WORKING

P A P E R S

Intervention
in Internal
Conflicts:
Legal and
Political
Conundrums

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C A R N E G I E   E N D O W M E N T
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About the Author

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THE KOSOVO CRISIS in 1999 and the Sierra Leone hostage debacle in 2000 have reignited a recurring debate in international policy circles over humanitarian intervention.[1] This debate focuses on the legal, political, and operational conundrums of coercive actions for humanitarian purposes. I believe that this debate over intervention will only intensify in the future. Indeed, internal conflicts, even if their numbers go down, are hard to ignore in a globalizing world.[2]

The legal obstacles to humanitarian intervention were highlighted by North Atlantic Treaty Organization (NATO) threats to intervene without United Nations (UN) Security Council authorization in the conflict between the Yugoslav government and the Kosovar Albanians. Throughout the summer and autumn of 1998, China and Russia strongly opposed a possible NATO intervention and threatened to veto any attempt to secure UN authorization for such action.[3] In March 1999, the United States and its NATO allies nonetheless went ahead and, without consulting the Security Council or the General Assembly, launched a 78-day air war against Belgrade. Consequently, unlike in the early 1990s, the debate at the end of the decade focused not on the question of whether humanitarian considerations could be characterized as "threats to international peace and security" and thus justify intervention in the domestic affairs of states, but rather whether such interventions needed the authorization of the UN Security Council.

The March 1999 intervention in Kosovo and Serbia also highlights the policy dilemmas of today. On the one hand, communal strife is difficult to ignore in an increasingly interdependent and globalized world. Images of gross human rights abuses will frequently create pressures on outside powers to intervene. On the other hand, allowing for the use of force in humanitarian emergencies without UN Security Council authorization could easily lead to erosion of the general rule on the prohibition of the use of force and efforts to restrict its use in relations between states. It would also contribute to a weakening of the United Nations.

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[1]   In this paper, "intervention" is defined as a coercive action intended to change the behavior of one or more parties in the country in question. This action may involve the threat or use of economic sanctions and the threat or use of force. (See Tables 1 and 2.) Although it may also involve criminal prosecution, this aspect of intervention, while important, will not be covered in this paper. In the case of the former Yugoslavia and Rwanda, the UN Security Council established International Criminal Tribunals tasked with bringing to justice those responsible for war crimes and other gross violations of human rights.

[2]   See Ted Robert Gurr, "Ethnic Warfare on the Wane," *Foreign Affairs,* Vol. 79, No. 3 (May/June 2000), pp. 52–64.

[3]   In October 1998 the North Atlantic Council had authorized the Supreme Allied Commander in Europe (SACEUR) to launch air strikes if Milosevic did not comply with UNSC Res. 1199 (1998) of September 23, 1998. However, the UN Security Council resolution had not authorized NATO to issue such a threat. NATO's activation order was suspended but not annulled, after Richard Holbrooke, the United States special Balkans envoy, reached an agreement with Milosevic in October 1998.

UN Secretary-General Kofi Annan is acutely aware of this dilemma and the dangers associated with it. In September 1999, he took this debate to the UN General Assembly and urged states to develop criteria to permit humanitarian interventions in the absence of a consensus in the Security Council.[4] Annan asked Algeria, China, and India—countries that vehemently opposed the U.S.-NATO intervention in Kosovo and Serbia and spoke against humanitarian intervention in the 1999 General Assembly debate—what they would have done if, in the case of Rwanda, a coalition of states had been prepared to act in defense of the Tutsi population, but did not receive prompt Security Council authorization. "Should such a coalition have stood aside," he asked, "and allowed the horror to unfold?" Similarly, those who heralded the Kosovo operation were asked what type of precedent the action had set. To what extent had that intervention undermined the prohibition on the use of force and the system created after World War II to deal with such security threats?[5]

The political and operational conundrums of international interventions in internal conflicts for humanitarian purposes again sprang to the fore in Sierra Leone in May 2000 and were illustrated by the international response—or rather the lack thereof—to 500 UN soldiers being taken hostage.[6] Members of the Security Council immediately voiced their concern about the situation. U.S. Ambassador to the United Nations Richard Holbrooke called the situation in Sierra Leone "unacceptable to the United Nations" and believed that it "should be unacceptable to all [UN] member states." Answering a reporter's question, he stressed that "we can't turn away from crises like these."[7] Similarly, U.S. Secretary of State Madeleine Albright stated that the hostage-taking was "unacceptable" and that it "needed to be reversed."[8] Despite these strong rhetorical reactions, however, little was done.[9] The United Kingdom (UK) sent 800 troops to rescue its citizens in Sierra Leone. The United States, which had been heavily involved in the Sierra Leone peace negotiations in 1999, sent Reverend Jesse Jackson as an envoy to neighboring Liberia. It also offered to fly troop reinforcements from Bangladesh to Sierra Leone.[10] However, because the U.S. rate for the transport of troops far exceeded regular commercial rates, the UN Secretariat had to decline this offer.

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[4] In the 1999 General Assembly debate, some states emphasized the need for a set of generally accepted rules and guidelines that would regulate humanitarian interventions. That said, they were clearly in the minority, and they were not very specific. See, for example, statements of the representatives of New Zealand, Lithuania, Sweden, Spain, Brazil, Argentina, Egypt, and the Republic of Korea.

[5] See "Secretary-General Presents His Annual Report to General Assembly," United Nations Press Release, SG/SM/7136 and GA/9596, September 20, 1999. In March 2000, Kofi Annan also launched a major study on peace operations. See UN Press Briefing, March 7, 2000.

[6] Members of the Security Council had authorized the peacekeeping operation in Sierra Leone in October 1999 to help implement the peace agreement signed in July 1999 and to prevent war from breaking out again. See UNSC Res. 1270 (1999) of October 22, 1999. See also UNSC Res. 1289 (2000) of February 7, 2000, and UNSCR Res. 1299 (2000) of May 19, 2000.

[7] See Blaine Harden, "Insurgents in Sierra Leone Kill 7 in UN Peacekeeping Force," *The New York Times,* May 4, 2000; and Marcus Gee, "Captured UN Troops Pose Conundrum," *The Globe and Mail,* May 8, 2000.

[8] See Gee, "Captured UN Troops Pose Conundrum."

[9] The UN had been faced with this type of problem in Bosnia, throughout 1994 and 1995. In May 1995, when some 300 UN soldiers were taken hostage and paraded in front of western TV cameras, western countries decided to act and sent a 10,000 strong Rapid Reaction Force to Bosnia, which prepared the terrain for a larger offensive against the Bosnian Serbs in the summer of 1995. The introduction of this force permitted a redeployment of UN peacekeepers throughout the spring of 1995. It also prepared the terrain for greater coercive action: the NATO bombing campaign against the Bosnian Serbs in August 1995. In Sierra Leone, there were no TV cameras and the UN hostages were not NATO soldiers, but mostly Zambian army recruits.

[10] Following the hostage-taking, the UN Security Council authorized a troop increase of 2,000. See UNSC Res. 1299 (2000) of May 19, 2000.

Sierra Leone showed that the political and operational lessons from failed UN missions in Somalia, Rwanda, and Bosnia had not been learned. The same mistakes continued to be made. For example, the UN had learned in Bosnia and Rwanda that one should not send lightly armed peacekeepers into a violent or potentially violent situation. Yet, that is exactly what was done in Sierra Leone in 1999, and it was what the UN Security Council set out to do in the Democratic Republic of Congo (DRC). Similarly, the early 1990s had shown how important it was to match mission mandates with sufficient resources. Yet, the Zambian peacekeepers in Sierra Leone were not equipped to carry out a Chapter VII—enforcement—mandate. This mismatch was reminiscent of the agonizing UN missions of the early 1990s, and it pointed to the domestic and international political constraints inherent in humanitarian interventions. The challenge is how to mobilize sufficient domestic and international political support to see these missions through.

This paper analyzes international interventions in internal conflicts, focusing on three questions. First, under what conditions should international actors intervene in internal conflicts? This "whether to intervene" question has both legal and political components. After I analyze the legal obstacles to intervention and sketch the contours of debate on a new legal framework for humanitarian intervention absent a UN Security Council authorization, I then turn to the political constraints on humanitarian interventions, both domestic and international.

The second question considered here is: when international action is called for, which international actors should take the lead and who should participate in these operations? This is the "who should intervene" question. I argue that state actors will continue to dominate the scene. These actors may subcontract some activities to international or private organizations, but subcontractors will rarely have much latitude for independent action. Non-state actors, including international organizations, will often be important implementers of decisions by states. Heads of international organizations should be aware that the type of buck-passing that occurred in the 1990s in Somalia and Bosnia—with the United Nations blamed for the failures of these operations—will continue. The success or failure of operations carried out by international organizations is in great part dependent on the support they receive from states. International organizations will want to adopt strategies that show where responsibility belongs for the outcomes of international interventions. Such strategies should enable them to minimize the possibilities for buck-passing.

The third question considered here is: what are the best ways of carrying out international interventions in internal conflicts? This is the "how to intervene" question. I argue that six conditions need to be fulfilled for the effective multilateral use of coercive instruments. First, outside powers need to have a clear political objective. Second, they need to correctly identify and assess the political, economic, and military characteristics of the group they seek to coerce. Third, someone must take the lead to guide and coordinate the coercive action. Fourth, whoever takes the lead needs to build widespread international support for the action. Fifth, sufficient resources need to be made available; otherwise, policy pronouncements will not be followed by effective policy implementation. Sixth, outside powers need to develop an appropriate intervention strategy that includes escalation, exit, and post-intervention strategies.

For each of these questions I will examine recent trends, identify policy challenges for the future, and formulate policy recommendations.

OBSTACLES TO INTERVENTION: "THE WHETHER TO INTERVENE" QUESTION

Under Chapter VII of the UN Charter, the UN Security Council can impose coercive measures and disregard the general principle of non-intervention in the domestic affairs of states if it determines that a particular problem poses a "threat to international peace and security."[11] In the 1990s, the Security Council showed great creativity in defining such threats. It increasingly deemed internal conflicts and gross violations of human rights to be legitimate reasons for international action. By the end of the 1990s, the idea that states should not be allowed to hide behind the shield of sovereignty when gross violations of human rights take place on their territory had firmly taken root.[12] That said, many states remain hesitant to accept a right of humanitarian intervention outside the UN framework. They believe that the current system, whereby the Security Council determines whether a situation merits the imposition of economic sanctions or military intervention by designating such a situation a "threat to international peace and security," is the best guarantee that economic embargoes and military interventions will not be launched for self-serving political reasons.[13]

At the heart of the humanitarian intervention debate lies the question of whether force can lawfully be used in situations other than those foreseen by the UN Charter. This debate features different legal schools of thought. Moreover, it is defined by the practice and the declaratory policies of states, which often are not in line with each other.

Most legal scholars and governments argue that the UN Charter contains a general prohibition on the use of force. This prohibition is embodied in Article 2(4):

> 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.

Scholars and governments generally maintain that the Charter allows for only two exceptions to this rule. One is in response to an armed attack (Article 51). The other is when the use of force is authorized by the Security Council in order to maintain or restore international peace and security (Article 42).[14]

Some legal scholars maintain that Article 2(4) does not contain a general and comprehensive prohibition on the use of force. They argue that it merely regulates the conditions under which

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[11] See *Charter of the United Nations,* Articles 39, 42, and 2(7). Under Articles 24 and 25, states promise to accept and carry out decisions made by the Council.

[12] See in this regard also the 1991 Annual Report of UN Secretary-General Javier Perez de Cuellar, A/46/1, September 1991.

[13] In 1950, the UN General Assembly gave itself the right to vote on the use of force to restore or maintain international peace and security in case the Security Council was log-jammed. This "Uniting for Peace" resolution was adopted by the UN General Assembly in November 1950 during the Korea crisis. See UNGA Res. 377 (V) of November 3, 1950. The Assembly has invoked the resolution several times, but never to recommend the use of force. Legal experts disagree over whether the UN General Assembly is entitled to intervene when the Security Council is divided. The International Court of Justice in its advisory opinion of July 20, 1962 on *Certain Expenses of the United Nations* ruled that only the Council could order enforcement actions and authorize the use of force. For details on the legal debate, see Anthony Clark Arend and Robert J. Beck, *International Law and the Use of Force* (London/New York: Routledge, 1993), pp. 59–60, 66–67; John F. Murphy, "Force and Arms," in Christopher C. Joyner, ed., *The United Nations and International Law* (New York: Cambridge University Press, American Society of International Law, 1997), pp. 108-9; and René Degni-Segui, "Fonctions et Pouvoirs: Article 24," in Jean Pierre Cot and Alain Pellet, eds., *La Charte des Nations Unies*, 2ième ed. (Paris: Economica, 1991), pp. 451–58.

[14] The cases foreseen in Articles 53(1) and 107 that permit action against World War II enemy states have become obsolete.

force is prohibited, but leaves room for exceptions—only two of which are mentioned in the Charter (Articles 51 and 42). They defend the notion that the Charter permits the use of force in other circumstances. State practice, despite declaratory policies to the contrary, seems to concur with this view. Over the years, governments and legal scholars have argued that force can be lawfully used to protect and rescue one's nationals abroad; free people from colonial domination; fight terrorism; or protect people from gross violations of human rights.

The idea that force can be used to protect one's nationals abroad (or even nationals of another country) whose lives are in immediate danger or who are in a hostage situation has not formally been accepted as an exception to Article 2(4) of the Charter. Yet a growing number of states have, if not openly condoned, at least not actively opposed such actions.[15]

Interventions to free people from colonial domination received widespread political support in the UN General Assembly in the 1960s and 1970s, but legal scholars disagreed over the legality of the use of force in such cases.[16] While many scholars thought that this issue became irrelevant with the end of decolonization, the larger question of self-determination and the liberation of oppressed people remained on the agenda. Indeed, throughout the Cold War socialist states supported military interventions in support of liberation movements and to preserve so-called Marxist gains within the Eastern Bloc. The United States defended military interventions to counter communism and to further democracy during this period. These justifications for the use of force were repudiated by the International Court of Justice in its decision on the *Nicaragua* case in 1986, and they were abandoned with the end of the Cold War.[17] The self-determination debate nonetheless resurfaced in the 1990s with the breakup of Yugoslavia and of the Soviet Union and with the increased focus on ethnic conflicts. Groups in Bosnia, Chechnya, Kosovo, Sri Lanka, and East Timor all claimed a right to self-determination, and justified their use of force and requests for outside help on these grounds. Most legal scholars assert that there is no right of outside military intervention in these types of situations. Moreover, the UN Security Council has almost always called on outside powers to show restraint and imposed arms embargoes in these situations. State practice is nonetheless often at odds with legal rules and Security Council injunctions.

Claims regarding the legality of coercive action to combat terrorism, other than in hostage situations, are similarly shaky but are gaining some ground. The strikes by the United States in August 1998 when it destroyed a pharmaceutical plant in Sudan and training facilities in Afghanistan believed to be associated with Usama bin Laden—accused of being responsible for the terrorist attacks on U.S. embassies in Kenya and Tanzania—were widely criticized

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[15] See Arend and Beck, *International Law and the Use of Force.* Arend and Beck argue that "there exists a substantial gap between, on the one hand, the 'restrictionist' views of most states and legal scholars, and, on the other, the consistent practice of those states whose interests (have been) specially affected. Such a significant discrepancy would seem to call into question the existence of any authoritative and controlling rule prohibiting state intervention to protect nationals" (p. 111). See also Natalino Ronzitti, *Rescuing Nationals Abroad Through Military Coercion and Intervention on Grounds of Humanity* (Dordrecht: Martinus Nijhoff, 1985). Ronzitti argues "that a process is under way that might entail the creation of a new rule of customary international law permitting intervention for protecting nationals abroad" (p. 76).

[16] See UNGA Res. 2625, October 24, 1970.

[17] See Rein Mullerson, "Self Defense in the Contemporary World," in Lori Fisler Damrosch and David J. Scheffer, eds., *Law and Force in the New International Order* (Boulder: Westview Press, 1991), p. 16. Mullerson asserts that the Court unambiguously condemned these doctrines as contrary to international law and cites the following passage: "The Court cannot contemplate the creation of a new rule opening up a right of intervention by one state against another on the ground that the latter has opted for some particular ideology or political system."

throughout the world. Yet, UN Security Council resolutions on terrorism in the 1990s testify to greater international concern with terrorism; they acknowledge that terrorism can endanger "the lives and well-being of individuals world-wide as well as the peace and security of all states."[18] Moreover, in 1992, for the first time the Security Council imposed economic sanctions on a state—Libya—because of its alleged support of international terrorists.[19] In 1996, it imposed economic sanctions on Sudan, and in 1999 it did the same on the Taliban (Afghanistan).[20] The United States has also increasingly resorted to the unilateral adoption of economic sanctions.[21]

The most divisive question—which is also the question that received the most attention in the 1990s—is military intervention to protect people from gross violations of human rights. The 1999 UN General Assembly debate showed that most states clearly reject a unilateral right to intervene for humanitarian purposes. China, Russia, and most developing states claim that such a right would allow meddling in their internal affairs. They fear abuse from the United States, in particular, and they strongly condemned NATO's unauthorized intervention in Kosovo.

Armed intervention for humanitarian purposes developed a bad reputation in the 19th century, when military interventions by European powers were frequently justified on humanitarian grounds. Since the adoption of the UN Charter, states have generally avoided referring to humanitarian purposes when justifying their military interventions, relying instead on broad interpretations of self-defense and claims about providing "assistance" to "legitimate" governments.

The end of the Cold War resuscitated the question of military intervention for humanitarian purposes, a notion that has steadily received more supporters. Indeed, compared to the early 1990s, the idea that the UN Security Council can order interventions for humanitarian purposes was commonly accepted by 1999. The Security Council did so, for example, in Bosnia, Somalia, Haiti, and Rwanda. Similarly, it endorsed the peace implementation missions in Kosovo, East Timor, Sierra Leone, and the DCR, with a Chapter VII—enforcement—mandate. Non-authorized interventions, however, pose problems for most states. Genocide and gross violations

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[18] See, for example, UNSC Res. 1269 (1999) of October 19, 1999. The resolution also called for greater international cooperation to combat terrorism. That said, efforts to combat terrorism are seen first and foremost as national efforts; states are encouraged to prevent and suppress terrorist activities on their own territories, not uninvited on the territories of other states.

[19] See UNSC Res. 748 (1992) of March 31, 1992. Sanctions were imposed under Chapter VII of the UN Charter. They were lifted on April 5, 1999.

[20] Sanctions on Sudan were imposed because of Sudan's refusal to extradite three individuals accused of the assassination attempt on Egyptian President Mubarak. See UNSCR Res. 1054 (1996) of April 26, 1996. Sanctions, which went into effect on May 10, 1996, consisted of restrictions on the travel of Sudanese diplomatic personnel. Sanctions on the Taliban were imposed because of the Taliban's refusal to hand over Usama Bin Laden and his associates for trial. See UNSC Res. 1267 (1999) of October 15, 1999 for the sanctions on the Taliban (Afghanistan). Sanctions, which went into effect on November 15, 1999, consisted of a freeze on financial assets and a boycott of Taliban-owned aircraft.

[21] In 1999, seven countries believed to be supporting international terrorism—Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria—were the subject of unilateral U.S. sanctions, as were 202 terrorist organizations and 59 individuals. See Office of Foreign Assets Control, U.S. Department of the Treasury, *Terrorism: A Summary of Terrorism Sanctions Regulations, Terrorism List of Government Sanctions Regulations, and Foreign Terrorist Organizations Sanctions Regulations,* June 25, 1999 (www.treas.gov/ofac). The unilateral adoption of economic sanctions for coercive purposes has been condemned in many UN General Assembly resolutions. See, for example, UNGA Res. 2131 (XX) of December 21, 1965. Yet, unlike the use of force, the Charter does not contain a specific prohibition on the coercive use of economic sanctions, nor does it prohibit states from imposing sanctions unilaterally if they so wish. Moreover, it may be recalled that in the *Nicaragua* case the International Court of Justice condemned the United States for its military support of the Contras, but it did not condemn the United States for imposing an economic embargo on Nicaragua. In sum, unlike the use of military force, there is no legal impediment to the unilateral imposition of economic sanctions.

of human rights are universally considered morally unacceptable acts. Many analysts and governments agree that, in such cases, economic sanctions and the threat of criminal prosecution are weak deterrents and even weaker instruments of compellence.[22] Yet, few have accepted the idea that, in those cases, military intervention has to become a duty. The absence of a legal framework for carrying out interventions contributes to the unease states experience when considering such actions.[23] That said, the current system, whereby the UN Security Council determines whether a situation merits military intervention by certifying such a situation as a "threat to international peace and security," is an insufficient warranty that the Council will intervene when the next atrocity occurs.

Developing a legal framework, which would regulate unilateral interventions for humanitarian purposes, would not ensure action. It is, nonetheless, a necessary condition to help deter and stop humanitarian disasters in the future. Those who fear that the formulation of a new legal framework for humanitarian intervention would lead to abuse—particularly western abuse—should be reassured by western behavior in Chechnya, East Timor, Sierra Leone, and the Democratic Republic of Congo. In Chechnya, Russia was permitted to act with impunity. In East Timor, Australia intervened only after having received the consent of the Indonesian government. In Sierra Leone, the western reaction to the taking of 500 UN peacekeepers in May 2000 consisted of evacuating their nationals from the country. The UK sent 800 well-trained troops in May 2000, but the UK Defense Minister repeatedly told the press and others that their mission would be terminated in June 2000 and that their primary mandate was to evacuate and protect UK nationals. The U.S. government responsible for the negotiation of the peace deal that provided amnesty to Foday Sankoh—a man worthy of the epithet "war criminal" and responsible for the May 2000 crisis—wrung its hands and sent the Reverend Jesse Jackson as an envoy to neighboring Liberia. Finally, in DCR, three months after the UN Security Council had authorized the deployment of more than 5,000 troops, only a fraction of these troops had actually been committed. None of them was of U.S. origin.

A New Legal Framework for Humanitarian Intervention

Several analysts and scholars have put forward proposals that would regulate state practice and make humanitarian intervention legal under specific sets of circumstances. Two different approaches have been developed. The first builds on the framework laid down in the UN Charter. Proponents of this school advocate new interpretations of certain Charter articles. The second builds on law outside the UN Charter and draws on the inherent rights of states. Advocates of this school of thought argue that states have a unilateral right to humanitarian intervention.

Among the analysts who advocate a new look at the Charter, those who suggest an extended reading of Chapter VIII—the chapter that deals with regional arrangements—are the most

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[22] "Deterrence" can be defined as action that discourages an adversary from doing something that one does not want it to do and that it might otherwise be tempted to do. "Compellence" can be defined as action that discourages an adversary from doing something that it has already undertaken or to encourage it to do something that it has not yet undertaken. On the difference between the two, see Thomas C. Schelling, *Arms and Influence* (New Haven: Yale University Press, 1966), pp. 69–91; and Robert J. Art, "To What Ends Military Power?," *International Security,* Vol. 4, No. 4 (Spring 1980), pp. 6–7.

[23] Many NATO states had serious misgivings with respect to the legal grounds of NATO's intervention. See Catherine Guicherd, "International Law and the War in Kosovo," *Survival,* Vol. 41, No. 2 (Summer 1999), pp. 19–34.

convincing.[24] They propose to broaden the mandate of regional organizations and give them the right, under certain conditions, to authorize the use of force.[25] Like the "Uniting for Peace" resolution, which gives the UN General Assembly the right to recommend military action in case the Council is paralyzed, most of these proposals maintain the central role of the UN Security Council and allow for the activation of other loci of authority only if the Council is incapable of acting.

For example, Winrich Kühne, a German analyst at the Stiftung Wissenschaft und Politik, has proposed investing regional organizations with the authority to use force under three conditions: first, when the UN Security Council is unwilling to act or is incapable of acting; second, when the Security Council has not explicitly denied the existence of a humanitarian crisis; and third, when the regional institution in question can act within the confines of a predetermined institutional structure that could authorize such action. Kühne proposes that the Security Council adopt a declaration that would invite regional organizations to develop such mechanisms and which would interpret Article 53 of the Charter as giving regional organizations a right of humanitarian intervention when the Council is unable or unwilling to act.[26] Bypassing the question of whether NATO is a regional organization under the terms of Chapter VIII, under Kühne's proposal NATO's action in Kosovo would have been lawful.

There are three problems with Kühne's and similar proposals. First, regional organizations are not always the best intervenors in internal conflicts. Indeed, members of regional organizations are neighbors, and neighbors are the international actors most prone to having ulterior political motives for intervention. Indeed, they often meddle in unhelpful ways in such conflicts.[27] Second, these proposals merely shift the problem from the global to the regional level. Indeed, the decisions of these regional authorities would be based on political considerations and not on sets of agreed-upon principles—that is, law. The fact that such decisions would be made collectively would not make such decisions more lawful: "more" means greater *might*, but not necessarily greater *right*. Finally, the Kühne proposal would give the great powers a key role in deciding on interventions. Great powers could block small powers from intervening by adopting declarations in the Security Council that would nullify the existence of a humanitarian crisis. But an attempt to block intervention by, for example, NATO would probably not succeed in the Council. Indeed, France, the UK, or the United States would probably veto it. In practice, this would mean that only interventions by regional and sub-regional organizations in Africa or Asia

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[24] Some analysts advocate a new interpretation of Article 2(4) of the Charter, which prohibits "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." They argue that humanitarian assistance and intervention are not directed against the territorial integrity or political independence of the state. This argument does not seem to be supported by practice. Indeed, humanitarian intervention often entails a profound overhaul of state structures and practices.

[25] The relevant articles in Chapter VIII of the UN Charter are Article 52 and 53. Article 52(1) reads: "Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the purposes and principles of the United Nations." Article 53(1) reads: "The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council. . . ."

[26] See Winrich Kühne, *Humanitäre NATO-Einsätze Ohne Mandat?: Ein Diskussionsbeitrag zur Fortentwicklung der UNO-Charta* (Ebenhausen: Stiftung Wissenschaft und Politik, AP3096, März 1999).

[27] See Michael E. Brown, "The Causes and Regional Dimensions of Internal Conflict," in Michael E. Brown, ed., *The International Dimensions of Internal Conflict* (Cambridge, Mass.: MIT Press, 1996), pp. 590–99.

would be subjected to international scrutiny.[28] Of course, Kühne's proposal was designed to redress insufficient enthusiasm for intervention, rather than possible abuse. Yet, this feature of his proposal might make it unattractive to many developing countries.

Other analysts have argued that states have an inherent right to use force.[29] This right, they say, is restricted by the UN Charter, but not prohibited by it. A number of scholars have outlined conditions under which military intervention would be lawful.[30] Many draw on just war theories of the 19th century. These theories established criteria by which war could be considered just and legitimate. These criteria include:

- right authority—which actor has the authority to decide on war?

- just cause—is the cause legitimate?

- right intention—what are the motives behind the launching of the war?

- last resort—have other actions been considered?

- open declaration—did war start with a declaration?

- proportionality—is the act of war proportionate to the harm inflicted?

- reasonable hope—is there a reasonable chance for a successful outcome?[31]

Just war theories and their criteria provide a useful analytical framework for thinking about conditions under which intervention should be allowed. They point to the essential role of actors, objectives, strategies, and outcomes.

Serge Sur, professor of international law at the University of Paris, incorporates these elements in his proposal for a new legal doctrine for humanitarian intervention. He suggests that humanitarian intervention should be considered lawful under the following conditions. First, states would have to publicly declare in which cases they would reserve the right to intervene. They would do so in advance and not on the spur of the moment. For example, they could stipulate in a unilateral or collective declaration that they would intervene in cases covered by

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[28] Indeed, most of the regional and subregional organizations in Asia and Africa do not count permanent members of the UN Security Council as their regular members.

[29] The United States and the UK defended such a right during the Kosovo crisis. In general, though, the U.S. and European governments made weak legal cases when defending a right to unilateral humanitarian intervention. On the different positions of the NATO members, see, for example, Serge Sur, "Les aspects juridiques de l'intervention des pays membres de l'OTAN au Kosovo," *Revue de Defense Nationale,* December 1999, pp. 44–62; Adam Roberts, "NATO's 'Humanitarian War' over Kosovo," *Survival,* Vol. 41, No. 3 (Autumn 1999), pp. 102–23; and Catherine Guicherd, "International Law and the War in Kosovo," *Survival,* Vol. 41, No. 2 (Summer 1999), pp. 19–34.

[30] See, for example, Richard Lillich, "Kant and the Current Debate over Humanitarian Intervention," *Journal of Transnational Law and Policy,* Vol. 6, No. 397 (1997); Michael L. Burton, "Legalizing the Sublegal: A Proposal for Codifying a Doctrine of Unilateral Humanitarian Intervention," *Georgetown Law Journal,* Vol. 85 (December 1996), pp. 417–568; David J. Scheffer, "Toward a Modern Doctrine of Humanitarian Intervention," *University of Toledo Law Review,* Vol. 23 (1992), pp. 252–93; Theodor Meron and Allan Rosas, "A Declaration of Minimum Humanitarian Standards," *American Journal of International Law,* Vol. 85 (1991), pp. 375–81. See also David J. Scheffer, "Challenges Confronting Collective Security: Humanitarian Intervention," in David J. Scheffer, Richard N. Gardner, and Gerald B. Helman, *Post-Gulf War Challenges to the UN Collective Security System: Three Views on the Issue of Humanitarian Intervention* (Washington, DC: United States Institute for Peace, June 1992), pp. 11–13; John Norton Moore, "The Control of Foreign Intervention in Internal Conflict," *Virginia Journal of International Law,* Vol. 9 (1969), p. 264; and Richard B. Lillich, "Forcible Self-Help by States to Protect Human Rights," *Iowa Law Review,* Vol. 53 (1967), pp. 347–51.

[31] See Dan Smith, "Interventionist Dilemmas and Justice," in Anthony McDermott, ed., *Humanitarian Force,* PRIO Report No. 4, published jointly with the Norwegian Institute for International Affairs (Oslo: PRIO, 1997).

Article 3 of the Geneva Conventions or in such cases as those covered by the statutes of the international criminal tribunals set up for the former Yugoslavia and Rwanda or those of the international criminal court.[32] This right of intervention would be a discretionary right. States would not be obliged to intervene; neither could third parties hold them responsible for not intervening. Second, states would have to outline in advance how they would intervene. They would specify the military means they would consider employing. In view of the controversy over the use of air power in Kosovo and a military doctrine that allows for zero death on the side of the intervenor, states would outline when they would deploy ground troops. Moreover, states should ensure that the military intervention would not itself become a violation of humanitarian law.[33] States would also have to clarify the timing of the intervention. In sum, states would outline both entry and exit strategies. Third, states would have to outline how they would coordinate and harmonize their military interventions with efforts for national and international criminal prosecution of those responsible for the humanitarian crisis in question. Such prosecution is foreseen in the Geneva Conventions and is an integral part of international humanitarian law.[34]

By emphasizing that a just doctrine of humanitarian intervention is not about legal authority alone, but also about ensuring that interventions have strong political support and sufficient

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[32]   Article 3, which is common to all Geneva Conventions, reads as follows:

> In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:
>   Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion, or faith, sex, birth or wealth, or any other similar criteria.
>   To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:
>   (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.
>   The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.
>   The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.
>   The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

The international criminal tribunal for the former Yugoslavia was authorized to adjudicate: (1) grave breaches of the 1949 Geneva Conventions, such as willfully killing or causing great injury to wounded soldiers, prisoners of war, or civilians; torture; unlawful deportation; or taking civilians hostage; (2) violations of the laws or customs of war, such as wanton destruction of cities or villages; attacks on undefended civilian populations; and destruction of institutions dedicated to religion, charity, or education; (3) genocide, defined as crimes committed with the intent of destroying in whole or in part a national, ethnic, racial, or religious group; and (4) crimes against humanity, defined as inhumane acts such as murder, torture, or rape, committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial, or religious grounds. The Rwandan tribunal was authorized to adjudicate serious violations of humanitarian law in the latter two of these areas as well as violations of Article 3 of the Geneva Conventions. For the statutes of the tribunals, see UNSC Res. 827 (1993) of May 25, 1993 and UNSC Res. 955 (1994) of November 8, 1994. The jurisdiction of the (permanent) International Criminal Court is "limited to the most serious crimes of concern to the international community as a whole." The Court has jurisdiction with respect to the following crimes: crime of genocide; crimes against humanity; war crimes; and the crime of aggression.

[33]   Several NGOs have argued that certain aspects of NATO's bombing campaign were in violation of humanitarian law, in particular the choice of certain targets and the use of cluster bombs. See, for example, the U.S. Human Rights Watch materials on www.hrw.org/hrw/campaigns/kosovo98.

[34]   See Sur, "Les aspects juridiques de l'intervention des pays membres de l'OTAN au Kosovo." Sur considers intervention by a group of states more desirable than intervention by a single state. Indeed, in the former case it is easier to defend against accusations that the intervention takes place out of self-interest and is mainly self-serving. Yet, collective action does not seem to be a condition that would make intervention more lawful.

military resources, Sur also provides a framework for addressing two other problems that have plagued coercive actions in the 1990s: political commitment problems and resource problems.

Every approach that would allow for humanitarian intervention contains possibilities for abuse, and none provides a guarantee to future victims of genocide or gross violations of human rights. Yet forcing states to define the parameters under which they would consider military intervention for humanitarian purposes might introduce a measure of predictability into the process and could have a deterrent effect on future violators of basic human rights. It would also constitute a start at undercutting arguments about double standards, as well as serving as a hedge against accusations that interventions are carried out solely for self-serving reasons.

Reaching some measure of international consensus on when, why, and whether to intervene for humanitarian purposes is sorely needed.[35] The United Nations has an important role to play in creating a new consensus on this issue. Devising a framework under which military intervention for humanitarian purposes can lawfully be undertaken should go hand in hand with an effort to mobilize public support for such interventions. Indeed, humanitarian interventions are long-term operations. As such, they are not sustainable without substantial public support. Research institutions and universities have important roles to play in analyzing the intellectual and moral dilemmas of such endeavors.

Humanitarian Interventions and Political Conundrums

In the 1990s the UN Security Council increasingly intervened to stop internal conflicts. On many occasions in that decade, it considered gross violations of human rights and civil strife "threats to international peace and security" and decided to impose economic sanctions or authorize the use of force. Since 1989, the Security Council has imposed economic sanctions 14 times—compared to twice in the period 1945 to 1988 (see Table 1). In nine of these 14 cases, sanctions were imposed to contain or stop internal conflicts.[36] The use of force other than for self-defense was authorized in 11 cases as opposed to three times in the period from 1945 to 1988 (see Table 2). Ten of these cases concerned internal conflicts.[37] Despite this increase in

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[35] Couching this issue in terms of a weakening of state sovereignty is unhelpful and beside the point. Sovereignty has never been an absolute concept. Moreover, military intervention is increasingly used in situations where state institutions have collapsed and is most often aimed at non-state actors: international terrorists, small military groups, crime syndicates, or individuals advocating genocide. If the sovereignty and independence of states are at risk at the dawn of the 21st century, it is because of globalization—economic interdependence and the information revolution—not military intervention by outside powers.

[36] Sanctions to quell internal conflict were imposed on the republics of the former Yugoslavia, the FRY, the Bosnian Serbs, Somalia, Haiti, Liberia, Unita (Angola), Rwanda, and Sierra Leone. In the case of Iraq, sanctions were imposed to force Iraq to end its occupation of Kuwait and subsequently to ensure Iraqi compliance with UNSC Res. 687 (1991) of April 3, 1991. In the case of Eritrea and Ethiopia, an arms embargo was imposed to stop war between these two countries. In the cases of Afghanistan, Libya, and Sudan, sanctions were imposed to force those countries to extradite individuals suspected of terrorist attacks.

[37] Military force was authorized in Bosnia, Somalia, Rwanda, Haiti, Zaire, Albania, Central African Republic, Kosovo, East Timor, Sierra Leone, and the Democratic Republic of Congo (DRC). Troops engaged in all these operations received Chapter VII—enforcement—mandates and were authorized to use force for purposes other than self-defense; not all of them did. Military force was also authorized in the case of Iraq for a more traditional interstate conflict. The Security Council did not authorize the initial military intervention in Kosovo in March 1999, but subsequently authorized an international presence with an enforcement mandate. See UNSC Res. 1244 (1999) of June 10, 1999.

coercive action, the results have been limited, and in some cases coercive actions have led to outright failures.[38]

While some of these failures can be ascribed to faulty operational procedures and inappropriate coercive strategies, most of them arose because of insufficient political commitment by the intervening powers. Their commitment was restrained by, on the one hand, domestic political factors and, on the other hand, international political factors.

Domestic Political Constraints. Internal conflicts cause great suffering to civilian populations. They often involve direct and deliberate attacks on civilians; intimidation, mutilation, forced expulsion, and systematic slaughter are common. The numbers of people displaced, maimed, or killed in such conflicts are counted in the tens and hundreds of thousands, even in millions.[39] Moreover, these conflicts almost always produce huge flows of refugees. In sum, these conflicts pose grave moral questions.

Public opinion in western-style democracies will often be moved by the images of humanitarian atrocities, leading citizens to pressure their governments to intervene. At the same time, politicians will be hesitant to commit troops to such missions because of the potential for casualties. Indeed, interventions in internal conflict situations are almost always very tricky propositions, even if "formally" invited by the warring parties and after the signature of a peace agreement. The military, particularly the U.S. military, will only support a military intervention if there is widespread domestic support for such action.[40]

Politicians and military commanders believe that domestic support is dependent on keeping combat casualties to a minimum. The conventional wisdom is that the riskier an operation, the weaker the domestic support for it. This explains why U.S. policymakers, in particular, were wary of intervening in Bosnia, Somalia, Rwanda, and Haiti. It also explains why policymakers will generally propose gradual and incremental policies when dealing with humanitarian atrocities. Because they are subject to conflicting domestic political pressures, they will often push for half-measures and be inclined to think in terms of best-case scenarios: wishful thinking is the order of the day when it comes to humanitarian interventions.[41]

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[38] For a review of UN economic sanction regimes, see David Cortright and George Lopez, *The Sanctions Decade: Assessing UN Strategies in the 1990s* (Boulder/London: Lynne Rienner Publishers, 2000); and Chantal de Jonge Oudraat, "Making Economic Sanctions Work," in *Survival*, Vol. 42, No. 3 (Autumn 2000). For a review of coercive military operations, see, for example, Donald C.F. Daniel and Bradd C. Hayes with Chantal de Jonge Oudraat, *Coercive Inducement and the Containment of International Crises* (Washington, DC: United States Institute for Peace Press, 1999); Chantal de Jonge Oudraat, "L'ONU, les conflits internes et le recours à la force armée," *Annuaire Français de Relations Internationales 2000,* Vol. 1 (Brussels: Brylant, 2000), pp. 817–30; and Peter Viggo Jakobsen, *Western Use of Coercive Diplomacy After the Cold War: A Challenge for Theory and Practice* (New York: St. Martin's Press, 1998).

[39] Since 1990, wars have claimed more than five million lives. See "UN Secretary-General Commencement Address at Paul Nitze School of Advanced International Studies, John Hopkins University," United Nations Press Release, SG/SM/7421, May 25, 2000.

[40] This was one of the lessons that the U.S. military learned during the Vietnam War. For details, see for example, Richard N. Haass, *Intervention: The Use of American Military Force in the Post Cold War World* (Washington, DC: Carnegie Endowment for International Peace, 1994); and U.S. Department of the Army, *Peace Operations,* Field Manual 100–23 (Washington, DC: GPO, December 30, 1994).

[41] European politicians, for their part, are not immune to domestic concerns about casualties, but they believe that the casualty-tolerance index is higher in Europe—particularly in France and the UK—than in the United States.

However, the cautious attitude of politicians, particularly American politicians, seems questionable. A series of public opinion polls conducted at the University of Maryland as well as a series of studies by the Triangle Institute for Security Studies show that the American public will support military interventions that are morally and politically compelling.[42] For example, in a 1999 poll, people were asked to identify the highest number of American military deaths that would be acceptable to stabilize a democratic government in Congo; a figure of almost 7,000 casualties was given. Similarly, the public was willing to tolerate almost 30,000 deaths to prevent Iraq from obtaining weapons of mass destruction.[43]

Moreover, a 1999 research project by the Program on International Policy Studies of the University of Maryland shows a huge disconnect between policy elites on the one hand and the public on the other. For example, policy elites persistently think that the U.S. public wants to disengage from the world and has a negative view of the UN, including UN peacekeeping efforts. Poll data, however, show that the U.S. public has a very positive image of the UN and would like to see the organization strengthened, including its military component. Strong majorities (71-77%) believe that the United States and the UN should intervene militarily when gross violations of human rights take place, and they favor the United States contributing troops to such operations.[44]

That said, misperceptions by U.S. policy elites will be hard to debunk as long as the silent majority remains unheard because of small but vocal and influential minorities.

International Political Constraints. Constraints on humanitarian interventions are not only of a domestic political nature. International political obstacles also merit consideration.

Intervention decisions should generally be made by the UN Security Council. Whether the Council takes action with respect to a specific problem depends on two main factors: the extent to which the problem poses a threat to regional peace and security and the extent to which the interests of the members of the Council are engaged, particularly the five permanent members. With the end of the Cold War, the UN's level of activity in internal conflicts increased dramatically.

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[42] The polls were carried out in 1995 by the Program on International Policy Attitudes at the University of Maryland. See Randolph Ryan, "Is the U.S. Public Bolder Than Its Leaders? Studies Suggest Americans Might Back Forceful Action To Stop Ethnic Cleansing," *The Boston Globe,* July 23, 1995. See also Stanley Sloan, *The United States and the Use of Force in the Post-Cold War World: Toward Self-Deterrence?,* Report Prepared for the Committee on Foreign Affairs, U.S. House of Representatives, 103rd Cong., 2nd Sess. (Washington, DC: GPO, August 1994). The studies and surveys by the Triangle Institute for Security Studies were carried out in 1999. See Peter D. Feaver and Richard H. Kohn, *Project on the Gap Between the Military and Civil Society: Digest of Findings and Studies,* Presented at the Conference on the Military and Civilian Society, Cantigny Conference Center, October 28–29, 1999 (www.poli.duke.edu/civmil). See also Peter D. Feaver and Christopher Gelpi, "How Many Deaths Are Acceptable? A Surprising Answer," *The Washington Post,* November 7, 1999, p. B3.

[43] The poll showed some remarkable discrepancies among the military elite, the civilian elite, and the mass public. Faced with the same question on the Congo, the military elite gave 284 and the civilian elite 484 as the number of acceptable deaths. For Iraq, the figures were: military elite 6,016; and the civilian elite 19,045. Finally, respondents were asked how many American deaths would be acceptable to defend Taiwan against invasion by China. The military elite responded 17,425; the civilian elite 17,554; and the mass public 20,172. See Feaver and Gelpi, "How Many Deaths Are Acceptable?"

[44] See Steven Kull and Clay Ramsey, "Challenging U.S. Policymakers' Image of an Isolationist Public," *International Studies Perspectives,* No. 1 (2000), pp. 105–17. See also Steven Kull and I. M. Destler, *Misreading the Public: The Myth of a New Isolationism* (Washington, DC: Brookings Institution Press, 1999).

Unfortunately, the international political consensus that seemed to emerge at the beginning of the 1990s is crumbling. The new globalized world order of the late 1990s appeared to many states to be a very unequal order, an order that favored one state—the United States—far more than others.[45] As Abdelaziz Bouteflika, the president of Algeria, and numerous other delegates pointed out in the UN General Assembly debate in 1999, the uneven manner in which states developed economically and the ever-widening gap between rich countries and Third World countries stifled by debt did not make the establishment of a universally accepted new world order any easier.[46]

Moreover, many states resented Washington's imperial attitude and its willingness to push multilateral organizations aside when these organizations could not agree on a course of action that was to the liking of the United States. As a result, organizing collective responses to peace and security threats was becoming increasingly difficult at the end of the 1990s.[47] The debate surrounding possible U.S.-NATO air strikes in Kosovo and Serbia and the 1999 UN General Assembly debate on humanitarian intervention epitomized tensions amongst members of the UN.

International interventions need strong leaders who can coordinate and give focus to the intervention. The UN Secretariat because of its chronic lack of resources is often unable to provide this type of leadership. The difficulties of the mission in Sierra Leone and the two other missions undertaken in the wake of NATO's Kosovo intervention—in East Timor and the Democratic Republic of Congo—exemplify the type of problems the UN runs into when it hasn't got the support of any of the major powers. Unfortunately, the major powers—the United States in particular—are often reluctant to engage in humanitarian interventions.

THE AGENTS OF INTERVENTION: THE "WHO SHOULD INTERVENE" QUESTION

According to the UN Charter, military interventions are to be carried out by armed forces put at the disposal of the Security Council. These forces are supposed to be commanded by the UN Military Staff Committee.[48] However, because of the Cold War, such an international army was never established. Although the Cold War is now over, it seems unlikely that the UN will be endowed with its own army in the near future.

Proposals in the early 1990s calling for the establishment of a UN Volunteer Military Force or the creation of UN peace enforcement units were extremely controversial.[49] In 1993, the UN introduced a standby program that called on member states to earmark their forces for UN operations. The limits of this program were soon exposed. Indeed, during the genocide in

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[45]   Realist and neo-realist theory has shown that international cooperation becomes very difficult when actors believe that such cooperation might result in relative gains that can be exploited to the advantage of one and the disadvantage of others. See, for example, John Mearsheimer, "The False Promise of International Institutions," *International Security,* Vol. 19, No. 3 (Winter 1994-1995), pp. 5–49.

[46]   See, for example, the statement by President Abdelaziz Bouteflika of Algeria to the 54th General Assembly, September 20, 1999.

[47]   See also David Malone, "Multilateralism," in *On the Threshold: The United Nations and Global Governance in the New Millenium,* United Nations University (January 2000), www.unu.edu.

[48]   See *Charter of the United Nations,* Articles 43, 46, and 47.

[49]   On a UN force, see, for example, Brian Urquhart, "For a UN Volunteer Military Force," *The New York Review of Books,* Vol. XL, No. 11, pp. 3–4. On peace enforcement units, see the proposal by Boutros Boutros-Ghali in *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping,* A/47/277 or S/24111, June 17, 1992, para 44.

Rwanda in 1994, the UN Secretary-General was unable to deploy 5,000 soldiers—despite the pledge of 19 governments to keep 31,000 troops available on a standby basis.[50] By 1995, the idea of standby forces had deteriorated to a standby system whereby states made conditional pledges to contribute troops to future UN peacekeeping operations. As of May 2000, 88 states had pledged a total of some 147,900 troops.[51] Yet, few of these states had volunteered troops for the missions in Sierra Leone and the Democratic Republic of Congo.[52]

Similarly, ideas for a Rapid Reaction Force have been tabled since 1992, but such forces remain very much in a conceptual stage. The UN secretariat now talks less ambitiously about a core headquarters unit that could be quickly deployed.

In sum, as Brian Urquhart put it, the idea of a UN force is "further than ever from becoming a reality."[53] Troops are put at the disposal of the UN on an ad hoc basis. At times, they are put under UN command. At other times, they are put under national command or that of a regional organization. Most peacekeeping operations—that is, operations where local parties have agreed to the deployment of international forces—are under UN command. Military interventions, including UN enforcement operations, are generally under national command or that of a regional organization because of the operational risk associated with such interventions. In these interventions there is often a lead state that drives and controls the operation. In Europe, it is NATO, and within NATO it is the United States; in Western Africa, it is the Military Observer Group (ECOMOG) of the Economic Community of West African States (ECOWAS), and within ECOMOG it is Nigeria; in East Timor, it is Australia.

Whether a country will intervene or lead a "coalition of the willing" is a function of the international environment (including the legal environment) and national interests (including national military capabilities and domestic political considerations). For large-scale operations, the United States has to take the lead, if only because it alone possesses the necessary capabilities to carry out such operations.[54] Moreover, involvement—even limited involvement—of the United States will signal to troublemakers that the effort is a serious one.

Unfortunately, the United States has a mixed track record in this area.[55] In many cases, the United States failed to take meaningful action: Rwanda, Zaire/Congo, and East Timor are

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[50] See *The United Nations and Rwanda, 1993-1996,* Blue Book Series, Vol. X (New York: United Nations, 1996).

[51] See the Annual Progress Reports of the Secretary-General on Standby Arrangements for Peacekeeping, and www.un.org/Depts/dpko.

[52] On October 22, 1999, the UN Security Council authorized the establishment of a mission in Sierra Leone (UNAMSIL) of up to 6,000 military personnel. See UNSC Res. 1270 (1999) of October 22, 1999. Troop strength was increased in February and May 2000 to, respectively, 11,100 and 13,000 soldiers. See UNSC Res. 1289 (2000) of February 7, 2000, and UNSC Res. 1299 (2000) of May 19, 2000. A UN Mission in the Democratic Republic of Congo following the Lusaka cease-fire of July 10, 1999 would require many thousands of troops. Although the cease-fire agreement provides for the deployment of UN soldiers, thus far the United Nations has only established an Observer Mission comprised of 90 military observers. An advance group entered the country in November 1999. In February 2000, the United Nations Organization Mission in the Democratic Republic of Congo (MONUC) was authorized to deploy up to 5,537 military personnel. See UNSC Res. 1291 (2000) of February 24, 2000.

[53] See Brian Urquhart, "Will the World Learn From the Debacle in East Timor," *The Boston Globe,* September 17, 1999.

[54] Even for a limited operation such as Operation Turquoise in Rwanda, France had to hire heavy-lift air transport planes (Antonov An-124s) from Russia.

[55] See, for example, Haass, *Intervention*; Richard Haass, *The Reluctant Sheriff: The United States After the Cold War* (Washington, DC: Brookings Institution Press, 1997); William J. Durch, ed., *UN Peacekeeping, American Politics and the Uncivil Wars of the 1990s* (New York: St. Martin's Press, 1996); and Sloan, *The United States and the Use of Force in the Post-Cold War World.*

notable examples. The United States took the lead in Bosnia in 1995 after agonizing for three years about whether and how to get involved in the conflict.[56] In Somalia, it took the lead for four months, but then distanced itself from the operation and eventually pulled out altogether.[57] In Haiti, the United States decided and acted only in 1994, three years after Jean-Bertrand Aristide, the democratically elected president, was deposed in a military coup.[58] Similarly, in 1998 and 1999 the United States was hesitant to intervene in Kosovo.[59]

Other countries have also taken up leadership roles, but these interventions have succeeded only if they have been supported by a regional or global power. Italy, because of its interests in the region and because it was directly affected by the crisis in Albania in 1997, took the lead for Operation Alba. It managed to secure both UN Security Council authorization and NATO support, and it successfully completed its mission. Gabon took the lead in 1997 in the Central African Republic and succeeded because it received logistical and financial support from France. In 1999, Australia took the lead in East Timor. Given the lukewarm support of the great powers for intervention, the success of the Australian mission depended in its early stages on Indonesian cooperation; indeed, Australia intervened only after it had secured approval from the Indonesian government.

The multinational force authorized by the UN Security Council in November 1996 to stave off the starvation of hundreds of thousands of Hutu refugees in Zaire and to create humanitarian corridors to lead them back into Rwanda failed; Washington and Paris were unwilling to lead or even provide support for this operation. Canada, which had been given lead responsibility for the mission, was unable to pull off the operation on its own. Similarly, the UN force in Sierra Leone failed miserably to uphold its authority when attacked in May 2000. Only after the United Kingdom introduced some 800 well-trained troops did tension start to subside.

In the absence of agreement within the UN Security Council, regional organizations are attractive alternatives to states contemplating military interventions as they add political legitimacy to such operations. In Liberia and Sierra Leone, for instance, Nigeria used ECOMOG, and in Kosovo, the United States used NATO. That said, however, the legal justifications for intervention by these organizations were dubious.[60]

Given the reluctance of many western powers to engage peacekeepers in far-away lands and western fears of combat casualties, some experts have advocated hiring private military

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[56] See Chantal de Jonge Oudraat, "Bosnia," in Daniel and Hayes with Oudraat, *Coercive Inducement and the Containment of International Crises,* pp. 41–78.

[57] The United States proposed to take the lead in Somalia on November 25, 1992. A U.S.-led military operation (UNITAF) was authorized by the UN Security Council on December 3, 1992. One week later, UNITAF troops landed in Somalia. On May 4, 1993, the United States handed over command of the operation in Somalia to the UN (UNOSOM II). On October 13, 1993, the United States announced that it would withdraw all of its troops from Somalia by the end of March 1994. This announcement doomed the intervention there to failure. The last U.S. troops left Somalia in March 1994. They would return briefly one year later, in March 1995, to extract the remaining UN troops. Violent conflict has persisted. See Donald C.F. Daniel and Bradd C. Hayes, "Somalia," in Daniel and Hayes with Oudraat, *Coercive Inducement and the Containment of International Crises,* pp. 79–112.

[58] See Chantal de Jonge Oudraat, "Haiti," in Daniel and Hayes with Oudraat, *Coercive Inducement and the Containment of International Crises,* pp. 41–78.

[59] See Ivo Daalder and Michael O'Hanlon, *Winning Ugly: NATO's War to Save Kosovo* (Washington, DC: Brookings Institution Press, 2000).

[60] It must also be noted that Nigeria and ECOMOG (contrary to the United States and NATO) intervened upon requests of the sitting, albeit besieged, central governments.

corporations for these missions.[61] In the 1990s, private military forces were increasingly hired to give logistical support, dispense military advice, provide security services (protection of property and personnel), and participate in combat. For example, in the former Yugoslavia, the United States hired an NGO run by retired U.S. military personnel—Military Professional Resources Incorporated (MPRI)—to dispense military advice and train the Croat military. In other cases, private military companies were hired by states to fight rebels on their territory. For example, Executive Outcomes (EO)—a company run by former South African military officers—was hired by Sierra Leone and Angola to fight rebels on their territory.[62]

Some have pointed out that, in certain cases, these private military forces have helped to stop internal strife. David Shearer credits EO with bringing the warring parties in Sierra Leone to the negotiating table in 1996.[63] Some also believe that private forces might be a solution to the UN's chronic lack of military personnel in messy and risky situations. Others, however, believe that the activities of these companies should be more closely monitored and regulated.

Indeed, many of these companies operate in a legal vacuum. They mainly do business in Africa, and often countries or rebel groups pay these companies not in hard currency but in mining rights. At times, mining companies themselves have agreed to pay for the services of these private military companies in return for mining rights. In many instances, there are close links between the mining companies and military companies.

The diamond mining business in Africa is very profitable: US$5–7 billion per year. A country such as Sierra Leone, ripped apart by an extremely bloody war that has lasted more than eight years, killed tens of thousands of people, and mutilated many more, still produces US$300–450 million worth of diamonds each year. Not surprisingly, the stakes in this conflict are high, not only for the warring factions but also for the mining companies and their military counterparts.[64] This of course also makes these private military corporations more than simple hirelings: it makes them active players in the conflicts in question. Ominously, they may actually profit from dragging out and escalating such conflicts.

David Shearer has suggested that the international community should engage these companies, instead of banning them or pretending they do not exist. It seems that is exactly what

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[61] See, for example, Frederick Forsyth, "Send in the Mercenaries," *Wall Street Journal,* May 15, 2000; Jonah Schulhofer-Wohl, "Should We Privatize The Peacekeeping?," *The Washington Post,* May 12, 2000; and William Shawcross, "Send in the Mercenaries If Our Troops Won't Fight," *The Guardian,* May 10, 2000.

[62] For details, see David Shearer, *Private Armies and Military Intervention,* Adelphi Paper 316 (London: International Institute for Strategic Studies, 1998); David Shearer, "Outsourcing War," *Foreign Policy,* Fall 1998, pp. 68–81; Deborah Avant, *The Market for Force: Exploring the Privatization of Military Services,* A Paper for the CFR Study Group on the Arms Trade and the Transnationalization of the Defense Industry: Economic versus Security Drivers, 1999; and Abdel-Fatau Musah and J. 'Kayode Fayemi, *Mercenaries: An African Security Dilemma* (London: Pluto Press, 2000). It may be noted that EO was outlawed in South Africa in 1998.

[63] However, after having spent 21 months in the country and enabling the sitting government to get the better of the Revolutionary United Front (RUF), EO's contract was terminated. This, of course, was one of the conditions of the RUF, which also refused the deployment of UN peacekeepers. The ensuing military vacuum led to continued fighting. In May 1997, a military coup took place, derailing all previous peace efforts. See Shearer, *Private Armies and Military Intervention.*

[64] See, for example, James Rupert, "Diamond Hunters Fuel Africa's Brutal Wars: In Sierra Leone, Mining Forms Trade Weapons and Money for Access to Gems," *The Washington Post,* October 16, 1999. Others have estimated that Sierra Leone loses between US$200 and 300 million annually to illegal diamond trafficking. Most of this illegal trade passes through Liberia, which since the mid-1990s has exported 31 million carats—more than 200 years' worth of Liberia's national capacity. See Douglas Farah, "Diamonds Are A Rebel's Best Friend: Mining of Gems Helps Sierra Leone Militia Stall Peace Process," *The Washington Post,* April 17, 2000; and Blaine Harden, "Africa's Gems: Warfare's Best Friend," *The New York Times,* April 6, 2000.

is happening. Increasingly, these companies perform tasks, such as dispensing military advice, providing logistical support, or ensuring security services, that governments cannot or will not carry out. Moreover, many of these activities are initiated without any consideration of the longer-term consequences. Finally, many of these activities take place in both a domestic and international legal vacuum; here again, an internationally agreed legal framework is sorely needed.

International organizations also increasingly engage private security firms, but thus far their role has been limited to the protection of property and civilian personnel. Some believe that success in this domain may lead to employing such firms for combat purposes or enforcement operations. That, however, would amount to giving the UN its own standing forces. Given the reluctance of member states to do that and the lack of UN financial resources, this seems an unlikely prospect.

It is important to make a clear distinction between hiring the services of such firms for limited and well-defined tasks and hiring them in a peacekeeping capacity, where they would be responsible for the maintenance of public law and order.[65] The United Nations might wish to do the former; it should not be allowed to do the latter. Questions of war and peace and life and death should not be governed by profit motives; doing so would be contrary to everything the UN stands for.

THE INSTRUMENTS OF INTERVENTION: THE "HOW TO INTERVENE" QUESTION

States have two main coercive instruments available when considering intervention: the use of force and economic sanctions.[66] Six conditions need to be fulfilled for the effective use of such coercive instruments.[67]

First, outside powers need to have a clear idea of the political objectives they hope to achieve. They should try to pursue one objective at a time; multiple objectives muddy the waters. The imposition of sanctions or the use of military force should also not be aimed at punishing troublemakers. Rather, these instruments should be used to change behavior or to bring those responsible to justice.

Second, outside powers need to correctly assess the economic, political, and military characteristics of the target. It should be noted that the targets of intervention will often be non-state actors.[68] Our knowledge of how coercive actions affect targets—particularly, non-state targets—is limited, a deficiency that hinders the development of a coherent and effective strategy. The imposition of economic sanctions on some targets is ineffective and can even be

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[65] Similarly, legitimate governments should not be encouraged to hire the services of these corporations to combat rebel groups.

[66] International criminal prosecution is a third instrument available to states. However, this instrument is not covered in this paper.

[67] For a more detailed development of these conditions, see Oudraat, "L'ONU, les conflits internes et le recours à la force armée"; and Oudraat, "Making Economic Sanctions Work," in Crocker, Hampson, and Aall, eds., *Managing Global Chaos.*

[68] This is in contrast with what happened in the 19th and 20th centuries. It also underscores the idea that the debate over intervention is perhaps not a debate over the decline of the sovereignty of the state, but rather a debate over how the state is reasserting its sovereignty.

counterproductive. For example, imposing economic sanctions on parties in very poor states (Burundi) or failed states (Somalia) is at best futile. Similarly, the effectiveness of the use of force depends on the characteristics of the target. Aiming the use of force at "the conflict," instead of at the belligerent parties, as was done in the early 1990s in Bosnia and Somalia, led to dramatic policy failures.

Third, one country or international organization has to take the lead in interventions. Leadership gives direction to interventions and is one of the keys to building strong coalitions. Moreover, in the absence of a leader, sanctions regimes will quickly be crippled because of interpretation problems; multiple as well as conflicting purposes may be proposed for military interventions, which frequently leads to failure. In theory, international leadership should come from the UN Security Council. In practice, it comes from individual states. A leader has to be able to chart an effective course of action and articulate its position to others. Much depends on the political and military strength of the country in question. Being a leader does not mean bullying others around. True leaders know how to translate national interests into regional and international interests and persuade other states to get on board.

Fourth, leaders need to build strong international coalitions for proposed coercive undertakings. Obtaining international support for these interventions is a function of the threat posed to regional and international security and human life. It also depends on national interests and leadership. The more countries see an internal conflict as a threat to their own security and a threat to higher values, the easier it will be to construct a coalition to support international intervention. The participation of many states is necessary for the success of sanctions regimes. It may also be attractive when it comes to the use of military force; indeed, it may help to ensure that sufficient numbers of troops are available for coercive actions. Moreover, it may help to bring down costs. The United Nations has an important role to play in building and organizing international support for coercive actions, and it can provide legitimacy to coercive actions.

Fifth, outside powers need to ensure that enough resources are available for their interventions. Resources may be needed to implement and enforce sanctions regimes, which often experience implementation problems. Resources may also be needed to compensate some states for losses associated with the implementation of sanctions. Similarly, military interventions need to be endowed with sufficient resources. This is not to say that to be successful such operations need to have overwhelming military capabilities, but they need enough firepower and the right mix of forces—air power and ground troops—to get the job done.

Sixth, outside powers need to adopt appropriate strategies. Intervention strategies are the subject of significant debate within the scholarly and analytical communities. Two main schools of thought exist on the imposition of sanctions and the use of force. The first believes that coercive instruments are most effective when imposed immediately and comprehensively. The second school of thought believes that coercive instruments can—and often should—be imposed gradually. I believe that both schools of thought are right some of the time. Some cases warrant swift and comprehensive coercive actions; others call for gradual approaches.

The use of economic sanctions and military force should be proportionate to the goal one is trying to achieve. Limited goals do not warrant the massive imposition of sanctions or the massive use of force. If one's goals are more ambitious, stronger coercive actions are generally

called for. If the threat to international peace and security or human life is both significant and immediate, strong sanctions and military operations might be needed. Less urgent situations call for more incremental approaches.

The political, economic, and military characteristics of the target should also guide one's selection of a strategy. For example, authoritarian regimes are less vulnerable to economic sanctions than democratic regimes; when dealing with an authoritarian regime, it may be advisable to forgo economic sanctions altogether and threaten the use of force immediately. Similarly, small guerrilla groups are mostly immune to economic sanctions. Many sanction regimes stay in place for a long time and often start producing adverse social and humanitarian effects. Such effects, though, rarely lead to the overthrow of the politicians in place or a change in behavior of the political elites. On the contrary, empirical evidence in the former Yugoslavia, Haiti, and Iraq tends to confirm that prolonged sanctions strengthen—rather than weaken—the political regimes in place. The existence and level of development of a political opposition in the target country are very important in this respect. If the opposition is weak, the imposition of comprehensive sanctions may ruin their chances to develop into a real opposition. This happened in the FRY, for example. The economic and military characteristics of the target should also guide coercive strategies. Weak economies, for example, should be hit with gradual and partial sanctions. Robust economies, as well as centrally planned economies, should be hit swiftly and comprehensively; because of their ability to shift resources around, they are better able to withstand sanctions.

Similarly, the limited use of force may be sufficient in traditional wars. Indeed, traditional military organizations may be more vulnerable to the coercive uses of force than guerrilla or insurgent fighters. Much has been written about the force of air power, particularly after Kosovo. Air power remains an extremely problematic tool in internal conflict situations and in situations where gross violations of human rights are taking place. It is often forgotten that Bosnia showed the limited utility of air power in these types of situations; it demonstrated that airstrikes cannot substitute for ground forces. The use of air power in the Balkans in 1999 also raises very important questions about NATO's targeting policy and its utilization of cluster bombs.

Coercive strategies should also be flexible. As time goes by, the economic, military, and political characteristics of a target can change. The coercer's objectives and means may also change over time. A strategy that was sound early on in a conflict may no longer be effective later in the conflict.

Finally, all good strategies should contain exit strategies. Exit strategies should not be confused with exit schedules. Exits need to be based on local political and strategic conditions— not arbitrary and rigid timetables. They should also encompass a post-intervention strategy designed to tackle long-term economic and political problems. Outside powers considering intervention should realize that interventions entail more than the imposition of economic sanctions or the use of military force. They should be prepared to make long-term—even open-ended—commitments.

The development of economic sanctions and military strategies should not be seen as independent undertakings. Economic sanctions strategies should include determinations about when to escalate and threaten the use of military force. The imposition of economic sanctions

and the use of military force should therefore be seen as two points on a coercive continuum and two complementary policy options.

To sum up, the effective use of economic sanctions and military force depends on: (1) having a clear purpose; (2) correctly assessing the target; (3) leadership; (4) coalition support; (5) providing sufficient resources to ensure effective implementation; and (6) having an appropriate strategy, including an exit and post-intervention strategy.

These conditions may seem commonsensical, but many post-Cold War interventions have failed to meet these basic standards. They consequently failed to have the desired effects.

Table 1. UN Security Council Sanctions Imposed Under Chapter VII of the UN Charter (1945-2000)

Country	Date Imposed	Arms Embargo	Targ. Fin. Sanctions	Partial Ec. Sanctions	Comp. Ec. Sanctions	Date Lifted	Enabling UNSC Res.
Southern Rhodesia	Dec 16, 1966				▓	Dec 21, 1979	232 (1966) 460 (1979)
South Africa	Nov 4, 1977	▓				May 25, 1994	418 (1977) 919 (1994)
Iraq	Aug 6, 1990				▓		661 (1990)[a]
Rep. Former Yugoslavia	Sep 25, 1991	▓				Jun 18, 1996	713 (1991)[b] 1021 (1995)
FRY	May 30, 1992				▓	Nov 22, 1995	757 (1992)[c] 1022 (1995)[d]
	Mar 31, 1998	▓					1160 (1998)
Bosnian Serbs	Sep 23, 1994				▓	Oct 1, 1996	942 (1994) 1074 (1996)
Somalia	Jan 23, 1992	▓					733 (1992)
Libya	Mar 31, 1992			▓		Apr 5, 1999	748 (1992)[e]
Liberia	Nov 19, 1992	▓					788 (1992)
Haiti	Jun 16, 1993	▓		▓		Aug 27, 1993	841 (1993) 861 (1993)
	Oct 18, 1993	▓		▓			873 (1993)
	May 21, 1994				▓	Oct 16, 1994	917 (1994) 944 (1994)
UNITA/ Angola	Sep 15, 1993	▓		▓			864 (1993)[f]
	Jun 12, 1998		▓				1173 (1998)
Rwanda	May 17, 1994	▓				Aug 16, 1995	918 (1994)[g] 1011 (1995)[h]
Sudan	May 10, 1996			▓			1054 (1996)[i]
Sierra Leone	Oct 8, 1997	▓		▓		Jun 5, 1998	1132 (1997) 1171 (1998)[k]
Taliban/ Afghanistan	Nov 15, 1999		▓	▓			1267 (1999)
Eritrea/ Ethiopia	May 17, 2000	▓					1298 (2000)

Economic sanctions are nonmilitary measures that restrict or arrest normal international economic exchanges with a state or a nongovernmental group, with the purpose of changing the political or military behavior of the government or group in question. Economic sanctions can be comprehensive or partial. Targeted financial sanctions consist of freezing designated individual or corporate assets and prohibiting international financial transactions with such designated corporations or individuals.

[a] For subsequent resolutions, see Office of the Spokesman for The Secretary-General (OSSG), "Use of Sanctions Under Chapter VII of the UN Charter" at http://www.un.org/News/ossg/sanction.htm

[b] See also UNSC Res. 727 (1992) of January 8, 1992, which reaffirms that the arms embargo applies to all republics of the Former Yugoslavia.

[c] See also UNSC Res. 787 (1992) of November 16, 1992 and UNSC Res. 820 (1993) of April 17, 1993, which strengthened the sanction regime. UNSC 943 (1994) of September 23, 1994 suspended certain sanctions on the FRY.

[d] Sanctions were suspended in November 1995. They were lifted on October 1, 1996. See UNSC Res. 1074 of October 1, 1996.

[e] See also UNSC Res. 883 (1993) of November 11, 1993, which tightened sanctions on Libya. Sanctions were suspended on April 5, 1999. See UN Security Council Presidential Statement, S/PRST/1999/10.

[f] See also UNSC Res. 1127 (1997) of August 28, 1997, and UNSC Res. 1130 (1997) of September 29, 1997, which strengthened the sanction regime.

[g] See also UNSC Res. 997 (1995) of June 9, 1995, which affirmed that the prohibition on the sale and supplies of arms for use in Rwanda also applied to persons in the states neighboring Rwanda.

[h] The sale and supply of arms to nongovernmental forces for use in Rwanda remained prohibited.

[i] See also UNSC Res. 1070 (1996) of August 16, 1996, which foreshadowed an air embargo on Sudan. This embargo never went into effect because of the expected humanitarian consequences.

[k] The arms embargo remained in place for members of the former military junta and RUF.

SOURCE: United Nations, Office of the Spokesman for the Secretary-General, *Use of Sanctions Under Chapter VII of the UN Charter*, at: http://www.un.org/News/ossg/sanction.htm

Table 2. UN Security Council Authorizations, Under Chapter VII of the UN Charter, to Use Military Forces Other than for Self-Defense (1945-2000)

Country	Year	Name of the Operation	Command	Enabling UNSC Res.
Korea	1950–1953	Multinational Force	U.S.	83 (1950)–Jun 27, 1950
Congo	1960–1964	UNOC	UN	161 (1961)–Feb 21, 1961
Rhodesia	1965	"Tanker Operation"*	UK	217 (1990)–Nov 12, 1965
Iraq	1991	Operation Desert Storm	U.S.	678 (1990)–Nov 29, 1990
Bosnia	1992–1996 1992– 1995 1993–1996 1995–1996 1996–1998	Operation Sharp Guard* UNPROFOR WEU Danube Mission* IFOR SFOR	WEU/NATO UN WEU NATO NATO	787 (1992)–Nov 16, 1992 816 (1993)–Mar 31, 1993 836 (1993)–Jun 4, 1993 787 (1992)–Nov 16, 1992 1031 (1995)–Dec 15, 1995 1088 (1996)–Dec 12, 1996
Somalia	1992–1993 1993–1995	UNITAF UNOSOM II	U.S. UN	794 (1992)–Dec 3, 1992 814 (1993)–Mar 26, 1993
Rwanda	1994	Operation Turquoise	France	929 (1994)–Jun 22, 1994
Haiti	1994	Multinational Force	U.S.	940 (1994)–Jul 31, 1994
Zaire	Not Deployed	Multinational Force	Canada	1080 (1996)–Nov 15, 1996
Albania	1997	Multinational Force	Italy	1101 (1997)–Mar 28, 1997
Central African Republic	1997–1998	MISAB	Gabon	1125 (1997)–Aug 6, 1997 1155 (1998)–Mar 16, 1998 1159 (1998)–Mar 27, 1998
FRY/Kosovo	1999	KFOR	NATO	No UNSC Res. 1244 (1999)–Jun 10, 1999 Authorizes presence of international forces
East Timor	1999	INTERFET UNTAET	Australia UN	1264 (1999)–Sep 15. 1999 1272 (1999)–Oct 25, 1999
Sierra Leone	1999	UNAMSIL	UN	1270 (1999)–Oct 22, 1999 1289 (2000)–Feb 7, 2000
Democratic Republic of Congo	1999	MONUC	UN	1279 (1999)–Nov 30, 1999 1291 (2000)–Feb 24, 2000

* Economic sanctions enforcement operations. In the case of Rhodesia, the Security Council authorized the UK to use military force against a specific oil tanker that was headed for the port of Beira (Mozambique) with a full cargo of oil destined for Rhodesia, which at that time was subject to mandatory comprehensive economic sanctions. See UNSC Res. 217 of November 12, 1965.

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