

**ARMED INTERVENTION TO DEFEND HUMAN RIGHTS:  
A Discussion Paper**

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## **I. INTRODUCTION**

### **Background**

- (1) At the time of the Lutheran World Federation (LWF) Council meeting in Bratislava (22-29 June 1999), the North Atlantic Treaty Organization (NATO) intervention in the Federal Republic of Yugoslavia (FRY) had recently come to an end. On 10 June 1999, following the start of the withdrawal of the armed forces of the FRY from Kosovo, NATO concluded its 11-week bombing campaign.
- (2) The NATO campaign drew its claim to moral legitimacy from the international outcry against the brutal ethnic cleansing of Kosovo carried out by Serbian forces, and against the atrocities and abuses perpetrated upon ethnic Albanian Kosovars.<sup>1</sup>

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<sup>1</sup> Documented, for example, in the the Human Rights Watch report *A Week of Terror in Drenica: Humanitarian Law Violations in Kosovo* (February 1999), and in the Amnesty International reports *Background: A Crisis Waiting to Happen*, June 1998 (EUR 70/32/98); *Drenica, February-April 1998: Unlawful killings, extrajudicial executions and armed opposition abuses*, June 1998 (EUR 70/33/98); *Deaths in Custody, Torture and Ill-Treatment*, June 1998 (EUR 70/34/98); *Unfair Trials and Abuses of Due Process*, June 1998 (EUR 70/35/98); *A Pattern Repeated. Ljubenic and Poklek: Extrajudicial Executions, Excessive Use of Force and 'Disappearances'*, July 1998 (EUR 70/46/98); *Human*

- (3) However, civilians - Serb, ethnic Albanian and others - suffered considerably during the NATO campaign, both as direct casualties of the high-altitude bombing and as a result of the destruction of infrastructure throughout the FRY. The economic and social impacts upon neighbouring communities and nations also proved to be very serious.
- (4) Consequently, there was intensive discussion at the LWF Council meeting of the impact of these events upon the churches and people of the whole FRY and neighbouring countries, as well as of the ethical issues surrounding the notion of armed intervention to defend human rights. This discussion was also framed in a broader global context, including situations of equally serious humanitarian and human rights emergency which had not attracted the same level of international concern and engagement as that in Kosovo.

### **Mandate**

- (5) Following this discussion, the LWF Council asked the General Secretary to “*institute a process of inter-departmental reflection on the theological and ethical implications of the concept of **armed intervention to defend human rights**, for example as practised by NATO in the Federal Republic of Yugoslavia, with a view to further discussion of this issue by the LWF Council at its next meeting*”.
- (6) This discussion paper is presented in response to this request.

### **Methodology**

- (7) The responsibility for undertaking the inter-departmental reflection process was delegated to the Staff Working Team on International Affairs and Human Rights, comprising representatives of the Department of Mission and Development (all area desk officers and the Women in Church and Society and the Youth in Church and Society desks), the Department for World Service (Development Education Officer and Programme Secretary/Refugees), the Department for Theology and Studies, and chaired by the Assistant to the General Secretary for International Affairs and Human Rights.
- (8) The paper is based upon a review of previous studies and stances by the LWF on this and related topics; of a review of recent writings and commentaries by legal scholars, ethicists and theologians; and of interdepartmental discussions within the LWF’s Staff Working Team on International Affairs and Human Rights.
- (9) Much of the core content of this paper also reflects detailed discussion which took place in the context of a **consultation convened by the World Council of Churches on 6-8 April 2000** with a panel of invited experts, a number of them from member churches of the LWF. In this consultation, perspectives from a range of different national and regional contexts were introduced (including from Brazil, Cameroon, Canada, Colombia, Costa Rica, Cyprus, Germany,

Haiti, Iceland, Japan, Kenya, Kosovo (Federal Republic of Yugoslavia), Norway, Pakistan, the Russian Federation, Sierra Leone, South Africa, the South Pacific, and the United States), as well as from a range of different fields of expertise (including theology, ethics, sociology, political science, human rights and military chaplaincy).

### Terminology and Definition

- (10) The mandate given by the LWF Council refers specifically to "armed intervention to defend human rights". Therefore, other forms of intervention such as economic sanctions or diplomatic measures are not covered in detail in this paper.
- (11) The idea of "armed intervention to defend human rights" is commonly referred to in the relevant literature by the expression **humanitarian intervention**. An authoritative definition of this term is given by Professor Wil D. Verwey: "the protection by a state or group of states of fundamental human rights, in particular the right to life, of nationals of, and residing in, the territory of other states, involving the use or threat of force, such protection taking place neither upon the authorization by the relevant organs of the [United Nations] nor upon invitation by the legitimate government of the target state."<sup>2</sup>
- (12) However, many other commentators do not limit 'humanitarian intervention' to interventions taking place outside of a UN mandate. Without presuming to determine the correct legal definition of the term 'humanitarian intervention', this paper treats the topic from the broader perspective (i.e. including interventions for humanitarian purposes whether with or without a UN Security Council mandate, but in either event without the consent of the government of the subject state).
- (13) In view of the specific terms of the mandate from the Council, the discussion undertaken in this paper is also primarily in relation to interventions intended to respond to gross violations of human rights and to change the political environment which allowed those violations to take place. Military-supported delivery of humanitarian assistance in the form of food and non-food items is a related but discrete topic, although the area of overlap is considerable (as is apparent in such examples as the enforcement of the no-fly zone in northern Iraq to enable delivery of humanitarian assistance to the Kurdish population).
- (14) In any event, the term 'humanitarian intervention' is itself open to question as an ethical oxymoron. To apply the adjective 'humanitarian' to the practice of military intervention (which must always

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<sup>2</sup> Verwey, Professor Wil D., *Humanitarian Intervention*, in *The Current Legal Regulation of the Use of Force* (Cassese, A., ed., 1986) 57, 59. Dino Kritsiotis also places similar restrictions upon the definition of 'humanitarian intervention': "Where the UN has authorized force...the intervention may be classified as a precedent under the enforcement powers of the Security Council under Chapter VII of the United Nations Charter. They are not precedents under 'humanitarian intervention' as it has traditionally been understood. Nor do instances of the use of force by states to protect their own nationals fall to be considered under 'humanitarian intervention'. These are either an element of the right of self-defence or a separate conceptual head for intervention altogether..."; "...intervention to protect human rights is a much broader conceptual configuration than humanitarian intervention and may more properly be equated with what is known as political - or ideological - intervention." (Kritsiotis, Dino, *Reappraising Policy Objections to Humanitarian Intervention* 19 Michigan Journal of International Law 1005 (Summer 1998))

contemplate resulting in the loss of human life) is considered to be deeply problematic from a theological and ethical point of view. Hence the term 'armed intervention for humanitarian purposes' is generally to be preferred.

## II. THEOLOGICAL BASES

- (15) The humanitarian purposes that provoke the need for armed intervention are theologically grounded. All human beings are created in the image of God, with sacred dignity and equal worth. This fundamental theological affirmation is expressed through advocacy for the human rights of all people, especially when these are threatened. When human dignity or worth is being violated, out of compassion and neighbour-love we are moved to respond in human solidarity with those who suffer.
- (16) Human rights are established and realized in community with others. The long-term, ongoing work of protecting and enabling such communities to flourish is what working for peace and justice entails. The challenge is to maintain a healthy balance between the community's interests and security and the rights of individuals - especially of those who may be of a minority or otherwise vulnerable or marginalized.
- (17) In the Augsburg Confession, government is viewed as "instituted and ordained by God for the sake of good order" (CA 16). Government is possible because human beings have the God-given capacity to order their common life in relative justice (civil righteousness); it is necessary because of the destructive tendencies of sin in society. Sin and human limitations make government necessary, but they also can corrupt those with the responsibility of governing. Government is to provide the conditions by which human life in community with others and the rest of creation can be preserved and furthered. When it does not do so, it loses its God-given legitimacy. If it blatantly ignores or violates these responsibilities, the sovereignty of its rule can no longer be assumed.
- (18) Sin, as a violation of what God intends, is an ever-present reality. Structures, policies, and practices in all kinds of contexts and situations compromise and violate human rights. Power is used to advance interests that do not serve the welfare of human beings, of communities, of the rest of creation. In some extreme situations, power is misused in blatant ways that lead to massive violations of human rights and devastating destruction of communities. Such violations are either generated by the ruling authorities or are violations that these authorities lack the capacity to counter. It is to such blatant, systemic manifestations of sin – which becomes evil – that our focus is drawn when the question of armed intervention to defend human rights is considered.
- (19) The ethical dilemma of armed intervention is that it is a violent means for seeking to redress such violations. Some are opposed in principle to any use of violence for the purpose of ending or lessening violence; violence begets more violence. Others contend that decisive actions are needed to stop what is likely to be even greater violence.

**AGENDA**

**EXHIBIT 17.3**

MEETING OF THE LWF COUNCIL

Turku, Finland, 14-21 June 2000

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- (20) How shall we as a communion of churches respond to this difficult ethical dilemma as it manifests itself in different kinds of situations around the world?

III. LWF STUDIES AND STANCES

- (21) From 1991 to 1993, the LWF Department of Theology and Studies was actively engaged in study and discussion of **Article 16 of the Augsburg Confession** within an overall study process on the topic of peace and justice. The LWF Council decided in 1991 *"that a process of international consultations about the subject of the 'Just War' leading to a conciliar process considering particular approaches to the confessional heritage (CA 16) together with experiences of violence in different contexts be planned and carried out through the Department of Theology and Studies."*
- (22) This process continued until the publication in 1993 of **"War, Confession and Conciliarity: What does 'just war' in the Augsburg Confession mean today?"**.<sup>3</sup> This publication highlighted the extent to which just war doctrine had been called into question "as a consequence of the scientific-technical age and the historical as well as social developments of the twentieth century, not least of which are the experiences of the world wars."<sup>4</sup> In the light of developments in military technology and strategy, "It is fundamentally questioned whether war may still be conducted as the continuation of politics by other means."<sup>5</sup>
- (23) Amongst other critical questions raised by this study were that:
- In most cases the *causa iusta* (just cause) can hardly still be identified because the background for a war lies above all in social and economic injustices, in historically developed enemy images, and in notions of threat.
  - The proportionality of means is no longer a given due to the development of military technology, global strategies, and the extension of war to the civil population.
  - The *recta intentio* (right intention) is no longer possible under the conditions of modern technology because what should be protected will be destroyed.
- (24) While most of the general critical questions raised in the study were framed against a background of the threat of global nuclear war, it also noted that:

An analysis of local and limited wars (e.g. the Gulf War, war in Yugoslavia) shows that in these cases one cannot speak of 'just war' in a way that corresponds to the criteria of the Lutheran tradition. It is disputed whether a *causa iusta* is present, the proportionality of means is given, and war in fact represents the *ultima ratio* [last resort]. Nevertheless, it is (still) not to be excluded that situations arise in which military intervention and armed conflict appear inevitable or disastrously necessary in order to prevent a still greater evil and to protect minimum human rights. However, in view of an all too quick agreement with the 'inevitability' of a war, it is essential to recognize and consider that such situations have long-term causes and 'inevitable military interventions or inevitable wars' are to be limited as far as possible and likewise to be overcome as a means of policy. Therefore other ways for solving conflict should be striven for and a more comprehensive effort for justice and peace is

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3 Mortensen, Viggo, ed., War, Confession and Conciliarity: What does 'just war' in the Augsburg Confession mean today? (Vorlagen, Neue Folge, Heft 18) Lutherisches Verlagshaus, Hannover, 1993

4 *ibid*, p. 51

5 *ibid*, p. 52

- necessary.<sup>6</sup>
- (25) The study goes on to emphasize the limiting role of 'just war' doctrine in relation to contemporary military conflicts, and to call for the development of a "doctrine of just peace":
- To be sure, in the fallen world the threat and the application of force cannot be renounced, but these must be transformed within nations as well as between nations into a legally regulated use. At the same time, it is necessary to integrate the relative importance of the threat and use of force into a system of more just structures and human relationships. Peace can be preserved by force only in a provisional way; peace can only be maintained by the consent of the parties concerned, by reasonable regulation of conflict and more just circumstances. This necessitates the prevention of war by fighting the causes of war (injustice, enemy images, the arms race) and the development of new mechanisms for the regulation of conflicts also in the international arena (measures for securing peace as a political task, cooperation and communication, the strengthening of the UN, and international legal order etc.).<sup>7</sup>
- (26) The **LWF Council** has addressed this or related issues on a series of occasions during the last decade. In its **1991** statement on "Peaceful Resolution of Conflicts", the Council expressed deep concern about "the proliferation and intensification of violent conflicts between ethnic and other groups within the borders of sovereign states and a tendency to justify resolution of conflicts through violent means. Justification of the use of violence for the achievement of what may be understood as a moral cause is often done without regard for tragic consequences and with an accompanying tendency to dehumanize the opponent."
- (27) The Council further noted that the allied military response to Iraq's invasion of Kuwait before the possible effect of UN-imposed sanctions could be realized was an example of the tendency to seek to resolve conflict by violent means. It noted the long-term effects on the people and environment in both Kuwait and Iraq, and the related suffering of the Kurds and others. The Council commented that "On the other hand, we have seen that sanctions, as a peaceful means, have contributed to the changes which are currently taking place in South Africa."
- (28) The Council's statement called on LWF member churches "to be peacemakers in situations of conflict or potential conflict" and asked the LWF to "facilitate the sharing and utilization of resources of its member churches in dealing with peaceful resolution of conflicts, the dissemination of information about potential violent conflicts and training in peaceful settlement of conflicts; and [to] continue to act as a peacemaker in situations of violent conflict."
- (29) In **1992**, the LWF Council specifically considered the matter of humanitarian intervention, in view of "the grave human suffering caused by war, in which thousands of innocent people are driven from their homes, denied basic nourishment, injured or killed...". It took note of the recommendations in the UN Secretary-General's report *An Agenda for Peace* with regard to "(i) preventive deployment of UN military, police or civilian personnel (to discourage hostilities, to

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<sup>6</sup> *ibid.*, p. 53

<sup>7</sup> *ibid.*, p. 54

alleviate suffering or to limit or control violence), (ii) the creation of a permanent UN standing force to act as a deterrent to acts of aggression, and (iii) the creation of UN peace enforcement units, available on call, to reinforce and strengthen peace-keeping operations." The Council appealed to the UN and its member states to pursue discussions of such international mechanisms for humanitarian intervention and appealed to the member churches and their agencies to urge their governments to participate actively in these discussions.

- (30) The LWF discussions about humanitarian intervention intensified at its Council meeting in 1993 when the Council considered the situations in Liberia as well as the former Yugoslavia. In the context of the latter, the Council acknowledged the deep-seated nature of the many causal factors, but concluded that "before these causal factors can be adequately addressed, the international community must participate in decisive action to end the hostilities."

- (31) With regard to the prospect of military intervention, the Council said:

In the conciliar process Christian churches have come to the common conviction that war can no longer be accepted as a means to resolve conflicts. War is not inevitable and war, as a continuation of politics by other means, must be overcome. We are convinced that new ways have to be found to arrive at solutions to conflicts. In order to avoid the greater evil, Lutheran churches have maintained that, under certain circumstances, military action cannot be completely ruled out. While our common confession (Augsburg Confession 16) related this to the use of force between nations, we are now facing the question whether the international community can responsibly engage in specific, limited military action in situations of anarchy and genocide.

Threats of force and the use of military action can protect life and secure peace only for the short term. In the long run, peace can only be secured when fundamental human rights are respected and just conditions established. Therefore it is the task and primary responsibility of all parties to seek to solve violent conflicts or potentially violent conflicts through negotiations and peaceful means. Even so, in this sinful world the threat of the use of military action seems unavoidable, in order to protect human life, to limit killing, and to avoid even greater suffering.

The conviction of those of us who exclude military action as a matter of principle has to be respected. The conviction of those who consider military action necessary in certain cases must also be respected. Both views are advocated by those who wish to avoid more suffering and achieve peace. However, advocates of each position must acknowledge that in questions of the use of military action there can be no unambiguous decision; there can only be a choice between lesser and greater evils. The advocates of each position must assume responsibility for the consequences of their decisions.

- (32) The Council then recalled the key ethical criteria for military action, as expounded by the churches. In particular, it identified the following insights as fundamental:
- Military force can only be the last resort after all other means have been exhausted.
  - The decision to take military action on humanitarian grounds can only be made by the

international community through a commonly-accepted international authority. The decision-making process must be transparent and open.

- The use of military action must be limited, proportionate and defined in relation to the goal of the action, which can only be to protect lives, establish peace with justice and restore respect for human rights.
- Military action must have a reasonable chance of achieving its stated aims, so that it does not result in an intensification of hostilities.
- Military action cannot be a substitute for other means. It can only be part of a larger effort of humanitarian aid, economic support and the promotion of democratic structures following the conflict.

(33) In the context of its 1994 discussion of the situation Rwanda, but also citing the situations in Somalia and the former Yugoslavia, the LWF Council called for "the creation of a United Nations standing peace-keeping force which will be capable of reacting swiftly to stem conflict as it is developing. Regional forces should also be considered under the auspices of regional bodies, such as the Organization of African Unity. A major purpose of these forces should be to prevent future disputes from reaching catastrophic proportions. These forces should also carry out other specifically humanitarian missions. These forces should only be deployed on the basis of clear criteria and international consensus".

(34) Subsequent public statements made by the LWF in the latter part of the last decade and more recently on issues related to conflict and peace have emphasized more and more the essential role of dialogue and mutual understanding in the resolution and prevention of violent conflict and the role of the churches and faith communities in contributing to the establishment of a 'culture of peace' (see, for example, the LWF General Secretary's New Year message, dated 17 January 2000).

(35) The practice and effect of military intervention have increasingly been called into question by the LWF. For example, a statement delivered by the LWF General Secretary on 26 March 1999 on the NATO military intervention in Kosovo, reference was made to the tendency of violence to beget violence, and to the risk of injuries and deaths among the innocent civilian population of the Federal Republic of Yugoslavia. The NATO attacks were described as:

the latest expression of a culture which still sees violence as the ultimate and most effective tool in international relations. In such a culture, diplomacy and negotiation are seen as a prelude to the use of deadly force, and there is no effective strategy for addressing international concerns should force prove ineffective. A strategy which pins its last and only hopes for securing peace and justice upon the threat and use of force is a bankrupt strategy.

(36) Violence, the statement declared, is not the answer to violence:

Almost invariably, recent armed interventions have been ineffective in promoting peace and justice, and instead have helped to perpetuate a vicious cycle of violence. An international culture must be developed in which armed intervention is no longer seen as the ultimate tool for resolving disputes and addressing oppression.

**IV. ETHICAL CONSIDERATIONS RELATED TO ARMED INTERVENTION FOR HUMANITARIAN PURPOSES**

(37) The discussion of armed intervention for humanitarian purposes involves multiple ethical dilemmas at many different levels. Foremost among these is the conflict between the desire to respond to situations of humanitarian emergency and gross violation of human rights, and respect for the fundamental principles of sovereignty and non-intervention. Given that the Security Council holds the sole and exclusive mandate for authorizing the use of force internationally, this dilemma is exacerbated when, due to geo-political considerations, the Security Council finds itself unable to act. However, bypassing the Security Council and acting unilaterally or in some other grouping risks undermining the collective security regime established over the last 50 years. (See Appendix: "Sovereignty and Non-Intervention vs. 'Humanitarian Intervention': History and Legal Framework".)

(38) Highlighting this dilemma in his address to the UN General Assembly in September 1999, the Secretary-General Kofi Annan posed two rhetorical questions:

To those for whom the greatest threat to the future of international order is the use of force in the absence of a Security Council mandate, one might ask -- not in the context of Kosovo -- but in the context of Rwanda: If, in those dark days and hours leading up to the genocide, a coalition of States had been prepared to act in defence of the Tutsi population, but did not receive prompt Council authorization, should such a coalition have stood aside and allowed the horror to unfold?

To those for whom the Kosovo action heralded a new era when States and groups of States can take military action outside the established mechanisms for enforcing international law, one might ask: Is there not a danger of such interventions undermining the imperfect, yet resilient, security system created after the Second World War, and of setting dangerous precedents for future interventions without a clear criterion to decide who might invoke these precedents, and in what circumstances?<sup>8</sup>

(39) And in his 'Millennium Report' delivered in April 2000, the Secretary-General asked: "if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica - to gross and systematic violations of human rights that offend every precept of our common humanity?"<sup>9</sup>

(40) The experience in Kosovo in fact throws many of these ethical dilemmas into sharp relief. It also exemplifies the deeply morally ambiguous outcome of an intervention to secure the human rights of an oppressed population, which, however, resulted in significant numbers of civilian casualties, caused economic hardship for many others throughout the region, and ultimately has facilitated a kind of reverse ethnic cleansing. As described by the Foreign Minister of Poland in the General

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<sup>8</sup> UN Press Release SG/SM/7136 GA/9596, 20 September 1999

<sup>9</sup> Millennium Report, 48

Assembly in September 1999: "Rwanda demonstrates what Kosovo might have become, had we not intervened in 1999 and Kosovo demonstrates what Rwanda might have been, had we intervened in 1994."<sup>10</sup>

- (41) Any decision to intervene with armed force into the territory of a sovereign state is fraught with legal, as well as moral and ethical complexities. Nonetheless it is of paramount importance that churches provide both a framework and the space for consideration of these complexities to take place, drawing on the heritage of churches' ethical thinking on these and related topics, and taking into consideration the specific historical context which gives rise to this discussion.
- (42) The primary ethical consideration has to be the responsibility of the international community for the protection of human life. Under international law the international community may not interfere in the domestic affairs of any state. But what happens when the state is unable, or unwilling to offer that protection, or if the state itself is the aggressor against its own people? What are the ethical and legal means by which the international community can call a state to accountability, or intervene to protect human life?
- (43) Since the time of the formation of the United Nations, the concept of state sovereignty has been the keystone of the international legal system. However, within the United Nations framework, place has also been provided for checks and balances upon the abuse of state sovereignty, specifically in the area of human rights. Over the years, norms have begun to be established which link the role and responsibility of the state to assure peace, justice and the welfare of its citizens, to accountability to the international community.
- (44) The tension between the principle of non-intervention in the affairs of a sovereign state versus the responsibility of the international community to ensure respect for the human rights and the physical integrity of persons has revealed two things. One is that the concept of sovereignty is in transition and that transition is linked to international accountability. The second is that international law or agreed upon norms have not yet been developed to reflect these changes. In such a situation, the ethical challenge is to balance the legal principle of state sovereignty with the ethical imperative of protecting human life.
- (45) Armed intervention for humanitarian purposes can only be contemplated when all attempts at preventative diplomacy have failed. These preventative initiatives, and their priority, must always form the context of discussions within which any decision regarding armed intervention for humanitarian purposes is considered or undertaken. Such intervention must be considered strictly as a last resort for the protection of human life which is threatened by gross and egregious violations of human rights, and only under clearly defined and restricted criteria.
- (46) Who makes the decision for intervention, and with what authority? The current limited membership of the Security Council, the veto powers of the five permanent members, its relatively undemocratic character and its highly politicized climate suggest that, in its current form,

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<sup>10</sup> UN Press Release GA/9616, 29 September 1999

the Security Council is an unwieldy instrument for formulating timely and effective responses to gross violations of human rights. This implies the longer term need for reform of the Security Council. In the meantime, however, what forum or power should be in a position to authorize intervention for humanitarian purposes if not the Security Council? The risk of misuse of intervention for political purposes looms larger the more the responsibility is removed from a multilateral setting. In a situation in which the legal framework is inadequate to provide guidance for action it is necessary to seek criteria which do not in themselves undermine the integrity of the international legal system, while at the same time recognizing the limitations of that system to address critical and immediate issues of human suffering.

- (47) What **type and level of violations of human rights** would justify armed intervention? Whilst proponents of armed intervention for humanitarian purposes are clear that widespread killing and maiming of innocent civilians would warrant armed intervention for the sake of protecting the victims, they are less clear about where the threshold for considering armed intervention would lie. Would it also be an option, for example, in relation to systematic violation of key economic, social and cultural rights, such as the right to food, the right to education, or the right to work - which may have equally severe, if less immediate, humanitarian consequences. If not, why not?
- (48) What is the **relationship between state or national security and 'human security'**? National security is a concept founded on Westphalian notions of sovereignty and non-intervention, which effectively equates the security of the state with the well-being of its peoples. The emerging concept of human security, by contrast, is primarily humanitarian in orientation, focussing directly on the well-being of the people themselves, and relating the sovereignty of the state and the legitimacy of the government to its treatment of those under its jurisdiction. Decisions related to intervention should give priority to human security and seek humanitarian objectives, rather than being based upon concepts of national security linked closely to political interests rather than humanitarian ones.
- (49) What constitutes a **humanitarian objective**? Humanitarian action is generally understood as being undertaken according to strictly defined principles: humanity, neutrality, impartiality and universality. In defining the objectives for armed intervention for humanitarian purposes, it is important to define objectives which are linked to the protection of all human life. Implied in such objectives would be willingness on the part of the interveners to engage with the people who are being protected, and to be present on the ground in the situation. Particular attention has to be given to assuring that the intervention is truly humanitarian, and not pursuant to political objectives under a humanitarian guise.
- (50) The **nature and method of the armed intervention** must also be considered. The "just war" theory has been developed to assist in ethical thinking in relation to war. Although these criteria are difficult to apply directly to armed intervention for humanitarian purposes, they can help to identify ethically appropriate means for undertaking armed intervention for humanitarian purposes, once such a decision has been taken. The principle of proportionality is of particular relevance in this regard.

- (51) It is also necessary to ask **what function the armed intervention is to perform**, and whether the military is the best actor for carrying out that function. Military personnel are, by definition, national actors and linked to the national security interests of their countries. Their task is the waging of war, within a certain code of behaviour. Their training is highly technical. Is the military the best vehicle for assuring the protection of human lives, a task which requires quite another legal framework and different code of behaviour? Is it not possible to think of other options, such as civilian cadres serving more of a policing than a military function to carry out this task on behalf of the international community? Is there not a need for a legal framework which would shape a policing function for humanitarian protection?
- (52) These and the many other considerations together point to the critical **need for criteria** for determining when and how the international community ought to intervene in order to protect human life in a sovereign state, without that state's consent.
- (53) The effort to establish ethical criteria for armed intervention for humanitarian purposes has a two-fold purpose. On the one hand, it seeks to limit the use of military force to extraordinarily grave circumstances and thus to prevent the abuse of intervention by states who want to use such to advance their own national interests under the guise of humanitarian objectives. On the other hand, it seeks to reduce the selectivity and inconsistency in the international community's response to people in extreme crisis and to encourage the development of standards and principles that require the international community to rescue and protect people in grave peril.
- (54) By considering the ethically relevant motive, method, and consequences, some possible criteria may begin to emerge:

#### **Motive**

- (55) The primary motive for considering armed intervention arises out of a sense of duty or obligation to do something in response to massive violations of human rights and the actual or threatened loss of lives. This sense of duty or obligation is based on a fundamental sense of moral outrage, such that to do nothing becomes morally unacceptable. Dramatic media portrayals of atrocities tend to accentuate this. No matter how egregious the situation, however, revenge is never an acceptable motive for intervention.
- (56) Human rights violations or 'crimes against humanity' which may be similar in scale and severity do not, in practice, equally move the international community to respond. And where the international community does act, it is invariably more than simple altruism that is involved. Moral outrage and a sense of ethical obligation is likely to be mixed with motives of self-interest that are also economic, political, territorial, or based on ethnic or racial identification. Humanitarian motives may often be a cover for the pursuit of other purposes. These mixed motives may result in inconsistencies favouring intervention by powerful countries in some geographical situations (such as in Europe) over others (such as in Africa). Furthermore, some countries have a history of being subjected to intervention by external powers (through military, economic, and other means), particularly during the era of colonization and in the current context of economic

globalization. Intervention invariably is an option of the strong rather than of the weak.

- (57) An ethic of armed intervention for humanitarian purposes should therefore, in principle, be consistently applied - based on the equal worth and dignity of persons regardless of where they live or who they are. While other motives are also likely to be involved (at least implicitly), these must be held accountable to this primary motive.

### **Method**

- (58) Ethical consideration must also be given to the timing, warrant, decision-making process, actors and means in any potential intervention. Current concepts and mechanisms of international law can both facilitate and complicate these considerations.
- (59) Armed intervention should be considered only in situations in which a government is demonstrably unable or unwilling to protect the people who live under its jurisdiction, such that it has essentially abdicated its God-given responsibility; international appeals and other processes have consistently failed to bring change; all peaceful means for bringing an end to atrocities have been exhausted; and the continuation of such processes is likely to prolong massive suffering and loss of lives. Military action would not be warranted in the case of a crisis which is slowly unfolding and still has possibilities for diplomatic resolution.
- (60) Because of the likelihood of mixed motives for intervention that are not purely humanitarian, the decision to intervene should not lie with a single state, or with a hegemonic power in league with (other) states. There is a moral, if not legal, obligation to come to the rescue of those in grave peril, but such action should normally be sanctioned through the United Nations Security Council. Reforms may be necessary to ensure responsible and effective decision-making through this body. When a Security Council mandate to respond to an egregious situation is not possible, it may be morally defensible for a group of states (the largest possible group) to act without such a mandate. Unilateral invention is deeply problematic.
- (61) The means of armed intervention that are used should be specifically targeted and limited to rescuing and protecting civilians. In this sense, it approximates a policing function. For armed force to protect people, it must operate on the ground and in the midst of the people whose protection is the object of the intervention. The use of force should be proportionate to the scale of the crisis and the goals of the intervention, and collateral damage should be minimized or, if possible avoided altogether. In addition to complying with humanitarian law, there is a moral obligation to ensure that the means used will make it possible for those rescued and protected to be sustained, recover, and rebuild afterwards.
- (62) It is important that, so far as possible, civil society (including the churches) be consulted prior to as well as during any such intervention. Intervening powers have an obligation to understand the culture and religion of the people in peril, and to relate to local cultural sensitivities in respectful ways.

### **Consequences**

- (63) The best humanitarian motives for intervening cannot prevent the possibility of armed intervention exacerbating the situation it was intended to alleviate. Suffering inflicted through intervention may exceed the suffering that prompted it. Actions taken for humanitarian reasons, once they begin, can turn into military actions that exceed the humanitarian goals. Although the decision to intervene must be made in anticipation of what may transpire later, many consequences cannot be known in advance.
- (64) For these reasons, it is essential that the effects of any intervention be continually monitored and assessed, and when appropriate, the intervention ceased. Questions need to be asked as to when intervention has ceased being effective in serving the intended goals, or has gone beyond them. Who are the beneficiaries of the intervention process at different stages? Is the intervention itself in danger of becoming a new means of foreign policy? Regardless of the original motives, once the intervention has begun, the primary ethical focus must be on its consequences. No matter how well-intentioned the motives, if the action results in increasing loss of human life or instability, it must be challenged morally.
- (65) Armed intervention for humanitarian purposes should occur only within the context of a full-scale international commitment to follow up the intervention with adequately funded reconstruction and peace-building efforts. In the absence of such a commitment, military force will not be able to meet sustainable humanitarian objectives and thus should not be sanctioned in the first place.
- (66) Local government, as well as local and international civil society, carries important responsibilities for creating conditions conducive to a sustainable peace. Civilian policing after a time of intervention needs to be impartial and effective. Local community protection networks and structures should be strengthened for the sake of the security of all affected.
- (67) Because massive violations of human rights are part of a long, complicated development, effective attempts to redress the situation must be long-term and multi-faceted. In addition to restoring or creating responsible governance, relationships among the people must be restored. Effective reconciliation processes are needed so that different factions and sectors might be brought back together in society.

### **V. SOME OBSERVATIONS AND IMPLICATIONS**

- (68) The purpose of this paper is not to come to firm conclusions, but some observations can be made and some implications identified for further discussion.
- (69) Firstly, a strict reading of the existing law under the UN Charter framework indicates that there is **no right of intervention for humanitarian purposes, without Security Council authorization.**
- (70) However, there is an extreme tension between the peremptory rule of international law prohibiting

the use of force in international relations, and the widespread popular sense of moral and ethical obligation to act in response to large-scale egregious violations of human rights in another state - if necessary by military means.

- (71) This moral and ethical imperative is also reflected in the developing norms of universal, inalienable human rights, and the concept of 'human security'.
- (72) Although the Security Council holds the exclusive mandate, as matter of law, for authorizing the use of force internationally, the tension between the existing international legal order and the moral/ethical imperative is raised to intolerable levels when the Security Council is 'blocked' (as a result of a failure to achieve consensus or the exercise of a veto by one of the permanent members of the Security Council) from acting in response to clear and grave violations of human rights.
- (73) On the other hand, armed interventions outside of a Security Council mandate may undermine one of the basic tenets of the existing international legal order (the prohibition against the use of force) and put the whole fragile (and still developing) collective security system in jeopardy.
- (74) In any event, military force has been seen to be generally a very ineffective tool for securing human rights for all. (In Kosovo, for example, while the human rights of one part of the population may be said to have been ultimately secured, the NATO intervention and its aftermath has facilitated, in practical terms, a reverse ethnic cleansing.) The nature of military activity is such that it can only exacerbate the root causes of human rights violations. Hence, armed intervention must be seen as an instrument of last resort. Its inherent limitations and inevitably negative outcomes must be recognized and addressed in a more comprehensive international response which effectively deals with the root causes of the situation and seeks to repair the additional damage done by the military intervention.
- (75) As has frequently been stated in the past, much greater attention needs to be given to measures other than armed intervention, and to the early and effective application of those measures. Measures which promote dialogue and foster mutual understanding before the 'point of no return' is reached must be particularly emphasized, given the equally ambiguous effects of economic sanctions and the difficulties involved in targeting and applying them.
- (76) The extremely complex ethical considerations raised in any discussion of this issue highlight the need for the development of detailed criteria and guidelines, based firmly upon ethical foundations, in order to assist decision-making in relation to whether and when armed intervention for humanitarian purposes should be undertaken, and how any such intervention should be carried out.
- (77) The role of the churches in witnessing to the love and compassion of Christ requires us to continue and deepen this discussion, always from the perspective of the victims of violence and abuse, and to speak the truths we discern to the powers of the world who would use violent means to achieve humanitarian ends.

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## APPENDIX

### SOVEREIGNTY AND NON-INTERVENTION VS. 'HUMANITARIAN INTERVENTION': HISTORY AND LEGAL FRAMEWORK

#### Historical Overview

- (78) The **Treaty of Westphalia**, the agreement which brought the Thirty Years' War to an end in 1648, formally recognized the sovereignty and independence of each state of the Holy Roman Empire. The Westphalian principles of **sovereignty and independence**, and the concomitant principle of **non-intervention** in the affairs of sovereign nations, have formed the basic foundations of international relations ever since. Nevertheless, the level of international support for and compliance with the prohibition against interference in the internal affairs of another state has varied over the years.
- (79) The 'Concert' system created after the 1815 Congress of Vienna modified the Westphalian concept of sovereignty by legitimating intervention to protect the kind of domestic rule that was accepted by the powerful as being legitimate and conducive to international order. Intervention was seen as a remedy for the threat to the existing international order posed by revolutionary regimes and the principle of self-government.
- (80) The norms governing military intervention underwent significant changes after World War I when the League of Nations sought to institutionalize a collective security regime under the rule of law and to extend its scope globally. Under this regime, the non-intervention norm was reaffirmed and strengthened.
- (81) This trend toward the prohibition of intervention crystallized in the **Charter of the United Nations** in 1945. In the aftermath of the Second World War, the primary challenge for the maintenance of international peace and security was seen to be controlling and preventing aggression by one state against another. Accordingly, the UN Charter embodies among its fundamental principles the prohibition against the threat or use of force against another state, and the prohibition against UN intervention in matters within the domestic jurisdiction of any state. Nevertheless, the Charter provides for a right of self-defence,<sup>11</sup> and for 'enforcement' measures to be taken under a Security Council mandate in order to respond to any threat to the peace, breach of the peace, or act of aggression.<sup>12</sup>
- (82) The principle of non-intervention was further reaffirmed and strengthened in later conventions, such as the 1970 Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States, and the 1975 Final Act of the Helsinki Conference on Security

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11 Under Article 51 of the UN Charter

12 Under Chapter VII, especially Articles 39 to 42, of the UN Charter

and Cooperation in Europe (CSCE).

- (83) The security regime that materialized after World War II therefore placed the sanctity of borders at the top of the global agenda and sought to protect states from intervention. The non-intervention norm, though widely viewed as legitimate by the international community, was nonetheless violated on repeated occasions during the Cold War. The two superpowers, the United States and the Soviet Union, frequently used intervention as an instrument to influence the authority structures of governments within their spheres of influence and throughout the globe. The US interventions in Guatemala (1954), the Dominican Republic (1965), and Vietnam (1967), and the Soviet Union's interventions in Hungary (1956) and Czechoslovakia (1968) illustrate this point. International law throughout the 1960s nonetheless continued to voice its traditional prohibition against such practices.
- (84) However, since the 1970s, support for the non-intervention norm has steadily fallen, as "new exceptions which might legitimate the use of [military intervention] have been claimed."<sup>13</sup> The inclusion in the UN Charter of Chapter VII (permitting intervention for peacemaking) allows for the expansion of admissibility of forcible intervention,<sup>14</sup> and "the belief that governments have a right, even obligation, to intervene in the affairs of other states seems to have gained great currency in recent years."<sup>15</sup>
- (85) This belief has been founded upon a growing awareness and international acceptance of the principles of **universal, inalienable human rights**. In particular, there has been a growing recognition of the idea that the human rights situation in a given country is not merely a matter for domestic policy, but also a legitimate issue for the international community as a whole. It is now frequently stated that gross violations of human rights cannot be regarded as an internal matter.
- (86) The end of the Cold War created, in many respects, a more conducive environment for consensus-building in the Security Council. Between 1991 and 1994, a series of military interventions which might be described as being primarily for humanitarian purposes were authorized by the Security Council, including the interventions in Iraq, Yugoslavia, Somalia and Haiti. This activism on the part of the Security Council was supported and endorsed by the pronouncements of successive Secretaries-General of the UN. For example, Secretary-General Javier Pérez de Cuellar declared in 1991 that:

It is now increasingly felt that the **principle of non-interference with the essential domestic jurisdiction of states cannot be regarded as a protective barrier behind which human rights can be massively or systematically violated with impunity** ... The case for not impinging on the sovereignty, territorial integrity and political independence of states is by itself indubitably

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13 Luard, Evan, *Conflict and Peace in the Modern International System*, 2<sup>nd</sup> ed. (Albany: State University of New York Press, 1988) 49

14 Johnson, James Turner, *Humanitarian Intervention, Christian Ethical Reasoning, and the Just-War Idea*, in Lugo, Luis E. (ed.), *Sovereignty at the Crossroads?* (London: Rowman & Littlefield, 1996), 127-143

15 Blechman, Barry M., *The Intervention Dilemma*, *The Washington Quarterly* 18 (Summer 1995), 63

strong. But it would only be weakened if it were to carry the implication that sovereignty, even in this day and age, includes the right of mass slaughter or of launching systematic campaigns of decimation or forced exodus of civilian populations in the name of controlling civil strife or insurrection.<sup>16</sup>

- (87) And in his 1992 report, *An Agenda for Peace*,<sup>17</sup> Secretary-General Boutros Boutros-Ghali supported the expansionist trend in the Security Council's interpretation of the Charter. His report called for enforcement action to respond to human rights abuse and for nation-building.
- (88) However, after this brief period of activism, the Security Council again appeared to enter a more conservative phase. An increasing disinclination on the part of the United States and other military powers to commit troops to such hazardous undertakings conspired with, on the part of many countries in the South, a growing distrust of the motives of such intervention and a perception of selectivity in the interventions undertaken, to ensure that this activism was not repeated.
- (89) Whilst the Security Council lapsed into quiescence, western countries found NATO to be a much more tractable instrument for reacting to the situation which emerged in Kosovo/ FRY during 1998 and early 1999. Proceeding without a formal mandate from the UN Security Council, the NATO powers launched an intensive, 11-week, high altitude bombing campaign against the FRY's armed forces and Serb militias in Kosovo, with consequences, positive and negative, which are still being assessed to this day.

### **The Existing Legal Framework**

- (90) Under the international legal framework established by the Charter of the United Nations<sup>18</sup> in 1945, the "sovereign equality" of all member states is sacrosanct,<sup>19</sup> and the use of force by states to settle international disputes is prohibited. **Article 2(4)** of the Charter provides that all UN member states must "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State".
- (91) According to Louis Henkin, "Article 2(4) is the most important norm of international law, the distillation and embodiment of the primary value of the inter-State system, the defence of State independence and State autonomy. The Charter contemplated no exceptions. It prohibits the use of force for selfish State interests... as well as for benign purposes, human values. It declares peace as the supreme value, to secure not merely State autonomy, but fundamental order for all. It declares peace to be more compelling than inter-State justice, more compelling even than human rights or other human values."<sup>20</sup>

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<sup>16</sup> Report of the Secretary-General on the Work of the Organization, UN Doc. A/46/1 (1991)

<sup>17</sup> UN Doc. A/47/277-S/24111

<sup>18</sup> The Charter is paramount in international law, and, according to the provisions of article 103, prevails over any other international agreement.

<sup>19</sup> UN Charter, Article 2(1): "The Organization is based on the principle of the sovereign equality of all its Members."

<sup>20</sup> Henkin, Louis, International Law: Politics, Values and Functions (1990) 146

- (92) For individual States, the only exception to the prohibition against the use of force is self-defence against an actual armed attack.<sup>21</sup> Even this exception only continues to be available until the Security Council has taken action in relation to the matter. So regardless of a State's violations of international law, it cannot be attacked by another State unless the violator State has attacked first.
- (93) However, within the UN system, the Security Council was given wider authority to use force in response to threats of aggression as well as to breaches of international peace. Article 24(1) of the Charter outlines the Security Council's mandate:
- In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.
- (94) Under Article 39, the Security Council is given authority to "determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."
- (95) Article 41 refers to the application of measures not involving armed force (including "complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations"). Article 42, on the other hand, provides that if the measures referred to in article 41 would be or have proved to be inadequate, then the Security Council "may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security."
- (96) It should be noted that although the Security Council has been given the authority, under Article 42, to employ armed force as a last resort, the plain words of the Charter indicate that this authority to use force in response to threats to or actual breaches of "international peace" would not cover intervention in civil conflicts.
- (97) Whilst the Charter does not preclude "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",<sup>22</sup> it categorically asserts that "no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council."<sup>23</sup> NATO held no such authorization from the Security Council at the time of the Kosovo intervention.<sup>24</sup>

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21 UN Charter, Article 51: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security."

22 UN Charter, Article 52(1)

23 UN Charter, Article 53(1)

24 It should be noted that a legal challenge to the legality of the actions of the NATO powers was mounted by the

- (98) On the other hand, the Charter also lists among the purposes and principles of the United Nations "promoting and encouraging respect for human rights and for fundamental freedoms for all".<sup>25</sup> The United Nations Organization is the custodian of a wide network of international human rights instruments which have been developed in the meantime, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- (99) Furthermore, Article 55 of the Charter links respect for and observance of human rights to the maintenance of international peace and security:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:...

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

- (100) Nevertheless, the Charter does not explicitly mandate the use of armed force to defend human rights, and the prohibition against the use of armed force contained in Article 2(4) and the exclusive responsibility of the Security Council in relation to matters of international peace and security remain categorical under the Charter framework.

### **The Current Debate in the UN**

- (101) In September 1999, UN Secretary-General Kofi Annan attempted to refocus the debate on sovereignty and 'humanitarian intervention' in his report and address to the General Assembly. Referring to a 'developing international norm in favour of intervention to protect civilians from wholesale slaughter', he noted that:

The State is now widely understood to be the servant of its people, and not vice versa. At the same time, individual sovereignty -- and by this I mean the human rights and fundamental freedoms of each and every individual as enshrined in our Charter -- has been enhanced by a renewed consciousness of the right of every individual to control his or her own destiny.<sup>26</sup>

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FRY in the International Court of Justice. These proceedings failed on technical grounds (including the fact that the USA declined to consent to the jurisdiction of the Court to hear the case), but the members of the Court took the opportunity to emphasize that "whether or not States accept the jurisdiction of the Court, they remain in any event responsible for acts attributable to them that violate international law, including humanitarian law" and that "any disputes relating to the legality of such acts are required to be resolved by peaceful means". The Court also reaffirmed that "when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter". (International Court of Justice Press Communiqué 99/33, 2 June 1999)

<sup>25</sup> UN Charter, Article 1(3)

<sup>26</sup> UN Press Release SG/SM/7136 GA/9596. See also UN Doc. A/54/1, *Report of the Secretary-General on the work of*

- (102) However, the debate in the General Assembly and, subsequently, in the Security Council revealed continuing deep divisions on this issue. Some governments welcomed the attempt to relativize the concept of sovereignty, declaring that the important principle of national sovereignty must not be used as a curtain behind which human rights violations were carried out with impunity (the representative of Sweden, speaking in the General Assembly in October 1999)<sup>27</sup>, and that for a State to massacre its own people could under no pretence be considered an 'internal affair' (Deputy Prime Minister and Foreign Minister of Belgium, speaking in the General Assembly in September 1999).<sup>28</sup> Such States concluded that there was an implicit obligation to act wherever the security of individuals was imperiled.
- (103) On the other hand, the majority of States expressed grave reservations about the notion of 'humanitarian intervention', and affirmed the sanctity of sovereignty. For example:
- the President of Algeria, and the then Chairman of the Organization of African Unity (OAU), said that the OAU member states were extremely sensitive to any undermining of their sovereignty - not only because it was their final defence against the rules of an unequal world, but also because they were not a part of either the decision-making process of the Security Council, or the monitoring of the implementation of that process. (General Assembly, September 1999)<sup>29</sup>
  - The representative of Jordan (on behalf of the Non-Aligned Movement) referred to the Final Communiqué adopted by the NAM ministerial meeting in September 1999 which had rejected the "so-called right of humanitarian intervention" as having no legal basis in the United Nations Charter or in the general principles of international law. (General Assembly, Fourth Committee, October 1999)<sup>30</sup>
  - The Deputy Prime Minister and Foreign Minister of Belarus said that it would be dangerously misleading to assume that human rights could be protected by means that ignored the principle of the sovereign equality of States. Disregarding State interests in the pursuit of individual values could, he said, cause unpredictable consequences. (General Assembly, September 1999)<sup>31</sup>
- (104) Summarizing the general debate in the General Assembly on this topic in September/ October 1999, the President of the General Assembly outlined at least three different views of the concept of 'humanitarian intervention':

... there were those speakers who observed that respect for human rights has become more important than the sovereignty of States. Against this background, it was argued that the international community should intervene in the face of gross and systematic violations of human rights, with or without prior approval of the United Nations, particularly the Security

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*the Organization*, 31 August 1999

<sup>27</sup> UN Press Release GA/9633, 8 October 1999

<sup>28</sup> UN Press Release GA/9608, 25 September 1999

<sup>29</sup> UN Press Release GA/9595, 20 September 1999

<sup>30</sup> UN Press Release GA/SPD/164, 18 October 1999

<sup>31</sup> UN Press Release GA/9608, 25 September 1999

Council.

Other Member States expressed the view that the new notion of humanitarian intervention has the potential for destroying the Charter, undermining the sovereignty of States and overthrowing legitimate governments. They stressed that the protection of human rights is an obligation incumbent upon all governments within the context of the exercise of their sovereignty and constitutional order.

Still, other delegations ... emphasized that nations could not intervene in the internal affairs of others without a Security Council mandate. They observed that any massive violation of human rights leading to humanitarian emergencies required the coordinated action of the international community through the United Nations, and not by the fiat of unilateral action and creation of faits accomplis that would set bad precedents.<sup>32</sup>

- (105) The Secretary-General reflected on these discussions in his 'Millennium Report', issued in early April 2000. Whilst recalling that he had emphasized that "intervention embraced a wide continuum of responses, from diplomacy to armed action," he noted that "it was the latter option that generated the most controversy in the debate that followed."
- (106) "Some critics", he said, "were concerned that the concept of 'humanitarian intervention' could become a cover for gratuitous interference in the internal affairs of sovereign states. Others felt that it might encourage secessionist movements deliberately to provoke governments into committing gross violations of human rights in order to trigger external interventions that would aid their cause. Still others noted that there is little consistency in the practice of intervention, owing to its inherent difficulties and costs as well as perceived national interests - except that weak states are far more likely to be subjected to it than strong ones."
- (107) Nevertheless, the Secretary-General declared that, whilst armed intervention must always remain the option of last resort, "in the face of mass murder it is an option which cannot be relinquished."<sup>33</sup>
- (108) He pressed this point further in his address to the 56<sup>th</sup> session of the UN Commission on Human Rights on 4 April 2000, noting that the defence of human rights was universal in nature, and that violations of human rights were no longer considered an internal matter. He contended that international law was emphatic that when human rights were being violated "the international community had a right and a duty to respond, and to come to the assistance of the victims."<sup>34</sup>

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<sup>32</sup> UN Press Release GA/SM/105, 2 October 1999

<sup>33</sup> Millenium Report, 47-48

<sup>34</sup> UN Press Release, Commission on Human Rights, 56<sup>th</sup> session, 4 April 2000, Morning