

**International Public Law:
Humanitarian Intervention and
Sovereignty: The Case of Syria**

[Student name]

[Student ID]

[Date of Submission]

Abstract:

The research analysed the international law system and the gaps in the international law which enables the humanitarian's interventions in various different countries, the study focus on authorised and unauthorised humanitarian intervention in different countries such as Libya, Syria, Kosovo, and the impact of the intervention on the countries. However the research focuses on the Humanitarian intervention in Syria along with its origin to establish whether the intervention was "legitimate" or not. The aim of the paper is to analyse the international law, Humanitarian rights and sovereignty in the context of Syria, the major focus of the research is to understand and illustrates the humanitarian approaches and its impacts, precautions and the preconditions that are required to be identified of the Humanitarian rights, since the interventions aims to reduce and eradicate peace, therefore the impact of the intervention regarding maintain "peace" will be analysed.

Furthermore, the international law, gaps in the law along with the application of the law will be analysed in the Syrian context, and the impact of the gaps on states experiencing an eroded sovereignty due to unauthorised interventions. However most of the time the "peace makers" establish strategy that does more damage instead of condensing the ongoing war zones in Syria. Therefore, the Syrian refugee crises is one of the major causes of the Humanitarian intervention and violent government crackdown on public demonstration in the support of group of teenagers that agrees who are detained for the anti-government activities that not only ignite engine of violations but also increases the chances multi state war.

Contents

Abstract:	2
Introduction:	4
1st Chapter – Approaching the Humanitarian Intervention from Different Perspectives	8
· Authorized Humanitarian Approach	10
· Unauthorized Humanitarian Approach:	12
· Restrictive Approach:	15
· State Practise and Opinio Juris	17
· Sovereignty Test	19
2nd Chapter – Preconditions of Applying Humanitarian Intervention	21
· Undertaking Humanitarian Intervention without Authorization/Consent:	23
· International Organizations Involvement Treaty Based	29
Overview of international organisation:	29
International organisation aimed to maintain peace:	31
3rd Chapter- Assessment of Syria’s Case	35
· NATO Military Interventions	35
· Kosovo Intervention	36
· Libya Intervention:	38
Conclusions	40
Bibliography	44

Introduction:

The aim of this chapter of the paper is to establish the understanding of the international law, and the humanitarian intervention in countries, particularly focusing on “Syria” as a subject of case study to elucidate the impact of the Syrian intervention and the procedure of the international law. The chapter aims to benefit the readers to provide them with a background knowledge of the international public law and the Humanitarian approach, along with the application of the approach in “Syrian intervention” in order to analyse it in depth in further chapters.

Humanitarian intervention are considered the actions that are taken by a coalition of states or one state in authority that aim to alleviate the extensive suffering of the humans within the border of a sovereign state¹. The Humanitarian interventions are the cause of intense suffering that tends to be the result of groups that falls within its jurisdiction. The necessity of humanitarian intervention only lies when a region or a state’s experience a deliberate series of systematic violations of the human rights. Including ethnic cleansing, explosions and genocide in most extreme cases². Such as the case of Syria, Syria at present is undergoing a deep civil mayhem, which is often referred as a revolution in the country. However, the case of Syria is not the only case of mass destruction, genocide and deliberate violations of human rights, as in history, the Intervention after the Gulf War, along with NATO’s intervention is Kosovo or NATO bombing of the Yugoslavia in the

¹ Thomas, N. and Tow, W.T, “The utility of human security: sovereignty and humanitarian intervention.” *Security Dialogue*, [2002] 33(2), pp.177-192.

² Murphy, S.D., “*Humanitarian intervention: the United Nations in an evolving world order*” [1996] UPP (Vol. 21).

1990's are the greatest explore of the intervention in different regions from all around the world to maintain the peace³.

However all of these intervention has 2 line of impact, one the aim to eradicate a battle by initiating another, second the execution of peace requires "blood and sweat". Similarly the case of Syria is an exceptional example of "Blood and sweat" to win peace as the relations of Russia and the United States with Syria are also taking a turning point. The Syrian Government is suffering in pain and agony due to the crises if international intervention, the international community failed to assist or protect the civilians that suffered mass killing, vandalisms, and destruction of their home. The prevailing approach to the international intervention since the time of Cold War is considered a major failure. Particularly after the conflation after the Humanitarian and political approach that has severely damaged the concept of impartial action of the Humanitarian approach⁴. Therefore without it the Syria displays that the civilians of the people are without any protection. Due to the impacts of the humanitarian approach on entire civilization, the concept of the international law, its authority and power is considered a controversial topic since, therefore analysing and understanding the concept of "Humanitarian intervention" and "Sovereignty" is the substantial root that guides its impact. As Humanitarian interfeon only occurs when the responsibility and the legal authority of an independent state is compromised or the sovereignty is compromised, sovereignty refers to the political and legal responsibility of a states that regulates and governs the political affairs devoid of any interference of the foreign. Although, Syria is an independent states

³ Graziano, et al, 1990

⁴ Allan, C. and O'Donnell, T., "An Offer You Cannot Refuse: Natural Disasters, the Politics of Aid Refusal and Potential Legal Implications" [2013] *LF*, 5, p.36.

however the current affair in the region are the major cause of the breach in the countries internal affairs.

For instance, the Syrians are stuck in displacement camps, due to which they have missed another year of education, the estimated casualties due to the ongoing situation are approximately 400,000. Aside from it 200,000 people are missing⁵. However, the total number of deaths remains unknown. On the contrary United States regards the head of state of Syria known as Bashar al – Asad (as violate of the human right) hopes to witness the culprit being removed from their position⁶. After twenty five years, Syria repeats the Cold War logic, as the Syrian crises started in the 1957, the period was considered the sever diplomatic confrontations in the period of the Cold War which was involved in the Soviet Union sand Syria. However the United States intervned and allies with the Soviet Union along with Turkey to resolve the issue. The case of Syria represents a greater possibility for further extension of the international public law. On the contrary the response will lastly represents the downwards of the spiral in to the Jungle Law or the “lawlessness” instead of the political reasons as it is not only strange but unfortunate. It is considered a major failure for the post fold which is used in the international system. Due to the aftermath of the war and its influence on the world peace, Syria could be the unfortunate harbinger fir a “cold peace” by establishing international laws and example for the countries worldwide.

⁵ Ferris, E., Kirişçi, K. and Shaikh, S, “*Syrian crisis: massive displacement, dire needs and a shortage of solutions.*” [2013] Brookings Institution.

⁶ Zahler, K.A., “*The Assads' Syria.*” [2009] Twenty-First Century Books.

Since international law rules are generally formed in the form of customary law rules, states could not reach a full consensus on some legal issues⁷. In this sense, a clear and precise definition of intervention could not be made, and a consensus could not be reached on the concept. Intervention can generally be defined as the interference of an independent state in the affairs of other independent state or states in a way that violates their military, political or legal sovereignty rights⁸. However, there is no consensus in international law as to what the interference means exactly.

⁷ UN, “*Report of the International Law Commission*” 18th Session. [1966] ILC II 248

⁸T. Oppermann “*Intervention*, Bernhardt (ed.), *Encyclopedia Of Public International Law (3) Use Of Force, War and Neutrality, Peace Treaties* (North-Holland Publishing Company”, [1982] 232

1st Chapter – Approaching the Humanitarian Intervention from Different Perspectives

Humanitarian intervention is an action that comes to the fore in cases of extreme human rights violations. However, there is no consensus on the content of these violations and after what level they are legitimate grounds for intervention. For example, the operation against Muammar Gaddafi's regime in Libya in 2011 was carried out to prevent heavy civilian casualties⁹. On the other hand, a humanitarian intervention decision could not be taken against the wars in Syria and Yemen, where the deaths far exceeded Libya's¹⁰. The ambiguity of the conditions requiring intervention and the contradictory attitudes of the international community on humanitarian intervention are among the most criticized issues by sceptical approaches to the point.

The Humanitarian intervention constitutes a well-established and invented breach of state of rights (sovereignty) by utilising the name of “humanity” or the “human rights” to defend the approach. However, this is an approach from one frame of the glass, the frame of reference from the other point of the glass is different, for instance the humanitarian intervenes does not mostly requires the employment military force, since they include the imposition of the sanctions. It is referred to situations where the threats of the force is used, instead of the actual threat. The humanitarian intervention over the years has become the major issue and the focus of debate within the

⁹ Terry, P.C, “The Libya intervention (2011): neither lawful, nor successful. *Comparative and International Law Journal of Southern Africa*, 48(2)” [2015] 162-182.

¹⁰ Layachi, O.B., “The Role Of International Humanitarian Intervention In Containing The Repercussions Of Covid-19 During Non International Armed Conflicts: Libya, Yemen, And Syria.” [2015] .1-38.

governments and the international organisations that are responsible for maintaining peace in states, which induces think tanks, comparative, international relations a, amoral and political philosophy.

The practices and language of the Humanitarian intervention is far as compared to the 21st century, as it is believed to the incessant topic of argument amount the policy makers, theologises, scholars, and the lawyers. According to seybolt the main forms of the humanitarian intervention involves providing the aid to the operations, delivery of aid, and military defeating the aggressor¹¹. However in the military forces it is believed that there is the absence of the targets permission in order to achieve the mission, analysis the differentials of the peace-making, and helping the non-national along with the intervention agency.

Although the approaches mentioned above indicates that the aim of the intervention in end is to aid in peace making however the principle of peace making is often criticised by the people widely. For instance, for various detractors, it helps to decline the approach of liberal imperialism, therefore the Humanitarian intervention has been criticised for repeatedly imposing the humanitarianism that is simply considered oratorical which aims to incline with the implementation of the traditional and the geopolitical policies that are includes the international laws for establishing policies that incorporates the econ mic interests of the people.

For instance, if the interventions are regarded globally as legitimate then the census must not exist, whether the interventions are operational or it works or not, it exacerbate or delays the problem that is required to be solved, it is essential to address the necessity of the intervention. Therefore

¹¹ Seybolt, T.B., "*Humanitarian military intervention: the conditions for success and failure*. Oxford University

the question that to act solely for the humanitarian reasons with explosives is insignificant. As the ethical system is required to be employed instead of pursuing “bullet for a bullet” approach. To establish a response system to the question raised above, there are approaches that are created for the Humanitarian interfeon that justifies the situations where the interventions are permitted based on the “international law”.

Therefore, following mentioned is the evaluation of the humanitarian approaches that are taken by states however, some are legally permitted and some are considered illegal.

- [Authorized Humanitarian Approach](#)

The authorized Humanitarian is usually undertaken by an organisation or different organisations that the coalition of state with the aim mitigate the extensive human suffering in the region, however the authorised Humanitarian intervention constitutes the level of threat and identify it to be the international threat that are radically broadened since the year 1990s, to recognize such issues of international level as the mass displacement of peace, therefore the UN security Council are “authorised” and legally identified in the international law to use the force of military in such situations with states it countries that are experiencing extensive human suffering due to active war¹². Although, the intervention was previously “recognised” by the law as the “internal conflicts” of the countries. On the contrary, it was proceed that the community has a moral duty to protect the common humanity, along with the legal obligation, codified in the international law for states to maintain peace by intervening and elevate the abuse experienced by the humans, therefore in 1990, the “right of Humanitarian intervention” was invoked in the Cold war by the UK

¹² Evans, G., “When is it Right to Fight?. *Survival*, 46(3),” [2007] 59-81.

delegation, when the China and Russia failed to support and protect the “No fly Zone” of Iraq¹³. Although the Humanitarian intervention not only includes the forces but they have four types, such as helping people to deliver the emergency aid, saving the victims of violence, Protracting Humanitarian aid operations, defeating the perpetrators of violence¹⁴. However the Humanitarian approach is only known for the controversial perspectives, as suggested by various indicators it represents the “the mode of liberal imperialism.” Although the involvement of opposing a party in a war zone is often used by the countries by their own commendable interests which led them to use the restrictive approach as well. Likewise, the Humanitarian intervention was criticized for coercively imposing the culture of the west onto other cultures through the approach, however it is a legal action¹⁵, that has certain limitations as well, for instance the states that are involved in the authorised intervention are unable to help the government, or the civilian society to achieve a long term goal, instead they aim to maintain peace and aid the current for the current issues of violation of human rights which is a short term goal¹⁶. The example of the authorised Humanitarian intervention is the history are Iraq War (2003–11)¹⁷, India’s intervention in the Bangladesh War

¹³ Williams, P.D. and Bellamy, A.J., “The responsibility to protect and the crisis in Darfur” [2007] .27-47.

¹⁴ Seybolt, T.B., “*Humanitarian military intervention: the conditions for success and failure.*” [2007] Oxford University Press, USA

¹⁵ Averre, D. and Davies, L., “Russia, humanitarian intervention and the Responsibility to Protect: the case of Syria.” [2015] 813-834.

¹⁶ Fox, F., “Conditioning the Right to Humanitarian Aid? Human Rights and the ‘New Humanitarianism’” [2002] 19-37.

¹⁷ Ramirez, J.A., “Iraq War: Anticipatory self-defense or unlawful unilateralism.” [2003].*Cal. W. Int'l LJ*, 34, p.1

of 1971¹⁸, Vietnam's intervention in Cambodia in 1978¹⁹, and Tanzania's intervention in Uganda in 1979²⁰. The authorised approach is a lawful act, and aims to serve a legal purpose, not only for the suffering country but also community as it takes actions or (pre-conditional) actions that are required for a certain state which reduces the spread of voidance on a global level. Although, the authorised approach is considered legal.

- **Unauthorized Humanitarian Approach:**

In history there have been several instances where the states have intervened with force, irrespective of advanced authorisation from the United National Security of Council, at least anticipate in response for the alleged extreme violations of the basic rights of humans. The act is debatable as it is not authorised. The greatest example of the unauthorised intervention is the intervention after the Gulf War by NATO, the aim of the intervention was to protect the Kurds in the northern Iraq. The approach was taken in the absence of the UN Security Council under the name of “legitimacy of Humanitarian Rights” where the authorisation was comprised²¹.

According to the UN Security Law, the military interventions are affirmed by the United Nations Security of counsels in order to atrocities the lawful act authorised the UN body, under this

¹⁸ Roberts, G., “The Uganda–Tanzania War, the fall of Idi Amin, and the failure of African diplomacy 1978–1979” [2014] 692-709

¹⁹ Fox, G.H., “Vietnamese Intervention in Cambodia-1978.” [2017] *SSRN 3040646*.

²⁰ Roberts, G., “The Uganda–Tanzania War, the fall of Idi Amin, and the failure of African diplomacy 1978–1979” [2014] 692-709

²¹ Caron, D.D., “The legitimacy of the collective authority of the Security Council.” [1993] 552-588

legations, the intervention of NATO was clearly a violation against the Article 1 (4)²². Or if the act is categorized as the right of self-defence in an active war situation, however none of the principles and laws were considered²³. However there were various defenders for this position that included a large number of states which eminent well known states such as the People's Republic of China and even Russia²⁴. On the other hand, advocates of the approach pressurised for the literal text from the UN charter to authorise the force with the aim to promote censures and minimize the stability by nursing the acceptance of the military forces and authorising the line of illegal action as "legal action" since it was "needed"²⁵. Furthermore, based on the "UN charter" the Humanitarian intervention" without legal authorisation is considered illegal, however it is morally and potentially justified by the advocates as mentioned above the involvement of China and Russia was based on the same political agenda. As a response the UN entry multinational peacekeeping forces into the region, as result all the Yugoslav and Siberian forces were removed due to the United Nations Resolutions 1244²⁶. However the intervention of NATO in Kosovo, as the ethnic cleansing was reserved after 77 days of intervention and the Bombing continued from

²² Bellamy, A.J. and Williams, P.D., "The UN Security Council and the question of humanitarian intervention in Darfur" [2006] .144-160.

²³ Mary Ellen O'Connell. "The UN, NATO, and International Law after Kosovo." *Human Rights Quarterly* [2000] 88–89.

²⁴ "Statements by Russia and China, in UN Security Council" [1999] S/PV.3988.

²⁵ Bruno Simma. "NATO, the UN and the Use of Force: Legal Aspects." *The European Journal of International Law* [1999] 1–22

²⁶ Gowlland-Debbas, V. and Tehindrazanarivelo, D.L. eds, "National implementation of United Nations sanctions: A comparative study." [2004]

24 March to 10 June 1999, that were withdrawal by UN charter for the Peace making mission²⁷. However, the commission concluded that the NATO intervention in Kosovo was indeed illegal however it was legitimate considering the condition of Kosovo, since the diplomatic avenues were exhausted, hence there was no other way but to stop the violations of the human rights in Kosovo and its atrocities instead of the Intervention²⁸. The fact that it was “legitimately require” does not justify that illegal actions and unauthorised interventions should be taken easily, as it not only represents the international law system but also represents the flaws in the law system, for leavening NATO without legal notice or warning for the illegal act.

According to an article by Harhoff, the intervention of NATO in Kosovo was unauthorised, and illegal the “International law system” is unable to provide the answer to the question that whether the illegal and unauthorised interventions, in the name of “Humanitarian rights” are lawful or ethical. Instead it is essential to draw attention of the authorities, public and media to the topic in order to establish the ethical and righteous identification of the law institutional and formulate certain criteria that holds such groups and states accountable for their illegal acts in order to prevent “idealization” of the act²⁹. As discussed above, the unauthorised approach of the humanitarian intervention is solely illegal and unethical.

²⁷ O'Connell, M.E., “The UN, NATO, and international law after Kosovo. Hum. Rts.” [2000] 57

²⁸ Cassese, A., “Ex iniuria ius oritur: are we moving towards international legitimation of forcible humanitarian countermeasures in the world community? European Journal of International Law,” [1999] .23-30.

²⁹ Harhoff, F., “Unauthorised Humanitarian Interventions– Armed Violence in the Name of Humanity?. Nordic Journal of International Law” [2001] 65-119.

- Restrictive Approach:

The restrictive approach is a practice in which individuals that are involved in a professional or trade aims to protect their self-interest instead of the “Humanitarian cause” or any cause. Since the divining force is self-interest therefore it is often considered a biased approach³⁰. For instance, the superpower that conceives operates for their interest in directly shaped world events and global terms. Although the term superpower or the restrictive approach is often used to the state of describing the inclusive power is preeminent, as it is sometimes considered the most restrictive approach which directly designates the state whose authority or power is preeminent in the targeted area, likewise the case of Syria is a perfect example, Russia and the United States on a political level are considered the major political rivals from the time of the Soviet Union, however considering the mass destruction and bloodshed in Syria both utilised their power, Russia utilised the Russian military intervention in the Syrian Civil War, however after an official request by the Syrian government for military support against the rebels to make the region peaceful although Russia involved in the year 2015, September³¹, later in 2018 U.S military intervened in the Syrian war, as it was suggested that an open ended military presence in Syria will be maintained by the U.S military intervention to counter the influence of Iran on Syria and the Syrian president knows

³⁰ Nathan, L., “When push comes to shove!: the failure of international mediation in African civil wars: occasional paper. *Track Two: Constructive Approaches to Community and Political Conflict*,” [1999] 8(2).

³¹ Karim, S. and Islam, N.M., “Syrian crisis: Geopolitics and implications. *BISS Journal*,” [2017.] 37(2).

as Al – Assad. This was not a collaboration between U.S military and Russian military instead both intervened in order to maintain peace in the country for their “Self Interest”³². Scholars suggests that the American-led intervention is solely for the support the Syrian opposition and for the Federation of Northern Syria during the active Syrian war³³. However, Civil wars are known to be the significant reason for global consequences, as suggested by Michele Barry that the Civil wars are responsible for elevating the risk of emerging destruction in government, generating outflows of foreign direct expertise and investment, creating dominant grievances affecting the whole society, emerging diseases, and outbreaks of infectious diseases, and reduction of people that could reasons to such bugger threats, that could cause a global war affecting other countries as well³⁴. Therefore the intervention of U.S and Russia was not only essential, but could be for the benefit of their “self – intersect” by utilising the restrictive perspective. As stated by Barack Obama on October, 2015 that the he has authorised the resupply of 25,000 Kurds of Syria. Since the focus of the U.S military is to support even after the involvement of the Russian government. Although the approach for the Humanitarian intervention was similar, the main focus of the both countries

³² Allison, R., “The Russian case for military intervention in Georgia: international law, norms and political calculation. *European security*” [2009] 173-200.

³³ Colasanti, N., Frondizi, R., Liddle, J. and Meneguzzo, M., “Grassroots democracy and local government in Northern Syria: the case of democratic confederalism. *Local Government Studies*” [2018] 807-825

³⁴ Blattman, C. and Miguel, E., “Civil war. *Journal of Economic literature*” [2010] 3-57.

was to eradicate the terrorism, vandalism in the country, however the perspective was different, so was the approach³⁵. The restrictive approach with authorised intervention with the aim to preserve and secure the people of a country or state is considered legal however unauthorised intervention or authorised intervention that caused more harm to the country instead of good still violates the law.

- State Practise and Opinio Juris

It is considered a state practice in international law that refers to the operations and the practices that are tailed by the sagacity of legal obligation. According to Cook and Kelly Community law is compromised due to two major elements that involve:

- ❖ The subjective acceptance along with the practice of law and the international community is also referred to as the (*Opinio Jurs*)
- ❖ General along with the consistent international practices that are carried by the state³⁶.

Although the state practice is an approach that performs the actual actions by the state, through authorizes representatives in the national laws to air the international laws as judicial decisions are

³⁵ Bricmont, J., “*Humanitarian Imperialism; Using Human Rights to Sell War*. Aakar Books.” [2007]

³⁶ Betlem, G. and Nollkaemper, A., “Giving effect to public international law and European Community law before domestic courts: a comparative analysis of the practice of consistent interpretation. *European Journal of International Law*” [2003] 569-589

considered the deal with international relations³⁷. The state practice is considered the establishment of the CIL that is required to be uniform and consistent³⁸. As it's generally accepted by states for a certain point of time, for instance in the latter, North Sea continental Shelf cases it does not require to be excessively exaggerated. However, in general the state practice in the international law is referred as the practices that is followed by the state senses form the legal obligation. However in case of any alleged intervention by a state to another, the state is required to provide evidence regarding the state practice and the "*Opinio Juris*". The diplomatic records, such as the judicial documents, statement and policies of the state, legislation, regulations, and other records. The "*Opinio Juris*" is the opinion of law or necessity. There are a variety of sources that are used to demonstrate the existence of the "*opinion of law*."

Likewise for a state to go legally against another state, the opponent party must have a legal prove through which they are capable to go intervene in the country and maintain peace in a state or a country that is suffering from the bloodshed and massacre each and every day. The intervention of Syria, there were no legal action involved in it or the "*Opinio Juris*" since the Action of the United States contravene the precepts that were outlined in the UN charter, therefore based on that action for the intervention, it was very well understood that the intervention could lead to major conflict, therefore the United States were supposed take action based on the approval of the UNSC. Therefore the intervention in the case of Syria was also considered illegal³⁹. The fact that the

³⁷ Galbraith, J. and Zaring, D., "Soft law as foreign relations law. *Cornell L. Rev.*," [2013] 735.

³⁸ Cohen, R., "Regulating hate speech: Nothing customary about it. *Chi. J. Int'l L.*," [2014] 229.

³⁹ Stahn, C., "Between law-breaking and law-making: Syria, humanitarian intervention and 'what the law ought to be'. *Journal of Conflict and Security Law*," [2014] .25-48..

international law is violated in numerous wars and intervention is undeniable, however it is later “legitimately” justified as well, as occurred in the “NATO” intervention in Kosovo. Not only the legal position of “*Opinio Juris*” is disregarded by several groups and states but also the international law is violated and the UN charter has taken no action against the violators of the International law.

Likewise there was no record or opinion of the jury was included in the intervention of Syria that made it lawfully illegal. Although in the armed conflict, a distinction is made between the laws and the outlaws of the war or between the “*Jus ad Bellum*”, Specifically for the UN charter that directly prohibits any use of the force in the relations between different states except for cases where self-defence is required or for the collective security of self-defence⁴⁰. In the law “*Jus in bello*” it is clearly suggested that the law is only applicable in armed conflicts only therefore, there is no judgement made on the motives for restoring it, likewise the suggestion of Cook and Kelly regarding the law is equally applicable⁴¹. This approach, however indicates whether the state is liable for an intervention or not as reviewing the state practice of a country the law in authority acts provides their opinion.

Although, the sovereignty of Turkey is tested below, based on the history and international laws mentioned above.

⁴⁰ Gardam, J.G., “Proportionality and force in international law. *American Journal of International Law*, 87(3)” [1993] 391-413.

⁴¹ Woolfe, A., Goodson, M., Goode, D.K., Snell, P., McEwen, G.K., Vavouri, T., Smith, S.F., North, P., Callaway, H., Kelly, K. and Walter, K., “Highly conserved non-coding sequences are associated with vertebrate development. *PLoS biology*” [2005] .e7.

- Sovereignty Test

Sovereignty is considered a political concepts which indicates the dominant power of the supreme authority. The supreme power in a monarchy resides in the “Supreme power” or authority, indicating that the power belongs to the political/ legal party with authority or the king essentially⁴². However in the international law the sovereignty means that the full control over territorial affairs or the geographical affairs, limit or area remains to the government only. However, determining that a certain geographical area is sovereign or not is not abed on any sort of science, however instead it is a matter of diplomatic dispute⁴³⁴⁴.

Although in the case of Syria, It was re-established and seceded from UAR in 1961, with the hope of establishing a name in the world wide map through the contribution of Syria in the global economy, however the fate of Syria was written differently. Syria was an independent Sovereign country ruled by Shukri al-Quwatli. However, when United States and Turkey agreed on the “Secure zone project” in the northern Syria, due to which the sovereignty of Syria was eroded. As the two states were involved in controlling and utilising it a as a puppet. The fact that the Damascus refusal to the acceptance of the intervention - lead towards further complications. However, politically it is believed by lawyers and scholars that Syria lost its sovereignty by the exact minute when Hezbollah Secretary General Hassan Nasrallah, stepped on the Syrian territory, with the aim to allegedly fight terrorism in the state and began slaughtering the innocent Syrian citizens,

⁴² Maritain, J., “The concept of sovereignty. *The American Political Science Review*,” [1950] .343-357.

⁴³ Kelman, I., “*Disaster diplomacy: how disasters affect peace and conflict*. Routledge.” [2011]

⁴⁴ Richmond, O.P., “UN peace operations and the dilemmas of the peacebuilding consensus. *International peacekeeping*,” [2004] 83-101

therefore due to the involvement of different states in the Syria with the aim to establish peace⁴⁵, However the fact that peace is established or the actions used in the intervention are “peaceful” are debatable based on the scholarly perspective⁴⁶.

Lastly, the sovereignty tests indicated that Syria lost its sovereignty due to the civil war and unauthorised interventions in the state⁴⁷.

2nd Chapter – Preconditions of Applying Humanitarian Intervention

Humanitarian intervention is the use or threat of armed action by a state (or states) across borders with the aim of putting an end to egregious and pervasive breaches of human rights in a state where the use of force has not been authorised. Humanitarian intervention refers to acts performed by a group of organisations (often a state or a coalition of states) with the goal of reducing severe human suffering inside the boundaries of a sovereign state. Certain situations involving infractions are required to be handled locally, by local stakeholders. Only instances of extreme brutality and tyranny directed at a large population, such as genocide, ethnic cleansing, or the systematic murder of a religious or national community, can warrant a global response⁴⁸.

⁴⁵ Levitt, M., Hezbollah's Syrian quagmire. *Prism*” [2014] .100-115.

⁴⁶ Richmond, O.P., “UN peace operations and the dilemmas of the peacebuilding consensus. *International peacekeeping*,” [2004] 83-101

⁴⁷ Sarkin, J.J. and Capazorio, R.C., “The Syrian Conflict as a Test Case for the Limits of the International Community and International Law: Global Politics and State Sovereignty Versus Human Rights Protection. *Human Rights Quarterly*,” [2022] 476-513

⁴⁸ Tesón, F.R., The liberal case for humanitarian intervention. [2001] 291661.

The sole purpose of the Humanitarian activities along with the assistance that is to prevent the suffering caused by the crises, indicating that it means the individuals must respond to the manner that is not economic, political or for military objectives as mentioned in the chapter one, such interventions are beneficial for the party that is aiming to intervene in a state for their favourable benefit, therefore in order to distinguish the application or condition of the Humanitarian interventions, it is essential to understand the Undertaking Humanitarian Intervention without Authorization/Consent and the International Organizations Involvement Treaty Based on the internal law.

The fact that the Humanitarian intervention is considered is explored in briefly in the chapter 1 of the study, however this chapter aims to analyse the Humanitarian intervention without consent or (unauthorised intervention) and the impact of the unauthorised intervention on the law and the states involved in it, furthermore the role of the international organisations that are involved in the UN charter and the “peace-making” organisation will also be analysed against the treaty/international polices.

As the issue is complex, and requires delinquent attention towards the situation therefore, the debate for humanitarian intervention is that it may be impossible to stop governments and other organisations from committing crimes against humanity without intervening militarily. Aiming to stop abuses of human rights committed against civilians justifies the majority of humanitarian interventions⁴⁹.

⁴⁹ U.N. Charter appears to support the unilateral, non-coercive, economic and diplomatic humanitarian action. The threat or use of force by members of the Charter is forbidden. U.N

The contradiction between humanitarian intervention and the idea of sovereignty that every state so fervently upholds appears to be the biggest in the international sphere. Also, The U.N. Charter appears to support the unilateral, non-coercive, economic and diplomatic humanitarian action. The threat or use of force by members of the Charter is forbidden. U.N⁵⁰.

There is disagreement about the permission of the Security Council in humanitarian interventions. At the same time, it is accepted as a rule to obtain the permission of the Security Council in order to protect the people of the country from the constant and significant violations of human rights, the view that states or regional organizations can intervene without the permission of the Security Council in cases where the Security Council cannot decide to stop the developing humanitarian emergencies referred to as “unauthorized humanitarian intervention.”

Consequently there are certain issues regarding criticism regarding the unauthorised humanitarian intervention and based on the treaty and the international law policy, the following chapter aims to address and analyse the issue in depth.

- [Undertaking Humanitarian Intervention without Authorization/Consent:](#)

Typically, natural law and early international law are linked to the development of the doctrine of humanitarian intervention. Hugo Grotius, known as the "founder" of international law, was an individual who sought to establish new political and moral norms, as well as clauses relating to the observance of sovereignties and binding contracts, in order to control international relations. He furthered the "just war" philosophy with the emphasis that conflicts could only be permitted if

⁵⁰ Abiew, F.K. ed., “*The evolution of the doctrine and practice of humanitarian intervention*. Martinus Nijhoff Publishers” [1999]

they were founded on precise legal justifications in order to advance international peace⁵¹. In his view, a prince's subjects had the option to revolt in the event of absolute tyranny. If the oppressed people in this situation sought for support from a foreign power, it might be justified to do so. Therefore linked the idea of justifiable resistance to repression to his defence of humanitarian intervention, which was ultimately grounded in the fact that there was no law against the use of force until the 20th century.

Many other famous legal experts later endorsed G. Rotius' concepts of humanitarian action. They were reflected in the majority of literature on the topic in the 19th century⁵². It is generally agreed that, towards the end of the 19th century, the majority of legal experts still recognised a right to humanitarian intervention, despite the fact that the principle of non-intervention gradually gained strength over that century⁵³. The nineteenth-century state practise represented this point of view. Between 1827 and 1908, a number of interventions and interferences within the context of the European Concert and the balance of power occurred; see Chapter V for details. The theory of humanitarian intervention was abandoned by states in the 20th century and slowly lost support in international law. Following World War I, only self-defence and the protection of international peace and security remained justifications for the use of force. The UN Charter and the Pact of Paris of 1928 both made this clear. Therefore based in the legal frameworks the international law

⁵¹ Klose, F. ed., “*The Emergence of Humanitarian Intervention: Ideas and Practice from the Nineteenth Century to the Present.*” [2016] Cambridge University Press.

⁵² Hirono, M., Jiang, Y. and Lanteigne, M., “China's new roles and behaviour in conflict-affected regions: Reconsidering non-interference and non-intervention.” [2019] 573-593.

⁵³ Kleczkowska, A., “The Illegality of Humanitarian Intervention: The Case of the UK's Legal Position Concerning the 2018 Strikes in Syria. *Utrecht J. Int'l & Eur.*” [2020.] 35.

was in the establishment in the early stages, however, the law was applicable and evolved in the 1940s.

In actuality, since 1945, only two intervening States—the UK and Belgium—have expressly cited the humanitarian intervention concept as justification for using force. The UK asserted that the 1991 intervention in Iraq by a coalition of States to ensure the safe return of Kurdish refugees from Iran and Turkey was legal under international law because of the "demonstrably enormous humanitarian necessity" or the "extreme humanitarian need"⁵⁴. Although the UK government insisted that it did not want to use a "formal set of criteria" to determine whether the "degree of suffering" warranted involvement, in the end it cited four criteria, namely that there was:

There were four factors that made the action necessary:

- 1) "A compelling and urgent situation of extreme humanitarian distress that demanded immediate relief"
- 2) A State unwilling or unable to cope with this distress"
- 3) "no other practical alternative to intervening in order to relieve the stress"
- 4) The action was limited in time and scope⁵⁵.

Even though the UK acknowledged that no international organisation had "laid down" the guidelines for such an intervention, it argued that "states' practise does show over a long period of

⁵⁴ Kleczkowska, A., 2020. The Illegality of Humanitarian Intervention: The Case of the UK's Legal Position

Concerning the 2018 Strikes in Syria. *Utrecht J. Int'l & Eur. L.*, 35, p.35.

⁵⁵ Kleczkowska, A., "The Illegality of Humanitarian Intervention: The Case of the UK's Legal Position Concerning the 2018 Strikes in Syria. *Utrecht J. Int'l & Eur*" [2020] .35.

time that it is generally accepted that a state can intervene in another state for humanitarian reasons in extreme circumstances⁵⁶”

The UK government established four requirements that permitted a humanitarian intervention, despite the fact that NATO itself did not specify any legal justification for its intervention⁵⁷ and that the action was harshly criticised by some States:

1. That the use of force must be a last resort.
2. That "the immediate responsibility for halting violence rests with the state in which it occurs"
3. That the government has shown itself to be unable or unwilling to prevent an immediate and massive humanitarian catastrophe.
4. That any use of force must be collective, proportionate, and likely to achieve its goal.
5. That it must be carried out in accordance with international law⁵⁸.

As the UK Defence Secretary noted, "the use of force can be justified as an exceptional measure in support of purposes laid out by the UN Secretary, but without the Council's express authorization, where that is the only means to avert an immediate and overwhelming humanitarian catastrophe." In addition, the UK explained the legality of the intervention by referencing the UN SC's inaction⁵⁹. The so-called "Blair Doctrine," which UK Prime Minister Tony Blair delivered at

⁵⁶ *ibid.* 827, 828.

⁵⁷ Guicherd, C., "International Law and *Survival*" [1999.] 19-34.

⁵⁸ House of Commons Foreign Affairs Committee, "Global security: non-proliferation, fourth report of session 2008-09, report, together with formal minutes, oral and written evidence" [2009]

⁵⁹ Quoted after *ibid* para 134

the Chicago Economic Club in April 1999, likewise reflects the UK's position. The ideal of non-interference is not absolute, according to T. Blair, who made reference to NATO's participation in Kosovo, because "acts of genocide can never be a totally internal phenomenon"⁶⁰.

Additionally, if the crimes perpetrated in the Balkans go unpunished, it might only lead to more violence⁶¹. Belgium, however, asserted that the action was supported by UNSC Resolutions 1160 (1998), 1199 (1998), and 1203 (1998) rather than that there is a customary rule that permits for humanitarian intervention (even though none of them authorised the use of force). Additionally, Belgium used the alternate term "necessity"⁶².

In conclusion, there were differences in the grounds put up by the UK and Belgium because, in contrast to Belgium, the UK set the standards for a legal humanitarian intervention apart from the concept of collective security. Furthermore, even while it said in 1991 that humanitarian action is "generally accepted over a lengthy period of time,"²¹ it did not assert that a customary norm was created as a result of this.

On the other hand, the Belgian Minister of Foreign Affairs stated in 1991 that if there were no legal justifications for the action, states should develop ones in order to defend the oppressed Kurdish community in Iraq⁶³. Additionally, the Belgian Minister emphasised the potential

⁶⁰ Smith, M.A. and Latawski, P., "*The Kosovo crisis and the evolution of a post-Cold War European security.* Manchester University Press." [2003]

⁶¹ Global Policy Forum, *The Blair Doctrine* [1999]

⁶² Ibid, global policy forum.

⁶³ Kleczkowska, A., "The Illegality of Humanitarian Intervention: The Case of the UK's Legal Position Concerning the 2018 Strikes in Syria. *Utrecht J. Int'l & Eur. L*" [2020].35.

significance of the UN SC Resolution 688's fifth paragraph as justification for using force⁶⁴. When Belgium later clarified its position about the NATO intervention in Kosovo before the International Court of Justice in 1999, it expanded on the potential justifications for a humanitarian intervention (ICJ)⁶⁵. It did not assert that this conduct had given rise to a customary rule that would permit a humanitarian intervention. On the other side, Belgium attempted to demonstrate in 1991 and 1999 that the UN SC had in fact authorised the operations by finding legal basis for them in the UN SC resolutions. However, in the end neither the UK nor Belgium provided adequate evidence to support the legality of the use of force in Kosovo and Iraq⁶⁶. Additionally, none of the other States ever made reference to the legal justifications put out by these two States, even though both interventions were met with criticism from a number of States. As a result, it is impossible to say that a conventional rule permitting humanitarian action has developed.

To summarise this section, humanitarian intervention is now prohibited by international law since it is not permitted/authorised by the UN Charter or customary rules. But it's important to note that, despite this legal assessment, some commentators argue that, even though an intervention for humanitarian reasons does not comply with the prohibition against using force, it may still be justified because it upholds certain moral standards that should inform how international law should be interpreted. The Independent International Commission on Kosovo declared following NATO's intervention in Kosovo that the interpretation of the doctrine of humanitarian intervention

⁶⁴ Ibid, The Illegality of Humanitarian Intervention.

⁶⁵ Cooper, M.C., "A Note to States Defending Humanitarian Intervention: Examining Viable Arguments Before the International Court of Justice. *Denv. J. Int'l L. & Pol'y*" [2011] 167.

⁶⁶ Ibid, Note to States Defending Humanitarian Intervention

is "situated in a grey zone of ambiguity between a proposal for an international moral consensus and an extension of international law." The action was "technically unlawful but ethically justified," according to T. M. Franck, who characterised this result as follows: "In essence, this grey zone extends beyond strict concepts of legality to embrace more flexible views of legitimacy⁶⁷". Therefore, in addition to evaluating the legality of the UK's justifications and actions, one must also determine if the involvement in Syria can be described as "legitimate."

- **International Organizations Involvement Treaty Based**

Intergovernmental organisations are common in many international organisations. Intergovernmental organisations are formed when multiple governments join forces to form an international organisation. There are over 300 intergovernmental organisations worldwide

Overview of international organisation:

The United Nations (UN) is the most well-known and largest intergovernmental organisation. At the end of World War II in 1945, governments wanted to avoid future wars. They established the United Nations.

The primary goal of the UN is to maintain peace. A UN peacekeeping mission is when the UN sends representatives to conflict-torn countries or regions. Currently, the UN has peacekeeping missions all over the world. UN peacekeepers are stationed in Sudan, Chad, and the Central

⁶⁷Kleczkowska, A., "The Illegality of Humanitarian Intervention: The Case of the UK's Legal Position Concerning the 2018 Strikes in Syria. *Utrecht J. Int'l & Eur. L*" [2020]35..

African Republic to monitor the Darfur conflict. On the Mediterranean island of Cyprus, UN peacekeepers monitor the buffer zone between Greek and Turkish claims to the island⁶⁸.

The United Nations (UN) has several specialised subgroups, including the World Health Organization (WHO) and the World Bank. WHO is in charge of providing guidance on international health issues, setting standards, and providing information to governments in order for them to make decisions? For example, during the 2009 swine flu outbreak, WHO took the lead? It tracked the spread of the flu, recommended who should get vaccines, and advised people on how to avoid getting sick.

The World Bank is a bank for nations, not for individuals. The World Bank is divided into two groups. The International Development Association, for example, makes loans to the world's poorest people.

The International Development Association, for example, makes loans to the world's poorest countries. The International Bank for Reconstruction and Development, on the other hand, makes loans to developing countries.

Among other things, the UN has organisations devoted to culture (the United Nations Educational, Scientific, and Cultural Organization (UNESCO), justice and law (the International Court of Justice (ICJ), and immigration (the United Nations High Commissioner for Refugees (UNHCR)). Each subgroup has a different headquarters location. The headquarters of the United Nations are located in New York City, New York. The headquarters of the World Health Organization are in Geneva, Switzerland. The World Bank is headquartered in Washington, D.C., and the International

⁶⁸ Cil, D., "United Nations Peacekeeping Missions Active in 2014. In *Peace and Conflict 2016*" [2016] 171-191

Court of Justice is headquartered in The Hague, Netherlands. The majority of the world's countries are members of the UN and its agencies.

Many countries form multi-national regional organisations for military, economic, or political purposes. The North Atlantic Treaty Organization, for example, includes the United States, Canada, many European countries, and Turkey (NATO). NATO is a defence organisation, which means that these nations have agreed to support one another in times of conflict.

Trade is the foundation of other intergovernmental organisations. The Organization of Petroleum Exporting Countries (OPEC) is a group of 12 oil-exporting countries. Many members of OPEC are from the Middle East, including Saudi Arabia, the world's largest oil exporter. However, African countries like Nigeria and South American countries like Venezuela are also members of OPEC. OPEC members meet on a regular basis to discuss issues concerning oil consumption and prices.

[International organisation aimed to maintain peace:](#)

The United Nations Charter, an international treaty, obligates member states to settle their disputes peacefully, so that international peace, security, and justice are not jeopardised. They must refrain from threatening or using force against any state and may refer the dispute to the Security Council.

The UN Charter assigns primary responsibility for international peace and security to the Security Council. When peace is threatened, the Council may convene at any time. In contrast to General Assembly decisions, all UN Member States are required by the UN Charter to carry out Security Council decisions. There are 15 members on the Council. China, France, the Russian Federation, the United Kingdom, The United States is one of the permanent members. The other ten are elected for two-year terms by the General Assembly. Member countries are still debating changes to the

Council's membership and working methods to reflect today's political and economic realities⁶⁹. Council decisions require nine yes votes. Except in votes on procedural issues, a decision cannot be made if a permanent member votes no or vetoes it.

When the Council considers a threat to international peace, it first looks for peaceful solutions. It may suggest to the parties principles for a peaceful settlement, appoint special representatives, request the Secretary-General's offices, or conduct an investigation and mediation. It has developed and refined the use of non-military measures such as arms embargoes, travel bans, and restrictions to prevent the exploitation of natural resources to fuel conflicts, as well as taking the lead in international counter-terrorism coordination. If a dispute has escalated into an armed conflict, the Council attempts to secure a ceasefire. It may dispatch a peacekeeping mission to assist the parties in maintaining the truce and keeping opposing forces apart.

In some cases, the Council may authorise the use of military force by a coalition of member states or a regional organisation or arrangement. This should only be used as a last resort after all other peaceful means of resolving a dispute have been exhausted. The Council has also established international tribunals to prosecute those accused of grave human rights violations and serious breaches of international humanitarian law, including genocide, in order to hold combatants accountable for their actions.

In addition to maintaining international peace and security, the Council makes recommendations to the General Assembly on the appointment of a new Secretary-General and the admission of new members to the UN.

⁶⁹ Malik, J.M., "Security Council reform: China signals its veto. *World Policy Journal*" [2005] 19-29.

Security Council decisions are formal expressions of the Council's will. In contrast to General Assembly decisions, those made by the Security Council are legally binding. According to Article 25 of the UN Charter, "the Members of the United Nations agree to accept and carry out the decisions of the General Assembly."⁷⁰

The Council has also established international tribunals to prosecute those accused of grave human rights violations and serious breaches of international humanitarian law, including genocide, in order to hold combatants accountable for their actions.

The Security Council, like the General Assembly, makes the majority of its decisions by consensus. When there is no consensus and decisions must be voted on, the minimum number of votes required to act on an issue is determined by whether the item is procedural or substantive. Each member of the Security Council has one vote, according to UN Charter Article 27 [⁷¹]. Procedural decisions require a minimum of nine "yes" votes. All other Security Council decisions are required. A minimum of nine 'yes' votes, including the permanent members' concurring votes. Any member involved in a dispute must abstain from voting.

Except for votes on procedural questions, which are decided by a simple majority, action on an issue brought before the Security Council cannot be taken if any of the permanent members votes 'no' on a draught resolution. The ability of a permanent member to prevent the adoption of a draught resolution by voting "no" is referred to as "veto power." The distinction between what is considered a procedural decision and what is considered substantive is intriguing. The General

⁷⁰ Higgins, R., "The Advisory opinion on Namibia*: Which un Resolutions are Binding under Article 25 of the Charter?". *International & Comparative Law Quarterly*" [1972] 270-286

⁷¹ Bush, G., "National security strategy of the United States. White House." [1991]

Assembly made recommendations to the Security Council in A/RES/267 (III), which was adopted in April 1949⁷².

Security Council decisions are formal expressions of the Council's will. In contrast to General Assembly decisions, those made by the Security Council are legally binding. According to Article 25 of the UN Charter, "the Members of the United Nations agree to accept and carry out the Security Council's decisions in accordance with the present Charter.

3rd Chapter- Assessment of Syria's Case

Many states have displayed different attitudes in the armed conflicts in Syria and have been directly or indirectly involved in the conflicts in this region. For this reason, non-international armed conflicts in Syria have turned into international armed conflicts. Meanwhile, the United Nations and the Security Council have taken various decisions regarding the conflicts in this region. However, none of these decisions ended the civil war and caused the problems to deepen.

- **NATO Military Interventions**

NATO, or the Northern Atlantic Treaty Organization, is an intergovernmental alliance that brings together military forces from various member countries. NATO has 28 members, with an additional 22 countries participating in the peace partnership. NATO's primary responsibility is to keep the world at peace and secure. NATO's primary goal is to peacefully resolve conflicts or disputes that threaten the stability of a nation or region. Diplomacy takes precedence in NATO

⁷² Taft, W.H. and Buchwald, T.F., "Preemption, Iraq, and international law. *American Journal of International Law*, 97(3) [2003] 557-563..

operations, but if it fails, military action is used⁷³. NATO currently has approximately 18,000 soldiers serving in missions around the world. NATO has previously been involved in some of the missions that have shaped the history of nations and regions. Among the major NATO military interventions are:

Iraq invaded Kuwait on August 2, 1990, accusing it of stealing petroleum. Other sources said Iraq planned the attack months before the invasion because it couldn't pay back the money it borrowed to fight Iran. Western countries suspected Iraq was after Kuwait's oil. Within two days of Iraq's invasion of Kuwait, Saddam declared Kuwait to be Iraq's 19th province. Most countries, including the Arab League, condemned Iraq. The UN Security Council demanded that Iraq withdraw unconditionally from Kuwait, but Iraq refused. Iraq was then given a deadline of January 15, 1991, or face military action⁷⁴. During this time, the operation Anchor Guard was established. The ace guard fought in the Gulf War to liberate Kuwait from Iraq's invasion. NATO established the Ace Guard in 1991 as part of a military strategy to drive Iraq out of Kuwait. This strategy was implemented in response to Turkey's request, as Iraq was overwhelming them. Ace Mobile Force and air defence packages were deployed to Turkey. The intervention was a huge success, and Kuwait's sovereignty was restored on March 9, 1991.

The Bosnian war broke out in 1992 as a result of Yugoslavia's disintegration. The situation was deteriorating, attracting the attention of the United Nations Security Council. In October 1992, the

⁷³ Simma, B., "NATO, the UN and the Use of Force: Legal Aspects. *European Journal of international law*, 10" [1999] 1-22

⁷⁴ Guzina, D., "Kosovo or Kosova—Could It Be Both? The Case of Interlocking Serbian and Albanian Nationalisms. In *Understanding the war in Kosovo* [2004] 45-66

United Nations Security Council passed a resolution establishing Operation No Fly. From June 1993 to 1996, NATO imposed the operation to deny flight. Several NATO operations would follow, with the Bosnian War continuing. In 1995, a two-week air bombing campaign ended the Yugoslav War. In Kosovo, Slobodan Milosevic led a crackdown on KLA separatists and Albanian civilians. The UN Security Council passed a resolution in 1998 calling for a cease-fire, but negotiations were halted in March 1999. On March 24, 1999, NATO had no choice but to launch Operation Allied Force.

- [Kosovo Intervention](#)

Prior to NATO's intervention, the UN Security Council denounced both the Serbs' excessive use of force against civilians and the Kosovo Liberation Army's terrorist acts in resolutions 1160, 1199, and 1203 on Kosovo to avoid a humanitarian tragedy for both sides made a call, determining that the situation posed a threat to regional peace and security, and emphasizing the importance of resolving the issue within the framework of Yugoslavia's territorial integrity. None of the resolutions contain a provision allowing military intervention for humanitarian reasons.

On the day of the intervention, both in UN Security Council meetings and later in the UN General Assembly, the question of whether the NATO intervention was a practice that would serve as a basis for the addition of a new exception to the exceptions regarding the use of force ⁷⁵, in a way that would constitute a right to a humanitarian intervention based on customary law, was answered.

⁷⁵ Nardin, T., "From right to intervene to duty to protect: Michael Walzer on humanitarian intervention. *European Journal of International Law*" [2013] 67-82.

Given the positions taken by states on intervention in their activities, it is impossible to give a positive answer.

Kosovo conflict, (1998-99) conflict in Kosovo between ethnic Albanians and the government of Yugoslavia (the rump of the former federal state, consisting of the republics of Serbia and Montenegro). The conflict drew widespread international attention and was resolved thanks to the North Atlantic Treaty Organization's intervention (NATO).

In 1989, Ibrahim Rugova, the leader of the ethnic Albanians in the Serbian province of Kosovo, launched a nonviolent protest against the abrogation of the province's constitutional autonomy by Slobodan Miloevi, the president of the Serbian republic at the time⁷⁶. Miloevi and members of Kosovo's Serbian minority had long objected to Muslim Albanians having demographic control over an area considered sacred to Serbs.

(Kosovo was also the site of the Turkish defeat of the Serbs in 1389 and the Serbian victory over the Turks in 1912.) Tensions between the two ethnic groups grew, and the international community's refusal to address the issue aided Rugova's more radical opponents, who argued that their demands could not be met peacefully. The Kosovo Liberation Army (KLA) was founded in 1996, and its sporadic attacks on Serbian police and politicians grew steadily over the next two years.

By 1998, the KLA's actions could be considered a significant armed uprising. Serbian special police and, later, Yugoslav armed forces attempted to retake control of the region. Atrocities

⁷⁶ Pargeter, A., *Libya: The rise and fall of Qaddafi*. Yale University Press." [2012]

committed by the police, paramilitary groups, and the army displaced a large number of people, and the situation was widely publicised in the international media. The Contact Group, a loose alliance of the United States, the United Kingdom, Germany, France, Italy, and Russia, demanded a cease-fire, the withdrawal of Yugoslav and Serbian forces from Kosovo, the return of refugees, and unrestricted access for international monitors. Milošević, who became President of Yugoslavia in 1997, agreed to meet most of the demands but did not follow through on them. During the cease-fire, the KLA regrouped and rearmed before resuming its attacks. The Yugoslav and Serbian forces responded with a ruthless counteroffensive and an ethnic cleansing programme. The UN Security Council condemned the use of excessive force and imposed an arms embargo, but the violence continued.

- **Libya Intervention:**

Libya and NATO's intervention there in 2011 have become synonymous with failure, disaster, and the Middle East being a "massacre" to use President Obama's colourful phrase. It's never been more important to challenge conventional wisdom, because how it is interpreted in Libya affects how it is interpreted in Syria, and, more importantly, how it is evaluated as Obama's foreign policy legacy.

Of course, Libya is a disaster, as anyone can see, and Americans are right to wonder if the intervention was a mistake. However, just because something is reasonable does not make it right.

Even with the benefit of hindsight, most criticisms of the intervention fall short. It is undeniable that the intervention did not result in anything resembling a stable democracy⁷⁷. This, however, was never the intention. The mission was to protect civilians and avoid a massacre.

⁷⁷ Mead, W.R., "*Special providence: American foreign policy and how it changed the world*." Routledge." [2013].

Critics incorrectly compare Libya today to a variety of false ideals, but this is not the correct way to assess the intervention's success or failure. To do so, people must compare Libya today to Libya as it would have been had not intervened. By that metric, the Libya intervention was a success: the country is better off today than if the international community had allowed Dictator Muammar Qaddafi to continue his rampage across the country⁷⁸.

Critics also claim that the intervention precipitated, created, or contributed to civil war. In fact, the civil war had already begun before the intervention. Today's chaos, violence, and general insecurity are more likely to be linked to the international community's failures after intervention than to the original intervention.

The fact that the Libya intervention and its legacy have been distorted or misunderstood is evidence of a distorted foreign policy discourse in the United States, where anything short of success—in this case, Libya quickly becoming a stable, relatively democratic country—is viewed as a failure. NATO intervened to protect citizens, not to establish a democracy.

The goal of the intervention, as stated in the United Nations Security Council resolution authorising force in Libya, was "to protect civilians and civilian populated areas under threat of attack." And this is exactly what happened⁷⁹.

⁷⁸ Malone, D. and Malone, R.D.M. eds., "*The UN Security Council: from the Cold War to the 21st century*. Lynne Rienner Publishers." [2004]

⁷⁹ Mead, W.R., 2013. *Special providence: American foreign policy and how it changed the world*. Routledge.

Protests against Qaddafi erupted across the country in February 2011. The regime used lethal force to respond to the nascent protest movement, killing more than 100 people in the first few days, effectively sparking an armed rebellion. However, the rebels quickly lost steam.

Conclusions

The Syrian civil war has captivated the attention of both state and non-state actors in the international system. The conflict has also seen numerous interventions from these actors, most notably the US, raising concerns about such actions. This study contends that the United States of America's interventions are not legal and, as such, constitute a violation of international law. This study suggests that the UN take a tougher stance against unauthorised interventions. To that end, the UN must enact sanctions against any member state that violates the procedures governing humanitarian interventions. The study also suggests that sanctions be imposed on nations that violate international law's precepts and positions. Syria's use of chemical weapons against its own people is unquestionably illegal under international law. Syria was bound to uphold the values of the Universal Declaration of Human Rights as a member of the United Nations, and as a signatory to the 1925 Geneva Protocol, Syria was prohibited from using chemical weapons.

Furthermore, because the Chemical Weapons Convention is almost universally accepted, Syria was bound by its terms under customary international law. To maintain social and political order, the principles of non-intervention enshrined in the United Nations Charter should be preserved. However, the terms of the Charter impose constraints on nations that genuinely desire to participate. However, the terms of the Charter also limit nations that genuinely want to make a difference when human rights violations occur. The humanitarian intervention doctrine and the

means of ensuring the safety and protection of innocent lives from tyranny. The United States is not only a permanent member of the Security Council.

Council, but also as one of the world's most powerful nations, is ready to intervene when grave human rights violations occur. Though the US has not taken action in every instance of such violations, Syria presents a unique situation due to the gravity of the crime's implications for global security. As a result, the United States and other nations should be able to intervene and fulfil their obligations.

As a result, the United States and other countries should be able to intervene and fulfil their responsibility to protect when acts, such as the use of chemical weapons, demonstrate extreme disregard for and brutality against the innocent and can easily be perpetrated across borders. As former President Obama stated, the responsibility to protect allows for very limited flexibility within the constraints of the Charter. While it is still in its early stages, this emerging doctrine is a step in the right direction.

Too many times throughout history, the UN has ignored clear warning signs of human rights violations. Because of ambivalence or political agendas, it did so in Rwanda, Cambodia, and the Balkans. "The United Nations and its Member States continue to fall short of meeting their most basic prevention and protection responsibilities." It must improve and it can. History demands it, and humanity expects it." As a series of Security Council Resolutions confirm, everything should be done to protect and assist civilians⁸⁰.

⁸⁰ Saul, B., "Definition of "terrorism" in the UN Security Council: 1985–2004. *Chinese Journal of International Law* [2005].141-166..

Nothing exemplifies the P5's failure more than the fact that the Security Council issued an unequivocal statement to this effect only in October 2013, by which time it was far too late (and even then in the form of a non-binding Presidential Statement rather than a Resolution)⁸¹.

If the people cannot agree to go to war to protect human life, they can at least insist on compliance with international humanitarian and human rights law, and articulate practical measures to make it a reality, such as humanitarian workers' freedom of access and civilian evacuation from war zones.

Immediate efforts should focus on strengthening Russia's grasp of humanitarian values and how they might be used to conduct effective operations. International organisations should at the very least pressure Russian corporations to separate themselves from the Russian state and military, as well as the Syrian military. This distance should cover executive, board, and operational characters inside a company in particular. This will reinforce these institutions' non-partisan reputations, allowing them to create confidence and successful long-term collaborations on the ground, as well as assist them build resilience to any future changes in Russian-Syrian relations.

Strong efforts should also be made to urge Russian humanitarian agencies, particularly UNOCHA, to integrate with Syria's current coordinating mechanisms. This contains officially registered and running Russian companies.

⁸¹ Saul, B., "Definition of "terrorism" in the UN Security Council: 1985–2004. *Chinese Journal of International Law*" [2005].141-166.

This includes Russian entities formally registering and functioning in Syria (for example, in collaboration with a local partner), as western NGOs do now. Leaving Russian entities outside of these mechanisms will only enhance their positions, damage current institutions, and expose the shadow assistance system to potential political manipulation by the Russian or Syrian states.

Finally, more experienced foreign entities should try to give major help to Russian entities in order to focus on best practises such as combating corruption, promoting transparency, and building long-term sustainable programming.

These efforts are contingent on addressing the elephant in the room: the present complicated humanitarian scenario in Syria is still primarily controlled by the Syrian regime and will most likely remain so. Finally, if nothing changes in how the regime views international help, ordinary Syrians will continue to suffer.

Bibliography

- Thomas, N. and Tow, W.T, “The utility of human security: sovereignty and humanitarian intervention.” *Security Dialogue*, [2002] 33(2), pp.177-192.
- Murphy, S.D., “*Humanitarian intervention: the United Nations in an evolving world order*” [1996] UPP (Vol. 21).
- Allan, C. and O'Donnell, T., “An Offer You Cannot Refuse: Natural Disasters, the Politics of Aid Refusal and Potential Legal Implications” [2013] *LF*, 5, p.36.
- Ferris, E., Kirişçi, K. and Shaikh, S, “*Syrian crisis: massive displacement, dire needs and a shortage of solutions.*” [2013] Brookings Institution.
- Zahler, K.A., “*The Assads' Syria.*” [2009] Twenty-First Century Books.
- UN, “*Report of the International Law Commission*” 18th Session. [1966] ILC II 248
- T. Oppermann “*Intervention*, Bernhardt (ed.), *Encyclopedia Of Public International Law (3) Use Of Force, War and Neutrality, Peace Treaties* (North-Holland Publishing Company”, [1982] 232
- Terry, P.C, “The Libya intervention (2011): neither lawful, nor successful. *Comparative and International Law Journal of Southern Africa*, 48(2)” [2015] 162-182.
- Layachi, O.B., “The Role Of International Humanitarian Intervention In Containing The Repercussions Of Covid-19 During Non International Armed Conflicts: Libya, Yemen, And Syria.” [2015] .1-38.
- Seybolt, T.B., “*Humanitarian military intervention: the conditions for success and failure.* Oxford University Press, USA.” [2007]
- Evans, G., “When is it Right to Fight?. *Survival*, 46(3),” [2007] 59-81.

Williams, P.D. and Bellamy, A.J., “The responsibility to protect and the crisis in Darfur” [2007] .27-47.

Seybolt, T.B., “*Humanitarian military intervention: the conditions for success and failure.*” [2007] Oxford University Press, USA.

Averre, D. and Davies, L., “Russia, humanitarian intervention and the Responsibility to Protect: the case of Syria.” [2015] 813-834.

Fox, F., “Conditioning the Right to Humanitarian Aid? Human Rights and the ‘New Humanitarianism’” [2002] 19-37.

Ramirez, J.A., “Iraq War: Anticipatory self-defense or unlawful unilateralism.” [2003]. *Cal. W. Int'l LJ*, 34, p.1

Roberts, G., “The Uganda–Tanzania War, the fall of Idi Amin, and the failure of African diplomacy 1978–1979” [2014] 692-709.

Fox, G.H., “Vietnamese Intervention in Cambodia-1978.” [2017] *SSRN 3040646*.

Roberts, G., “The Uganda–Tanzania War, the fall of Idi Amin, and the failure of African diplomacy, 1978–1979” [2014] .692-709.

Caron, D.D., “The legitimacy of the collective authority of the Security Council.” [1993] 552-588.

Bellamy, A.J. and Williams, P.D., “The UN Security Council and the question of humanitarian intervention in Darfur” [2006] .144-160.

Mary Ellen O'Connell. "The UN, NATO, and International Law after Kosovo." *Human Rights Quarterly* [2000] 88–89.

“Statements by Russia and China, in UN Security Council” [1999] S/PV.3988.

- Bruno Simma. "NATO, the UN and the Use of Force: Legal Aspects." *The European Journal of International Law* [1999] 1–22
- Gowlland-Debbas, V. and Tehindrazanarivelo, D.L. eds, “National implementation of United Nations sanctions: A comparative study.” [2004]
- O'Connell, M.E., “The UN, NATO, and international law after Kosovo. Hum. Rts.” [2000] 57.
- Cassese, A., “Ex iniuria ius oritur: are we moving towards international legitimation of forcible humanitarian countermeasures in the world community? *European Journal of International Law*,” [1999] .23-30.
- Harhoff, F., “Unauthorised Humanitarian Interventions– Armed Violence in the Name of Humanity?. *Nordic Journal of International Law*” [2001] 65-119.
- Nathan, L., “‘When push comes to shove’: the failure of international mediation in African civil wars: occasional paper. *Track Two: Constructive Approaches to Community and Political Conflict*,” [1999] 8(2).
- Karim, S. and Islam, N.M., “Syrian crisis: Geopolitics and implications. *BISS Journal*,” [2017.] 37(2).
- Allison, R., “The Russian case for military intervention in Georgia: international law, norms and political calculation. *European security*” [2009] 173-200.
- Colasanti, N., Frondizi, R., Liddle, J. and Meneguzzo, M., “Grassroots democracy and local government in Northern Syria: the case of democratic confederalism. *Local Government Studies*” [2018] 807-825.
- Blattman, C. and Miguel, E., “Civil war. *Journal of Economic literature*” [2010] 3-57.

Bricmont, J., “*Humanitarian Imperialism; Using Human Rights to Sell War*. Aakar Books.”
[2007]

Betlem, G. and Nollkaemper, A., “Giving effect to public international law and European
Community law before domestic courts: a comparative analysis of the practice of
consistent interpretation. *European Journal of International Law*” [2003] 569-589.

Galbraith, J. and Zaring, D., “Soft law as foreign relations law. *Cornell L. Rev.*,” [2013] 735.

Cohen, R., “Regulating hate speech: Nothing customary about it. *Chi. J. Int’l L.*,” [2014] 229.

Stahn, C., “Between law-breaking and law-making: Syria, humanitarian intervention and ‘what
the law ought to be’. *Journal of Conflict and Security Law*,” [2014] .25-48.

Gardam, J.G., “Proportionality and force in international law. *American Journal of International
Law*, 87(3)” [1993] 391-413.

Woolfe, A., Goodson, M., Goode, D.K., Snell, P., McEwen, G.K., Vavouri, T., Smith, S.F.,
North, P., Callaway, H., Kelly, K. and Walter, K., “Highly conserved non-coding
sequences are associated with vertebrate development. *PLoS biology*” [2005] .e7.

Maritain, J., “The concept of sovereignty. *The American Political Science Review*,” [1950] .343-
357.

Kelman, I., “*Disaster diplomacy: how disasters affect peace and conflict*. Routledge.” [2011]

Levitt, M., Hezbollah's Syrian quagmire. *Prism*” [2014] .100-115.

Richmond, O.P., “UN peace operations and the dilemmas of the peacebuilding
consensus. *International peacekeeping*,” [2004] 83-101.

Sarkin, J.J. and Capazorio, R.C., “The Syrian Conflict as a Test Case for the Limits of the
International Community and International Law: Global Politics and State Sovereignty
Versus Human Rights Protection. *Human Rights Quarterly*,” [2022] 476-513.

Tesón, F.R., *The liberal case for humanitarian intervention*. [2001] 291661.

U.N. Charter appears to support the unilateral, non-coercive, economic and diplomatic humanitarian action. The threat or use of force by members of the Charter is forbidden.

U.N

Abiew, F.K. ed., *“The evolution of the doctrine and practice of humanitarian intervention*. Martinus Nijhoff Publishers” [1999]

Klose, F. ed., *“The Emergence of Humanitarian Intervention: Ideas and Practice from the Nineteenth Century to the Present.”* [2016] Cambridge University Press.

Hirono, M., Jiang, Y. and Lanteigne, M., “China's new roles and behaviour in conflict-affected regions: Reconsidering non-interference and non-intervention.” [2019] 573-593.

Kleczkowska, A., “The Illegality of Humanitarian Intervention: The Case of the UK's Legal Position Concerning the 2018 Strikes in Syria. *Utrecht J. Int'l & Eur.*” [2020.] 35.

Kleczkowska, A., “The Illegality of Humanitarian Intervention: The Case of the UK's Legal Position Concerning the 2018 Strikes in Syria. *Utrecht J. Int'l & Eur.*” [2020] .35.

¹⁰ibid. 827, 828.

Guicherd, C., “International Law and. *Survival*” [1999.] 19-34.

House of Commons Foreign Affairs Committee, *“Global security: non-proliferation, fourth report of session 2008-09, report, together with formal minutes, oral and written evidence”* [2009]

Quoted after ibid para 134

Smith, M.A. and Latawski, P., *“The Kosovo crisis and the evolution of a post-Cold War European security*. Manchester University Press.” [2003]

Global Policy Forum, *The Blair Doctrine* [1999]

Ibid, global policy forum.

Kleczkowska, A., “The Illegality of Humanitarian Intervention: The Case of the UK's Legal Position Concerning the 2018 Strikes in Syria. *Utrecht J. Int'l & Eur. L*” [2020].35.

Ibid, The Illegality of Humanitarian Intervention.

Cooper, M.C., “A Note to States Defending Humanitarian Intervention: Examining Viable Arguments Before the International Court of Justice. *Denv. J. Int'l L. & Pol'y*” [2011] 167.

Ibid, Note to States Defending Humanitarian Intervention

Kleczkowska, A., “The Illegality of Humanitarian Intervention: The Case of the UK's Legal Position Concerning the 2018 Strikes in Syria. *Utrecht J. Int'l & Eur. L*” [2020]35.

Cil, D., “United Nations Peacekeeping Missions Active in 2014. In *Peace and Conflict 2016*” [2016] 171-191

Malik, J.M., “Security Council reform: China signals its veto. *World Policy Journal*” [2005] 19-29.

Higgins, R., “The Advisory opinion on Namibia*: Which un Resolutions are Binding under Article 25 of the Charter?. *International & Comparative Law Quarterly*” [1972] 270-286.

Melling, G. and Dennett, A., “The Security Council veto and Syria: responding to mass atrocities through the “Uniting for Peace” resolution. *Indian Journal of International Law*” [2017] 285-307.

Higgins, R., “The Advisory opinion on Namibia*: Which un Resolutions are Binding under Article 25 of the Charter?. *International & Comparative Law Quarterly*” [1972] 270-286.

- Bush, G., “*National security strategy of the United States*. White House.” [1991]
- Taft, W.H. and Buchwald, T.F., “Preemption, Iraq, and international law. *American Journal of International Law*, 97(3) [2003] 557-563.
- Simma, B., “NATO, the UN and the Use of Force: Legal Aspects. *European Journal of international law*, 10” [1999] 1-22.
- Guzina, D., “Kosovo or Kosova—Could It Be Both? The Case of Interlocking Serbian and Albanian Nationalisms. In *Understanding the war in Kosovo* [2004] 45-66
- Nardin, T., “From right to intervene to duty to protect: Michael Walzer on humanitarian intervention. *European Journal of International Law*” [2013] 67-82.
- Pargeter, A., “*Libya: The rise and fall of Qaddafi*. Yale University Press.” [2012]
- Mead, W.R., “*Special providence: American foreign policy and how it changed the world*. Routledge.” [2013]
- Malone, D. and Malone, R.D.M. eds., “*The UN Security Council: from the Cold War to the 21st century*. Lynne Rienner Publishers.” [2004]
- Saul, B., “Definition of “terrorism” in the UN Security Council: 1985–2004. *Chinese Journal of International Law*” [2005].141-166.