignty towards a commitment to protect human welfare (Rice and Loomis, 2007). To be sure, the rights of sovereign states were still recognized and respected, but there were growing concerns about regimes in different parts of the world with proclivity for violating the rights of their citizens. Humanitarian intervention therefore evolved from the concern for maintaining global peace and security, bearing in mind that insecurity in one part of the world: is insecurity in all parts of the world.

IV. INTERVENTION DURING THE COLD WAR ERA

The Cold! War era covers a period of about 46 years, from when the World War II ended in 1945 to the collapse of the Soviet Republic in 1991. Interventions in this era were mostly unilateral, meaning 'the intervening state or group of states acted alone without authorization from the United

Nations. This was the case in the Indian intervention in East Pakistan in 1971 leading to the creation of Bangladesh; the Vietnamese intervention in Cambodia in 1978 which led to the overthrow of Pol Pot, and the Tanzanian intervention in Uganda in 1979 which led to the overthrow of Idi Amin. Neither of these was primarily based on humanitarian grounds (Saima Raza, 2011).

V. INTERVENTION DURING THE POST-COLD WAR ERA

Most post-Cold War conflicts were intra-state conflicts which were generated by human rights violations. Interventions in these conflicts were carried out by a coalition of nations based on authorization from the United Nations. These multilateral interventions were carried out under the auspices of the UN, AU, OAU, ECOMOG, NATO, or the Coalition of the willing.

VI. THE GULF WAR

On the 2nd day of August 1990, Saddam Hussein's Iraq invaded Kuwaiti border in what clearly was a flagrant violation of Kuwait's sovereignty and territorial integrity. The United States worked hard to rally international opposition against Iraq. The coalition forces launched a successful campaign against Iraq and in the process Kuwait was liberated and its sovereignty restored.

Yet as the Gulf war drew to a close in early 1991, new concerns arose over the treatment of Iraqi citizens, and the humanitarian imperative to help those imperiled civilians quickly overrode the norm that state sovereignty should remain sacrosanct (Rice and Loomis, 2007: 64). What happened was that the Iraqi army had brutally crushed a US-instigated rebellion by the Kurds, leading to the displacement of about 600,000 Kurds. The crisis was addressed by the adoption of United Nations Resolution 688, which allowed humanitarian agencies unrestricted access to the civilian population and ultimately the establishment of a 'safe area' for the Kurds. Although UN Resolution 688 was itself a contravention of the principle of state sovereignty, the humanitarian crisis in Iraq was deemed by the Security Council to override that concern.

VII. SOMALIA

Somalia became enmeshed in a deep crisis in 1991 when, following the ouster of that country's leader, Barre, different warring factions battled bitterly for the vacant position. By September 1992, the International Committee of the Red Cross estimated that 1.5 million Somalis faced imminent starvation (Rice and Loomis, 2007: 66). The United Nations responded, passing Resolution 794, which facilitated armed intervention by members of the international community, in order to make the country safe for relief materials to be delivered to that troubled country. On the 8th of December, 1992, a US-led force landed in Somalia. The mandate of the

force was simply to make the environment safe for relief workers, not to engage the enemy (Rice and Loomis, 2007). Sadly, 18 of the US servicemen were killed ten months later in the notorious Black Hawk Down battle. The killing of those servicemen on humanitarian service raises issues concerning the mandate given to soldiers on peacekeeping.

VIII. MORAL AND ETHICAL QUESTIONS

The moral issues in humanitarian intervention arise from the cross purposes of the international law convention of non-interference on the one hand, and the moral imperative to protect the innocent on the other. Is an external actor justified in forcefully intervening in what goes on in another country, even if on humanitarian grounds, in view of the position of international law? Should the international community remain aloof when massive and grave human rights abuse take place against the innocent, as happened in Rwanda? Reconciling the two positions above presents a moral dilemma. We turn now to the just war doctrine in an attempt to resolve this dilemma.

IX. JUST WAR THEORY

As early as the Dark Ages, wars had been prosecuted in defense of the innocent and the weak. Just war theory, founded by Aristotle, Cicero and Augustine (Orend, 2006), but developed by Aquinas, Hugo Grutius, Francisco Suarez and Francisco de Vitoria, though originally designed to deal with war ethics, its principles could be analogically applied to 'just' intervention (Kolin, 2007). Just war doctrine 'outlines presumptions against the use of armed force and specifies conditions under which the presumptions can be overridden as morally justified exceptions' (Kolin, 2007: np). These exceptions are summarized as *jus ad bellum* and *jus in bello*: the former representing rules of just cause, proper authority and right intention; and the latter representing rules of proportionality and discrimination. The moral and ethical questions arising from humanitarian intervention can, therefore, be summarized as: Is the cause for intervention justified? Is the intention right? Is the intervention properly authorized? And, is the intervention executed discriminately and proportionately? Answers to these questions must be affirmative for humanitarian intervention to be justified.

X. JUST CAUSE

'Nothing but aggression can justify a war.' International law allows countries to defend themselves with force if they are victimized by an armed attack (Orend, 2006: 32). Just wars, therefore, are those waged in self-defense, and self-defense in this context would include defense of other states against acts of aggression. As was the case in the interventions in Somalia, Haiti and Bosnia. However, the US-led attack on Iraq in 2003 had a questionable cause and to that extent, that war was immoral.

XI. RIGHTFUL INTENTION

For a war to be just, intention for waging it must be right. A war with a just cause but with a wrong or selfish intention would be an unjust war. The rightful intention, seeking to secure peace to punish evildoers, and to promote good, is, therefore essential for a war to be just (Kiolin, 2007:np). There is the argument that intervention is undertaken by powerful nations with other less noble intentions in mind, namely to pursue their national interests. They look the other way if there is conflict in an area where there are no national objectives to be achieved. For instance, in Rwanda, a force of even modest means could have prevented much of the killings, but the opposite course was taken (Anan: 1998). Could it be that there were no ulterior objectives to be accomplished in Rwanda?

XII. PROPER AUTHORITY

Since, according to Aquinas, 'the care of the common wealth is committed to those in authority,' it is then their responsibility to oversee the affairs of the common wealth. It falls upon the Security Council of the United Nations to authorize wars, and wars fought without the UN Security Council's authorization, other than ones fought in self-defense are illegitimate wars.

XIII. DISCRIMINATION AND PROPORTIONALITY

Discrimination, in the sense in which Aquinas used the word, means targeting only legitimate aggressors and avoiding the killing of non-combatants. Proportionality means that the quantum of force deployed shall be commensurate to the objective at hand on the battlefield (Orend, 2005: 15).

There are other subsidiary moral issues in humanitarian interventions such as: Should peacekeepers risk their lives in order to prevent belligerents in another country from killing one another, as happened when eighteen US service men were killed in Somalia? Is humanitarian aid right, in view of the concern that it causes too much dependency of recipients on donors, and also has the capacity to exacerbate conflicts and prolong wars?

XIV. CONCLUSION

The researcher attempted to describe humanitarian intervention in complex emergencies, conditions that give rise to them, and its evolution. We have also attempted to look at intervention in the Cold war epoch, such as India's intervention in Pakistan and Tanzania's intervention in Uganda; and in the post-Cold War epoch, such as the Allied

Forces' intervention in Iraq and Somalia. Humanitarian intervention is a remarkably controversial subject, given the contradictory moral demands it makes on the international community - to flout international convention in order to rescue an imperiled population on the one hand; or to respect international law while remaining indifferent to situations of complex emergency.

Both the just war doctrine and the international law are against the employment of military force by international actors to address threats to peace, as it is viewed as an act of aggression (Kolin, 2007). The just war theory provides exceptions when forceful intervention may be justified. These exceptions are defined in Aquinas's *jus ad bellum* principles, which are just cause, right intention and proper authority; and *jus in bello*, that is, discrimination and proportionality.

REFERENCES

- [1] Allen R.A. (2012): Complex Emergencies and Humanitarian Responses. www.condonintervention.ac.uk/sites/default/files/programmes-resources/lse-pd (accessed 7/5/2013)
- [2] Anan K. A. (1998): 'Peacekeeping, Military Intervention and National Sovereignty in Internal Conflict' in Moore, Jonathan (ed.) *Hard Choices: Moral Dilemmas in Humanitarian Intervention*. Rowman and Littlefield Publishers, Inc., USA.
- [3] Bellamy A.J (2010): "Peace Operations and Humanitarian Intervention" in Beeson, Mark and Bisley, Nick (eds.) *Issues in 21st Century World Politics*. Macmillan.
- [4] Holzgrefel J. L and Keohane, R. O. (eds.) (2003): *Humanitarian Intervention: Ethical, Legal and Political Dilemmas*. Cambridge University Press.
- [5] Kolin, V., (2007): *The Legitimacy of Humanitarian Intervention: A Moral Perspective*. www.defenceandstratelZv.eu/cs/aktulni-cislo-I-2007/cl (accessed 3/5/2013).
- [6] Murphy, Sean D. (1996): *Humanitarian Intervention: The United Nations in an Evolving World Order*. Pennsylvania: University of Pennsylvania Press.
- [7] NATO: *Facts and Figures* (January, 1976): NATO International Service, Brussels. Order, Brian (2006): *The Morality of War*. Canada: Broadview Press.
- [8] Raza, S. (2011): *Humanitarian Intervention: A Story of Subterfuge*. www.confidence.org.uk/2011/04/04/humanitarian-intervention-a-story-of-subterfuge-a (accessed 3/5/2013).
- [9] Rice, S. E., and Loomis, A.J., (2007): 'Evolution of Humanitarian Intervention and the Responsibility to Protect' in Daalder, L. H. (ed.) *Beyond Redemption*. Washington, DC: Brookings Institution Press.
- [10] *The Encyclopedia Americana* (International edition), Vol. 27, 1979. Canada.