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## On Whose Grounds? The Legality and Morality of Humanitarian Intervention

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Paul Pepi

ON WHOSE GROUNDS? THE LEGALITY AND MORALITY OF HUMANITARIAN INTERVENTION

The predicate on which state actors intervene militarily against a country for supposed humanitarian purposes in the latter half of the 20<sup>th</sup> and the first two decades of the 21<sup>st</sup> century has been largely determined by the consensus of major players in the international community. At the top of the list of justification of humanitarian intervention (a term used in this essay which explicitly is defined by military force against actor(s) in a foreign nation for a supposed humanitarian purpose) is the protection of human rights when crimes against humanity are being conducted within a state. However, history has shown that following the establishment and widespread ratification of the United Nations (UN) Charter into the international legal framework, this has not always been the case. Further, the UN Charter has deliberately vague and contradictory language regarding humanitarian intervention. Chapter VII, article 39 of the Charter allows international actors to militarily intervene in places where a “threat to the peace, breach of the peace or act of aggression” exists, contingent on the approval of all five of the UN Security Council (UNSC) members (UN Charter, art. 39) However, the right of humanitarian intervention has been contested, most notably by the Group of 77 in 2000 who claimed that it had no legal basis in the UN Charter or anywhere in the normative framework of international law.

Famous examples of humanitarian intervention over the past three decades includes the Grenadian Invasion, the NATO Operation Deliberate Force, and the NATO Operation Provide Comfort. The justifications for, and the results of, humanitarian intervention were uniquely different in each of these three cases – however, these events are crucial in understanding when, and on whose grounds humanitarian intervention is conducted. Further, where humanitarian

intervention does not occur, although circumstances are similar to or worse than other instances that prompted its use, can also speak volumes to the global order that utilizes this military tool.

This article will be broken into four separate parts. The first section will be whether or not there were legitimate legal grounds for the humanitarian intervention broadly. The second section will explore the moral justifications of humanitarian intervention and attempt to distinguish between cases that had a legitimate moral justification for the decision to militarily invade. That being said, there are no certain immoral thresholds for a crisis to reach that immediately prompts humanitarian intervention. The crimes against humanity in Bosnia and Herzegovina paled in comparison to that of the Rwandan genocide; however, humanitarian intervention was practiced far quicker and more decisively than the former case due to it being on the doorstep of Western European nations. The third section, and perhaps the most important when considering the effectiveness and necessity of humanitarian intervention, will consider if, as a result of the intervention, the area had a moral outcome economically, politically, and socially. Finally, the last section will comment that the findings for these three case studies show there are undeniable inconsistencies legally, morally, and intervention's role in providing a more stable or moral outcome. However, a missing variable is near ubiquitous despite the former inconsistencies – that missing variable is political motives of major players that had influenced the decision-making process, and the case of non-intervention in South Sudan is briefly considered.

Throughout the paper, the liberal world order, and especially the United States, will be given preference because they have practiced humanitarian intervention almost exclusively. By Russia's own standards, they have practiced humanitarian intervention in the past, notably in Syria. However, the case of Syria shows that Russia does not hold the human rights as a top

priority; they have intentionally targeted civilian hospitals and are continuing to protect the regime that is arguably responsible for using illegal chemical weapons against civilians.

Therefore, humanitarian intervention must be undertaken to protect the cosmopolitan values of human rights for it to be considered at least arguably legitimate.

If patterns in the current global order continue, globalization can be strongly reversed and illiberal tendencies threaten the democratic nature of the liberal world order. If humanitarian intervention is waged based on prior political factors, what does this mean for the increasingly nationalistic tendencies of the liberal world order, or the idea that China can use precedents set decades ago to initiate their own humanitarian intervention, this time utterly divorced from the value framework of the liberal world order?

#### LEGALITY OF HUMANITARIAN INTERVENTION

It is common knowledge that international law, as it has stood in various iterations during the decades following the collapse of the Soviet Union, does not function as domestic law would. The root issue with international law is that there is no inherently binding nature to any legislation unless it is voluntarily ratified by individual nations or international institutions governing member-states, such as the EU. Further, the UN Charter, arguably the single most legally binding document as it is ratified by 193 countries, contradicts itself in regards to external use of force, and so does the interpretation of it by various nations around the world. Article 2(4) of the Charter states that “all members shall refrain... from the threat or use of force against the territorial integrity or political independence of any state” (UN Charter, 1945). Similarly, Article 2(3) states that all conflicts between nations should be resolved through “peaceful means” (UN Charter, 1945).

However, other areas of the Charter contradict this 'right' to freedom from aggression. Article 24 grants the UNSC as the primary guarantor of "international peace and security" (UN Charter, 1945). Article 39 grants sole authority to the UNSC to resolve "threats to international peace and security" (UN Charter, 1945). Article 42 states that if peaceful means cannot resolve a conflict, the "[UN] may take such action... as may be necessary to maintain or restore international peace and security [such as] demonstrations, blockade, and other operations by air, sea, or land forces" (UN Charter, 1945).

For decades, there has been arguments between governments on whether there is a legal basis granted from the UN Charter to conduct humanitarian intervention. When the Cold War began it became clear that the veto power of both the United States and the Soviet Union in the UNSC made nearly impossible any unilateral decision on the use of force to be legally implemented. Reisman (1984) likens the Security Council's ineptitude during the Cold War as a sheriff "utterly incapable of maintaining order" (p. 643). Further, "unilateral violations of Article 2(4) might be condemned but to all intents and purposes validated" by states regardless of international law (p. 643). This creates a "curious legal gray area... between the black letter of the Charter and the bloody reality of world politics" (p. 643). Hurd (2011), looking back on the instances of humanitarian intervention and its adherence to the Charter, posits that "humanitarian intervention is either legal or illegal depending on one's understanding of how law is constructed, changed, and represented" and the question of legality "cannot be answered definitively" (p. 293).

American representatives in the UNSC, following the humanitarian intervention in Grenada because of, in part, their close ties to Cuba and the USSR, themselves have expressed that such action was justified and that the "prohibitions against the use of force in the Charter are

contextual, not absolute” which justified their use of force in Grenada to uphold the citizen’s right to self-determination (UNSC, 1983, p. 6). The United States would later veto a UN resolution supported by eleven states “deploring” the Grenada invasion that same year (Bernstein, 1983). Grenada especially was a point of contention during the time, with some, like Waters (1986), stating that it explicitly violated the Organization of American States, Organization of Eastern Caribbean States, and the United Nations Charter treaties respectively (p. 242-4). Human rights were not being violated to a serious extent and Grenada represented no true imminent national security threat to the United States (p. 244) Thus, the United States’ actions represented a collapse of any legal norms attributed to humanitarian intervention as the UNSC did not unilaterally vote for any military incursion within the small island nation. Cases similar to Grenada created a division “partly on Cold War lines” regarding humanitarian intervention (Gray, 2000, p. 27). Humanitarian intervention during the Cold War, therefore, was considered legal by the governments supporting the intervention, and illegal by states rejecting it.

After the end of the Cold War, a similar pattern became clear – this time the lines were drawn between NATO member states, who widely believed humanitarian intervention was justified, and China and Russia, who did not. In 1991, without any authority from the UNSC or Iraq, the United States, United Kingdom, and France (among others) launched Operation Provide Comfort in Iraq to protect ethnic minorities, the Kurds and Shiites, from possible genocide from the Iraqis after the invasion of Kuwait (Jones, 2017). When Iraq protested the incursion to the UNSC, NATO members cited that UNSC Resolution 688 gave them legal justification to conduct the invasion (Gray, p. 29). However, Resolution 688 only condemned the Iraqi government for their treatment of the ethnic minorities and demanded Iraq to cease their activity – it did *not* expressly give any authorization for military action to be waged by Security Council

members and their allies, it only directed member nations to provide non-military humanitarian resources to the area (UNSC, 1991). Later, when condemned by Russia and China over the establishment of a no-fly zone in Iraq, both the United States and the United Kingdom justified it without using the UN Charter, instead citing that their methods were “reactionary” and “not aggressive” (Gray, 2000, p. 30).

Humanitarian intervention in Kosovo, 1999, fundamentally redefined NATO’s role in regional security and shifted the justification of humanitarian from legal grounds to moral and political grounds. Although NATO’s bombing actions against the Republic of Srpska during the Bosnian Civil War, named Operation Deliberative Force, was given consent by the UNSC (fifteen votes to zero) thus giving it unambiguous legal legitimacy, NATO’s Kosovo bombing campaign was not (Lambeth, 2001; UNSC, 1992). Therefore, since NATO was classified as a regional entity under the UN Charter, similar to how a coalition of allied states would be categorized because they are fundamentally separate from the UN, it was illegal to carry out this bombing campaign without UNSC – NATO has even separately recognized “the overall responsibility of the UN Security Council for international peace and security” (NATO, 2009). The United States, however, did not respond to the legal challenges presented to NATO action. Instead, they cited Yugoslavia’s failure to follow the UNSC’s previous resolutions, and were therefore justified to “prevent a further deterioration of peace and stability in the region” (UNSC, 1999).

A common pattern emerges from these cases of humanitarian intervention: the international legality of humanitarian intervention as established in existing treaties, most notably the UN Charter, is often circumvented in the practice of humanitarian intervention.

Moral justification of actions, at least from governments' various perspectives were used when it was obviously illegal.

## MORAL JUSTIFICATION OF HUMANITARIAN INTERVENTION: CASE STUDIES

### **Grenada Invasion**

The US invasion of Grenada, which itself represented a drastic expansion in scope of humanitarian intervention, had no legitimate moral justification. The US invaded the country after Prime Minister Maurice Bishop's government collapsed (Wheeler, 1985, p. 413). What concerned the US government, and was the primary factor in the invasion, was the threat that this collapse had on the nearly 1,000 US citizens in the island nation. However, instead of responding to a materialized humanitarian catastrophe, they instead responded on the threat of it. There were no clear and widespread violations of human rights or sustained violence that erupted after political chaos. Scholars justifying the moral claim rest on a speculative and unfalsifiable stance; namely, if the US government had not invaded, "the situation *may* [emphasis added] have become worse" (Wheeler, 1985, p. 430).

Further, although some of the US citizens in Grenada themselves feared that they were under threat, Ohio Congressman Louis Stokes maintained that "Not a single American child nor single American national was in any way placed in danger or placed in a hostage situation prior to the invasion" (Magnuson, 1983). The timing of the crisis in Grenada immediately brought in the idea of a hostage crisis in similar scope to the Iranian Hostage Crisis in 1979, however, no American citizens were taken hostage – the US citizens had nothing to do with the unfolding of events which led to the collapse of the Grenadian government and there was no real reason for them to be targeted. In fact, more recent studies on the matter have illuminated that American



civilians in Grenada were very much in danger – however, the threat came from the devastating force deployed by the American forces during the invasion and not from the Grenadians themselves (Bell, 2008, p. 38).

The invasion was also morally justified by a confidential request to intervene by a Grenadian governor which the US government, under Ronald Reagan, attributed with “exceptional moral and legal weight” (Joyner, 1984, p. 137). Because of the collapse of the Grenadian government, there was no clear way to define if the governor truly represented a legitimate figure who would be authorized to request such an action. Quickly after the invasion, the rhetoric turned to moral relativism from those in leadership positions – specifically, it was compared to the immoral invasion of Afghanistan by the Soviet Union, the difference between these two was “the difference between totalitarianism and democracy, between tyranny and freedom” (Weber, 1994, p. 555). With that said, for an entity to juxtapose the morality of their actions in comparison to an arguably more immoral act does not hold any significant weight especially if there was no true moral justification in the first place. Further, the international community was in near unitary opposition to this action and voted 108 to 9 for a resolution which deeply deplored the invasion as a “flagrant violation of international law” (Wheeler, 1985, p. 415). To posit that this invasion had any true moral justification is extremely problematic.

### **Bosnia and Herzegovina Civil War**

Operation Deliberate Force was the NATO bombing of Serb forces during the Bosnian Civil War. In this specific case, there was both a legal and moral justification for intervention – there was widespread ethnic cleansing practices waged between the three dominant ethnicities within the country (Croats, Serbs, and Bosniaks) and the UNSC unanimously voted in favor of

NATO and UN Security Forces' intervention (NATO, 2004). Specifically, Europe reeled at Srebrenica, in which Bosnian Serbs systematically executed 8,000 ethnically Muslim Bosniaks – this was the largest genocidal action in the European peninsula since World War II (Smith).

The NATO led bombing campaigns against the Republic of Srpska was pivotal for the ending of the war, and the recognition of independence of Bosnia and Herzegovina under the Dayton Accords governmental framework. However, there were various problems that were associated with NATO's involvement in their use of humanitarian intervention. First, although Srebrenica remained the single biggest act of genocide of the war, all three constituent groups waged some form of serious ethnic genocide towards each other – the entire war was waged, in a large degree, because of deep rooted hatred between the ethnicities. To provide some examples – which are nowhere near exhaustive – Croatian troops massacred 120 Bosniak men, women, and children in Ahmići after indiscriminately burning down residences (ICTY, 2004 [a], p. 272). Later during the war, Croat forces were also suspected of carrying out killings of nearly fifty Bosnian Serb civilians in Bradina (ICTY, 2004[b], p. 1). Bosniaks, for their part, decapitated over 150 ethnic Serbians, and threw their bodies in Kazani Pit, near the capital Sarajevo over the course of several months (Ljubas, 2019). Bosniak troops were also responsible for the execution of at least thirty-three Croatian civilians and military forces in Grabovica (ICTY, 2001, p. 3). When Croatian and Bosnia joined forces to fight the Serbians, they were also responsible for the ethnic cleansing of Serbians – in Sijekovak, artillery forces knowingly targeted civilian areas and killed at least fifty-eight Serbian civilians which included twenty children (NATO, 2004).

In addition to the violation of human rights, all three sides violated the no-fly zone established under Operation Deny Flight – overall, all sides of the conflict violated the restrictions over 5,000 times on separate occasions (Beale, 1997). All sides also contributed to

the killing and wounding of over one hundred UN members tasked with peacekeeping in designated safe zones (Beale, 1997).

It is clear that all sides participated in immoral acts and broke established laws enacted by the international community. Therefore, if following a universal value or international legal framework, humanitarian intervention from NATO would be waged against the Croat and Bosnian forces, as well as the Serbians. The moral argument that intervening states must adhere to is that a state neglecting their responsibility to protect their populations from ethnic genocide would then have to be prevented by the international community, as the latter bears residual responsibility if the crimes against humanity are allowed to continue unabatedly. In other words, any breaking of international law should be applied unilaterally in regard to the humanitarian intervention. However, the international community, led primarily by the United States, exclusively targeted Serbian forces.

This could indeed be justified, although again only by adopting moral relativism. Serbians, throughout the war, had primarily initiated conflicts, broke no-fly zones, were militarily superior, and were the obvious aggressors in the conflict making them the obvious target to cripple in order to bring about peace in the region (Beale, 1997, p. 22). However, it remains the case that the broad moral justification of humanitarian intervention was not evenly applied to all sides, especially when considering that the Dayton negotiations which led to the end of the war and the establishment of the Bosnia and Herzegovinian state heavily favored the Bosniaks and the Croats who themselves committed acts illegal under international law including crimes against humanity.

### **Operation Provide Comfort: Iraq 1991**

Following the Gulf War, there were a mass displacement of primarily Kurdish minorities in Northern Iraq following Hussein's devastating military response to the Kurds uncoordinated uprising in March and April 1991 (BBC, 2016). This uprising was waged by Kurdish forces because of the wrong perception that the Hussein regime was debilitated following their loss in the Gulf War and Iraqi troops' expulsion from Kuwait earlier that year. Hussein forces were militarily superior to the Kurdish troops and there was the threat that chemical weapons would be utilized against them – Hussein did use chemical weapons against the Kurds in 1988 during an Iraqi attempt at Kurdish genocide, so the fear was not unfounded (BBC, 2016). On April 6, 1991, the UNSC passed a resolution that denounced Iraqi repression and directed UN member nations to provide humanitarian relief for the Kurdish people, many of whom were fleeing their houses and at risk of starvation and dehydration (UNSC, 1991). However, French, UK, and US forces did militarily engage with the Iraqi forces which lead to the deaths of nearly 100 Iraqi troops.

The moral case for this intervention was perhaps the clearest example considered thus far. Historically, the Kurds have been denied any real autonomy, or even equal rights, under the various Iraqi regimes. During the 1960s, rebellion against unequal treatment left 60,000 Kurds dead and 300,000 displaced (Adelman, 1992, p. 6). In 1975, conflicts started for similar reasons were put down by the Iraqis which left 50,000 dead and 600,000 displaced (Adelman, 1992, p. 7). In 1988, Iraqis used chemical weapons to kill over 5,000 men, women, and children in Halabja (Adelman, 1992, p. 7). When another conflict began three years later, therefore, there was sufficient historical precedent to logically infer that Iraqi repression of the Kurds would be both severe and not follow any established rules of engagement – also, this time the Turkish government primarily denied Kurds to flee to Turkey, which trapped Kurds under the predations

of the Iraqi government (Adelman, 1992, p. 7). Legal scholars have also granted that even without legal authority, there nevertheless was no difficulty to make a moral justification argument for humanitarian intervention (Harrington, 1993, p. 645). Further, there were little offensive actions that was taken by the French, UK, and US military against the Iraqi's – the majority of military power used was retaliatory or defensive.

#### (IM)MORAL OUTCOME OF HUMANITARIAN INTERVENTION: CASE STUDIES

This brings to light an interesting question that should be analyzed to some degree: have cases of humanitarian intervention led to a moral outcome for the country/region in consideration? This question is pertinent because if the outcome of humanitarian intervention has *not* led to a better moral outcome of the country or region, then it will be abundantly clear that the primary factor in humanitarian intervention is neither cosmopolitan adherence to international law nor that of universal morality; instead, political factors, supported by domestic public opinion and the established normative structures in the liberal world order, would be the primary bases on which humanitarian intervention is waged, as a contingent of scholars have posited.

A moral outcome of any complex event, such as the case studies that have been considered thus far, is hard to determine if no criteria is established – therefore, three criteria will be outlined. A moral outcome is defined first by an arguable correlation between the impact of humanitarian intervention and the political, economic, and social betterment (if achieved) of the victims that led to be humanitarian intervention to take place. The second criterium is that the initial mission or foreign policy goal for the area is broadly achieved. The final criterium is to consider if there were alternative actions taken to achieve the same foreign policy goals. If these

three criteria are at least conceivably met, a moral outcome can be argued. As a final note, the criteria outlined are intentionally ambiguous, as it is a truism in scholarly work that considerations of what could have been, or alternatives to history, are near infinite and imagination or prior biases are often the primary drive. Nevertheless, the vagueness should not deteriorate the legitimacy of the question itself, as it is vitally important to consider if past military action was necessary and justly utilized.

### **Grenada Invasion**

Although this example of humanitarian intervention was more of an example of regime change foreign policy, as a significant factor of the invasion was to contain the introduction of a Cuba and USSR backed Communist government which would have very likely resulted from the political chaos that swept the island, the Grenada invasion resulted in a mixed moral outcome from the island. This is not to say that the invasion was morally justified – however, some argue that it did lead to a resilient democratic government that has remained to this day. In fact, successful democratic elections occurred just one year after the invasion with little American oversight and they have consistently scored high in democracy indexes (Tsiklauri, 2016). Just this year, Grenada scored 89/100 on the Freedom House democracy index, and the country was rated as ‘free’ instead of ‘partly free’ or ‘not free’ (Congressional Research Service, 2021). Grenada has had almost consistent GDP growth rates since the invasion, a steadily growing populations matched with an increase in life expectancy, and an above average Human Capital Index (World Bank [a], 2020). Further, Grenada both at the time and to this day represents a significant import and export partner with the United States – a Communist takeover of Grenada during the tail-end of the Cold War would have induced crippling economic sanctions that would

have had long-term negative effects (similar to, perhaps, sanctions waged on Cuba) and their economy likely would not have been supplemented by increased trade ties with other Communist nations, such as Cuba and the USSR (CIA, 2021).

The tourist industry which represents a major part of the Grenadian economy would likely not be as strong as it would be if the country was under Communist rule – scholars have pointed to an intrinsic link between democracy and the strength of tourism (Antonakakis et. al., 2016). Authoritarianism, of which Communist has historically been represented and practiced under, usually creates a “turbulent environment for economic activities and hence, for all economic sectors including tourism” (Antonakakis et. al., 2016). Democracies, on the other hand, are able to obtain a near maximum capacity of their economies and “are at a good position to support investment in their various sectors... it is reasonable to argue that sectoral performance (in our case, tourism) could assist economic growth” (Antonakakis et. al., 2016).

Other scholars who have considered this topic come to a very different conclusion. It remains true that the United States remolding of the economy, society, and political life did not live up to the expectations that were promised to them after the US invasion (Spencer, 1998). Studying a period of twelve years from the beginning of the invasion to 1995, the US failed in their fundamental promise of US foreign investment would be the “engine” for development for the Grenadian economy (Spencer, 1998, p. 12). Also, at the time of the article, the Grenadian health care service was in extreme distress with very little access to life saving basic drugs, and surgical materials along with the lack of retention of qualified medical professionals due to, mainly, poor working conditions which include low salaries and inadequate maintenance of medical facilities (Spencer, 1998, p. 12-4). Perhaps more importantly Grenada suffers from major corruption problems which includes the dependency of the economy on its brand as an

offshore finance center (and a huge money laundering area), a narcotics transfer point with little police enforcement of anti-drug laws, and was put on the EU Tax Blacklist until 2018 (Know Your Country).

To summarize, it is not necessarily easy to come to a certain conclusion on whether the US humanitarian intervention in Grenada resulted in a moral outcome – this sentiment is echoed by the ambivalent opinions of residents who are still alive that personally remember the invasion (Williams, 2003). The arguments both for or against this issue are in a sense unfalsifiable especially due to the fact that Grenada has not been under historical or scholarly scrutiny to be understood to the point in which a certain conclusion can be posited – instead, it remains obviously ancillary in analysis, even from scholars considering the Caribbean region specifically.

### **Operation Deliberate Force**

Whereas the last case study had a rather mixed outcome, the aftermath of Operation Deliberate Force provides a stronger case for an immoral outcome not only for Bosnia and Herzegovina, but perhaps the entire Balkan region. When Operation Deliberative Force concluded, the leaders of the Republic of Srpska (whom NATO military action targeted) and the combined Bosniak, Croat, and Serb leaders were pressured, even by Russia, to accept the Dayton Accords as the new constitutional framework for the newly established and internationally recognized state of Bosnia and Herzegovina (Schwegmann, 2000, p. 4-8). In an effort to create a quick peace between the ethnicities, the Dayton Accords constitution was half-baked. It remains a horrific example of governmental structure – there are five presidents (three federal and two governing two autonomous entities) and fourteen separate parliaments for a country with less land mass than West Virginia and a population lower than Los Angeles (Britannica).



Further, the two autonomous regions that were established remain separated on ethnic lines – 91.39% of all Croats and 88.23% of all Bosniaks live within the Federation of Bosnia and Herzegovina, and 92.11% of all Serbs live in the Republic of Srpska; cultural intermingling, including intermarriages, was far more common before the war (EP, 2014). Further, all high-ranking federal positions have an ethnic requirement, which also means that, of the three elected federal presidents, there must be one Bosniak, one Croat, and one Serbian – this excludes the possibility of an ethnic minority legally running for president or even a high office of power (OSCE, 1995). This is unheard of in third world nations, the worst of which only have a religious, *not* ethnic, requirement for positions of leadership (Theodorou, 2014). The two separate entities also can have distinct foreign relations with other neighboring states, provide their own security, and maintain local jurisdiction without interference from the other entity (OSCE, 1995). What further complicates federal governmental action is the ability for one federal president to veto any decision if it meets the subjective requirements that it is ‘destructive’ to their ethnicity – this veto power based on subjective criteria has been used ad nauseum in the nation since its founding, obstructing relatively simple policy goals such as the establishment of a country wide highway, not to mention the hinderance on broader economic or foreign policy goals (OSCE, 1995).

The Dayton Accords were forced upon the citizens and political leaders of Bosnia and Herzegovina, and instead of promoting a sustainable peace, it allowed ethnic tensions to be exacerbated (Borger, 2015). The constitutional framework established an unarguable ethnic, language, and religious link to political ideology (Bedford, 2017; Sipka, 2019, p. 166; Weidmann, 2016). Therefore, unlike in Western democracies such as the United States, where the Democrat and the Republican political establishment is not explicitly linked to racial identity

(Malhotra and Kuo, 2008, p. 127 – 135), political ideology is directed upon ethnic lines which has the obvious effect of maintaining ethnic tensions especially in a governmental system very much prone to near eternal gridlock. To this day, the economic status of the country is grim; the youth unemployment rate was 40.18% (World Bank [b], 2020), the population has sunk from 4.5 million in 1988 to 3.3 million in 2019 (World Bank, 2019), emigrants have no noticeable effect at shortening the labor pool and providing remittances (Trokic, 2012, p. 12), foreign investment largely comes in the form of debt trap diplomacy from China (Hirkic, 2019), and the government has not been able to come up with broad strategies for infrastructure or the economy meaning that there is little support for strategic export industries (Barber, 2016). Economic problems have continually angered citizens within the country, who then blame the opposing ethnic leaders. The Dayton Accords allowed the Bosnian War to continue unabatedly, not with soldiers, but instead politicians perpetually thwarting their opponent's victories at the cost of a functioning nation.

Multiple Serbian threats of secession have occurred since the establishment of the independent state of Bosnia and Herzegovina. Whereas the ones in the recent past have been argued as having no teeth, instead just a ploy to drum up voter support because of, in part, a coordinated disapproving international response, the current one is showing troubling signs. The international system both more distracted and less powerful than it was just a few short years ago – the United States is focused mainly on current operations in, mainly, the Middle East and the EU, weakened by Brexit, has failed for over twenty-five years to coerce the country to change their constitutional framework which is in flagrant violation of human rights in regards to minority laws (Latal, 2021). The current power vacuum has been filled by not only regional interference from Croatia and Serbia, but also to Russia (who is siding with the Serbian population), Turkey (themselves siding with the Muslim population), and China (Latal, 2021).

Dodik, the leader of the Serbs, has officially stated that he is vying for the creation of a separate taxation office, army, and security forces – if this occurred, the Republic of Srpska would essentially be autonomous from the rest of the country and could certainly lead to violence (Latal, 2021).

Suffice it to say, the legacy of humanitarian intervention in Bosnia and Herzegovina has created a fractured nation from the start, with fissures continually being widened over time. Instead of creating an interim constitutional framework between ethnicities with deep rooted ethnic hatred towards each other that is in violation of human rights, more negotiations should have taken place to achieve something more similar to an ideal of the liberal world order. If neither side agreed, humanitarian intervention should have continued to be used until it could be achieved. Hindsight will always be 20/20, but it is nevertheless very difficult to argue that the result of humanitarian intervention in Bosnia and Herzegovina led to a moral outcome for the nation.

### **Operation Provide Comfort**

Unlike the previous two case studies, the context Operation Provide Comfort did not exist in anything close to a vacuum, isolated from further significant violence. Neither Grenada nor Bosnia and Herzegovina were recipients of Western military action after the initial humanitarian military action. Also, the previous nations that were considered did not devolve further into violence, and therefore it is difficult to succinctly conclude whether or not the initial intervention aided the Kurds as, in the grand scheme of recent history, it was less significant in size and scope than previous (such as the 1990 gulf war) and later action by especially the US. What can be said for certain is that it was very detrimental to the Hussein regime, as the international system did

little to stop UK and US action under Operation Provide Comfort by highlighting its violation of international law, and thus set the stage for the 2003 Iraq War to be waged without a UNSC security council resolution or involving a legitimate multi-state coalition – there were only nine nations’ militaries involved in the operations, whereas during the Gulf War had thirty-five countries directly involved overall (Cockayne and Malone, 2006).

In the short term, Operation Provide Comfort achieved its goals. Aid poured in to help the nearly two million displaced Kurdish citizens both by nations and international relief organizations (Brown, 1995). Widespread death and famine were averted, and over a million and a half Kurds were able to securely immigrate to both Iran and, although later, Turkey (Frelick, 1992). Ethnic cleansing by the Hussein regime was prevented.

Despite the collapse of the Hussein regime in 2003, the Kurds who are to this day “the world’s largest nation without a state” never received their own independent state, which would be the best solution to prevent any future discrimination from the four governments they live under (Taspinar, 2019). That being said, Kurdish statehood was beyond the scope of Operation Provide Comfort, which sought to protect the Kurds from possible genocide and provide humanitarian aid to those affected. Therefore, whether or not Western humanitarian intervention was successful is clearly determined on the timeframe that is considered. In the short term, the Kurds benefitted greatly from Western humanitarian intervention – however, looking at the Kurds today, they are still far from gaining independence even after aiding the West in their fight against ISIS in Iraq and Syria (The Economist, 2021). That is not to say that Operation Provide Comfort was directly responsible for the current issues the Kurds are experiencing – however, it can be argued that the operation had a negligible impact over long term strategic security for the Kurdish nation.

## POLITICAL MOTIVES OF HUMANITARIAN INTERVENTION: THE MISSING VARIABLE

While the legality, moral justification, and moral outcome of humanitarian intervention is inconsistent in the case studies considered, the political motivations of the West when using their military is ubiquitous in all three cases. In Grenada, the political motivations were threefold. First, and most obvious, the United States desired to uphold the Monroe Doctrine in the context of Cold War ideology – in other words, the containment of Communism within their sphere of influence was obviously a primary factor in the invasion, as a non-invasion would have likely led to a Communist government taking power, which would, in turn, increase the influence that the USSR had on America's doorstep (Glass, 2017). Second, the United States felt, rightly, that they had a responsibility to protect the citizens that were on the island. Third, and the reason that is under the most scholarly contention, is that the United States, under Reagan, invaded Grenada as a solution to the 'Vietnam Syndrome,' or the reluctance for the United States to commit their military forces abroad unless absolutely vital to national security following the devastating defeat over a decade earlier (Appel, 2014; Chapman, 2017).

For Bosnia and Herzegovina, the EU could not allow the existence of war crimes in Europe's borders. Also, similar to the bombings of what was left of Yugoslavia in 1999, the political considerations revolved around reducing the risk of violence or disturbance to neighbor states that were within the European integration project which were also America's strongest allies in the region (Gallis, 1999). In a sense, if the Balkan region destabilized into failed states, that would have had grave consequences for the core countries of Europe. For the United States, their involvement quickly became a referendum on US credibility to assist their European allies and uphold their de-facto leader status within the framework of NATO (Robinson, 2001). It must

be emphasized that moral considerations played some part in the decision to utilize military force against the country – it would be erroneous to believe that all Western political leaders are uncompromisingly immoral. Rather, the argument here is that political motivations existed, nevertheless.

Operation Provide Comfort, while certainly conducted because of, in large part, moral concerns of the Kurdish citizens, nevertheless had political interests intertwined in the decision-making process. First, this operation was conducted only a few short months after the Gulf War and Hussein's devastating defeat by Coalition forces. The Kurds uprising was against the Hussein regime was, as mentioned earlier, due to their wrong perception that the Hussein regime was weak and could not retaliate. However, the Kurdish uprising was also waged with the belief that the United States and coalition forces would support the Kurds, both fiscally and militarily, which did not materialize (BBC, 2007). Combined with increased Western media pressure, focusing in on the imminent danger the Kurds were in (Cockayne & Malone, 2006), to not at least protect the Kurds from the Hussein regime would be extremely poor optics by Western leaders. That could perhaps explain why there was no real Western push for the establishment of a Kurdish state, and even the enactment of blanket asylum, which would have provided large populations of the Kurdish people a form of true security, was denied (Frelick, 1992). Instead, Turkey along with other neighbor nations were pressured to accept the Kurdish refugees. Again, moral reasons were very much a part of the decision-making process, but, as Cockayne and Malone (2006) note, the operation "ultimately... served both domestic political and geostrategic purposes" (p 136-7).

Is it immoral to have political interests as well as moral justifications intertwined when conducting humanitarian intervention? To answer this question, the recent case of South Sudan

should be considered. By all accounts, the violence and unrest caused by both the independence movement in 2011 and the civil war in 2013 are greater than or at least parallel to the moral justification argument. According to Human Rights Watch, both government troops and opposition forces have “committed war crimes and possibly crimes against humanity. All parties to the conflict used abusive tactics, targeting and killing civilians, including the elderly, people with disabilities, women, and children in their homes, in hospitals, and in United Nations compounds. The parties also attacked homes, hospitals, markets, and humanitarian aid supplies, leaving towns and swaths of rural areas emptied and devastated. The conflict displaced millions of people, forcing hundreds of thousands to seek shelter at UN bases” (Human Rights Watch, 2020). What has been the international response to this devolution of South Sudan to a failed state? Has there been military action comparable to the previously mentioned case studies aimed at minimizing overall risk to vulnerable groups? The answer is an overwhelming no. Instead, the United States has adopted the strategy of providing humanitarian aid – in fact they are the largest single donor to the nation (US Department of State, 2020). The difference between the case of South Sudan and the rest of the case studies mentioned is obvious: *there were and are no true political interests in South Sudan to warrant the use of humanitarian intervention*. Therefore, the argument that humanitarian intervention should be used if there is moral justification for the invasion holds little weight when considering the blatant inaction by the United States and other prominent members of the liberal world order in South Sudan.

#### CONCLUSION: THE CHANGING WORLD SYSTEM

A few inferences can be posited from this analysis. First, the United States and other Western and non-Western nations who supported them, both directly or indirectly, were under

the belief that the United States and various coalition forces would remain the top power in the future. There is no other explanation of why any nation, from the United States to Switzerland would allow the historical precedent of humanitarian intervention waged on inconsistent legal and moral grounds with no guarantee of a secure future to be set unless they believed that the unipolar status quo of the United States as the premier superpower would not change. Obviously, this problematic considering that the United States is in a far weaker stance relative to the period of time in which these humanitarian interventions were waged. How much power China would have to gain in order to conduct their own humanitarian intervention practices is, of course, an open question, but the days of dismissing future power prospects of the Chinese regime by claiming the authoritarian government would collapse under its own weight are over. Russia too is in a far higher power position than they were just a few decades ago, meaning that if both nations, along with other smaller nations within their sphere of influence, truly strategically aligned, a world order could be cobbled together to match the strength of the liberal world order and find international grounds for legitimacy in utilizing humanitarian intervention. China alone has already proven to have widespread influence on changing international perceptions – the fact that only fifteen small states formally recognize Taiwan as a legitimate country separate from China is emblematic of this.

Second, humanitarian intervention cannot be argued as a universal tool to reduce the likelihood of violence being enacted by malice forces. The case of South Sudan shows that the liberal world order will turn a blind eye if there are no political or significant foreign policy goals in the region. Perhaps a better argument would be that these forces would be further emboldened, if in one of these non-strategic areas, and actively commit crimes against humanity if it means their own goals can be achieved more easily. Cosmopolitanism moral values are divorced from



humanitarian intervention, as suggested by this analysis, therefore a significant factor for terror groups or other non-state or state actors is whether or not their actions will be met by devastating military force from the West.

Third, this is another indication that the legal international framework is severely impotent, and very much prone to major players' foreign policy goals. It is important to note further that although nearly every nation in the world deplored the United States invasion of Grenada, there were no long-term negative consequences that the US faced – no sanctions were waged, negative cries against the United States were fleeting, and the entire situation was quickly forgotten. Obviously, the case of Grenada was nearly four decades ago, but the issues of the international legal system remain to this day. International law has and can continue to be broken with no long-term effects for the violators.

Recent patterns, from the rise of populism in the Western world to an America First mentality, it is hard to argue that the globalization is as prominent as it was just a few decades ago, where there were more democracies in the world and less tension between powerful nations or, in the EU's case, political blocs. The process of globalization, defined by free trade, access to cheap goods, and the absence of hard borders, is a hallmark to the past and current liberal world order. That liberal world order is by no means fragile – the conditions in which it was erected has allowed it to either thrive or survive depending on the circumstances. However, that does not mean that deglobalization or a return to a zero-sum geopolitical mindset does not at least threaten it. Whereas it was inarguable to suggest a dynamic where China or Russia would gain a relatively stronger position in the international system than the United States a couple of decades ago, today it seems inarguable to suggest otherwise. This leads to obvious questions regarding the likelihood of humanitarian intervention's use by these two competitors to the United States –

they certainly have the historical precedent on their side, and nuclear deterrence alone was not enough to stop the Western world for utilizing humanitarian intervention when the intersection (or lack thereof) of moral and political considerations demanded it.

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