Humanitarian Intervention by the United Nations: Iraq, Somalia, and Haiti

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In the post-Cold War era, many scholars proclaim the realization of U.N.-executed humanitarian intervention. This academic trend is premised on the notion that multilateral intervention does not pose, or at least ameliorates, the dangers inherent in unilateral intervention. It coincides with the decline of the norm of non-intervention, a competing principle of international law. In the post-Cold War era, traditional assumptions regarding non-intervention and sovereignty are in flux, and matters previously deemed to be within...
the domestic jurisdiction of states are being placed in the international arena. Thus, intervention under multilateral auspices is currently viewed as permissible.

This essay explores some of the issues raised by recent humanitarian intervention efforts undertaken by the United Nations Security Council (Security Council). Part One describes the legal framework for humanitarian intervention and defines both the concept of humanitarian intervention and the competing norm of non-intervention. Some of the commentary on unilateral intervention is summarized before turning to the legality and limits of collective intervention under the United Nations Charter (U.N. Charter). Part Two discusses three potential cases of U.N. humanitarian intervention: Iraq, Somalia, and Haiti. This section assesses the extent to which Security Council action or inaction supports the argument that collective intervention solves the problems typically associated with unilateral intervention. Finally, Part Three proposes modifications to the present multilateral framework that will enable the international community to execute humanitarian interventions more appropriately.

I. THE LEGAL FRAMEWORK

A. Humanitarian Intervention Defined

Although the term humanitarian intervention is difficult to define, a clear understanding of its meaning is a necessary precursor to evaluating the United Nations' actions in Iraq, Somalia, and Haiti. Traditionally, "humanitarian intervention" referred to forcible interventions designed to stem large-scale human rights crises, such as the crisis in Rwanda. Currently, however, the term has come to include interventions launched to ensure the delivery of humanitarian assistance, as in the case of Somalia, where forcible intervention was utilized to ensure the delivery of humanitarian assistance to severely

5. In this field, definitions are important. As Professor Damrosch points out, the term "intervention" lacks a shared meaning and, as a result, invites normative confusion. Lori F. Damrosch, Changing Conceptions of Intervention in International Law, in EMERGING NORMS OF JUSTIFIED INTERVENTION 91, 91 (Lara W. Reed & Carl Kaysen eds., 1993) [hereinafter Changing Conceptions]. She notes that the term is interpreted in many different ways. Whereas some individuals view its meaning as being morally neutral, others consider it to have benign connotations, and still others qualify it as an illegitimate activity. Id.
6. A more expansive definition would include forcible intervention to address widespread violations of any right enumerated in the many human rights conventions. Id. Professor Brownlie has noted the potentially expansive reach of various definitions of humanitarian intervention. Ian Brownlie, Thoughts on Kind-Hearted Gunmen, in HUMANITARIAN INTERVENTION AND THE UNITED NATIONS 139, 139-40 (Richard B. Lilllich ed., 1973).
7. See Donatella Lorch, Rwanda Forces Shell Stadium Full of Refugees, N.Y. TIMES, Apr. 20, 1994, at A8 (reporting 400,000 Kigali residents displaced within 12 days of fighting); Julia Preston & Thomas W. Lippmann, Refugee Flood Overwhelms Relief Efforts; U.N. Appeals for Supplies to Aid 2 Million Refugees, WASH. POST, July 21, 1994, at A1 (reporting U.N. estimates that of a total Rwandan population of 7.8 million, approximately 500,000 people were killed in ethnic massacres, 2.6 million were displaced within Rwanda, and another 2.6 million fled to Zaire, Tanzania, and Burundi); Julia Preston, Rwandans Confound U.N. Security Council; Humanitarian Impulse as Mission Impossible, WASH. POST, May 8, 1994, at A25 (reporting U.N. estimates of a three-week death toll near 200,000 and describing civilian murders described as organized, government-led vendettas); UNICEF Tending to the Children Who Survived War in Rwanda, N.Y. TIMES, July 26, 1994, at A6 (reporting United Nations Children's Fund estimates of 250,000 children killed and more than 150,000 orphaned).
deprived populations. Thus, a preliminary definition of humanitarian intervention would include intervention to terminate gross human rights violations or to provide desperately needed humanitarian assistance.

U.N. humanitarian intervention is usually without the consent of the target government. In U.N. practice, consent from the target state usually precludes a particular action from being characterized as an intervention. Therefore, intervention in the U.N. setting can only be defined as such when it is taken without the consent of the target state.

Humanitarian intervention is limited to terminating the human rights abuses that made intervention necessary. Vindicating other political objectives and interests take an intervention out of the humanitarian category. Accordingly, if intervention is undertaken by the U.N., the objective for using force must be to address a human rights crisis. A U.N. intervention would not be categorized as a humanitarian intervention if its primary purposes were to vindicate other political objectives—even if these objectives were legitimate under the Charter.

The principle of proportionality applies to humanitarian interventions, and thus a humanitarian operation must be executed at a level commensurate to the evil it seeks to curtail. As a result, the force exerted must be proportionate to the magnitude of the specific humanitarian crisis at hand. This principle is particularly complex within the U.N. framework, however, because force may be authorized to address a conflict at the root

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11. Anthony C. Arend & Robert J. Beck, International Law and the Use of Force 113 (1993). Intervention is usually directed against the incumbent government. However, it is possible that non-state actors might be the focus of such an intervention. Id. Arend and Beck note that governments are usually more capable than other parties of violating human rights on the massive scale required to justify humanitarian intervention. Id. Another situation justifying humanitarian intervention may be when there is a state of anarchy. Id.

12. Gordon, supra note 4, at 537.

13. Forcible action undertaken pursuant to an invitation by the legitimate government of the target state, or action taken with this government’s explicit consent, would not fit within the definition of humanitarian intervention. Arend & Beck, supra note 11, at 113. These authors include an additional example. They maintain that “properly speaking a humanitarian intervention per se cannot be undertaken under the authorization of the Security Council, whether by UN forces or by those of Chapter VII regional arrangements.” Id. They contend that humanitarian relief operations, such as those begun in northern Iraq in 1991 and Somalia in 1992, are best described as collective uses of force under the Charter; to describe them as humanitarian interventions is to deprive the term of its traditional meaning. Id.


15. Id.

16. Id. at 332.

17. Id. at 311. Of course, by not addressing the underlying reasons for the crisis, the intervention may have only limited short-term effects.

18. Id. at 332.
of a humanitarian crisis which also triggers the Security Council’s responsibility to maintain international peace and security.\footnote{Unilateral Intervention}{Unilateral Intervention} Perhaps then, the emphasis should be on Security Council authorization to use force specifically to address human rights concerns, as well as on whether the level of force used or authorized is commensurate with the goal of resolving the crisis.\footnote{Proportionality}{Proportionality}

B. Unilateral Intervention

For a number of reasons, the doctrine of humanitarian intervention has faced numerous obstacles when it has been undertaken unilaterally by one or more states. Human rights were viewed as domestic matters and thus within the sovereign authority of states; intervention to vindicate these rights would be a violation of that sovereignty. Moreover, prohibitions on the use of force and intervention, contained in the U.N. Charter, would seem to proscribe intervention and the use of force in most circumstances, including to vindicate human rights. Thus, unilateral intervention has run into the legal roadblocks of sovereignty, non-intervention, and prohibitions on the use of force.

Traditionally, the international community viewed the manner in which a state treated its citizens as an internal matter that was within a state’s sovereign authority.\footnote{Traditionally}{Traditionally} Over the last fifty years, however, the emerging law of international human rights has modified this perception, and these matters have become a subject of international scrutiny and concern.\footnote{Yet}{Yet} Yet, the issue remains as to whether the concept of state sovereignty has disintegrated to such an extent that unilateral forcible intervention is permissible to protect the citizens of another state.\footnote{U.N. Charter}{U.N. Charter}

\begin{enumerate}
  \item U.N. Charter arts. 39, 42.
  \item Proportionality is probably not as much of an issue when intervention is undertaken multilaterally, assuming there is sufficient U.N. oversight of any operation authorized. Proportionality seeks to address the “pretext problem,” which arises when overwhelming force is used to address a situation that does not seem to warrant such force or when the intervenor oversteps its bounds by remaining in the country and displacing the target government. Nanda, supra note 1, at 311. In the U.N. context, reporting and oversight should alleviate these concerns. Other non-humanitarian objectives, and the force authorized to achieve them, might be isolated and analyzed separately.\footnote{Rodley}{Rodley}
  \item The U.N. Charter specifically addresses human rights. U.N. Charter arts. 55, 56. Yet Article 2, ¶ 7 of the U.N. Charter has been broadly interpreted to largely preclude inquiry into the human rights situation in any particular state. Rodley, supra note 2, at 18–19. U.N. Secretary General Boutros-Ghali recently stated:

> 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 could be massively or systematically violated with impunity. The fact that, in diverse situations, the United Nations has not been able to prevent atrocities cannot be cited as an argument, legal or moral, against the necessity of corrective action, especially where peace is threatened. ... The case for not impinging on the sovereignty, territorial integrity and political independence of States is by itself indubitably 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.


\end{enumerate}
Notwithstanding the progress of human rights law, several factors support the notion that unilateral intervention is disfavored by most states. To begin, neither human rights instruments nor instruments proscribing intervention carve out an exception for humanitarian intervention. Moreover, states have not defended unilateral interventions exclusively on humanitarian grounds, even where such a defense might have been plausible. Taken together, these factors indicate that states do not support humanitarian intervention in its unilateral mode.

Debates surrounding Security Council Resolution 688 suggest that states may not entirely accept and support non-forcible multilateral intervention to protect the citizens of another state. During the debate preceding the passage of Resolution 688, many states embraced sovereignty and domestic jurisdiction by repeatedly citing Article 2, paragraph 7 of the U.N. Charter, which prohibits intervention in the domestic affairs of Member States. Indeed, what is most telling is that Article 2, paragraph 7 is recounted in the second paragraph of the Resolution itself.


25. Rodley, supra note 2, at 21. In those interventions that could have been defended on humanitarian grounds, the intervening states chose to invoke other justifications for the use of armed force, such as self-defense against an armed attack. Tom J. Farer, An Inquiry into the Legitimacy of Humanitarian Intervention, in LAW AND FORCE IN THE NEW INTERNATIONAL ORDER 185, 193 (Lori E. Damrosch & David J. Scheffer eds., 1991). Professor Farer cites the case of India's intervention in East Pakistan, as well as Tanzania's in Uganda, and Vietnam's in Cambodia. He notes that the claim of self-defense against armed attack could not be persuasively maintained in any of these cases, but there were solid grounds for humanitarian intervention because each "target regime's crimes were notorious." Id. That these interventions have been denounced by the General Assembly may indicate opinio juris on the matter. Rodley, supra note 2, at 21.

26. Despite the widespread torture, genocide, and other horrific violations of human rights in the last century, most countries do not seem to accept the invitation for intervention. Farer, supra note 25, at 192. Rather, the international community has generally been silent, and the discourse revolves around the exceptions to inaction. Id. Professor Farer asserts that there is not a single case in the entire postwar era where one state has intervened in another state for the sole purpose of halting mass murder, much less for any other gross violation of human rights. Id. at 192–93. As for scholarly views on the legality of humanitarian intervention, Professor Farer has surveyed the literature on humanitarian intervention and found that sentiment on its permissibility varies according to whether it is being discussed by classicists or realists. Id. at 186–88. The classical school bases its case on traditional sources of international law, including relevant texts and state practice; within this idiom, the use of force for humanitarian purposes would be illegal. Id. at 186–91. The realist school "seek[s] law" by foraging for it among the shifting preferences and tolerances ... of all the heterogeneous actors in world politics. ... If law is the raw material itself, then of course it is very much a matter of degree, a continuum from raging dissensus to widespread but never perfect agreement." Id. at 195. From this vantage point, realist scholars assert that U.S. interventions in Grenada and Nicaragua, and the reactions to them, may be phases towards a new rule of customary law in favor of intervention. Id.


The general prohibition of the use of force found in the U.N. Charter also argues against allowing unilateral intervention on humanitarian grounds.\(^\text{30}\) In the U.N. framework, this limitation is found in Chapter VII of the U.N. Charter, which allows the Security Council to use force only upon a finding of a threat or breach of international peace and security or in response to an act of aggression.\(^\text{31}\) Therefore, a humanitarian crisis must pose at least a threat to international peace before Security Council action involving the use of force is permissible.\(^\text{32}\)

The present international security system was designed to address disputes between states, although it was anticipated that an internal conflict could develop into an international threat.\(^\text{33}\) Accordingly, transborder conflict was contemplated by the term “threat to international peace.”\(^\text{34}\) To take an easy case, a humanitarian emergency with significant transborder effects that might incite military involvement by neighboring states, fits the traditional notion of a threat to international peace. As this Article will discuss, the situation created by Iraq’s harsh repression of the Kurdish rebellion in 1991 fits this category.\(^\text{35}\)

In reality, however, humanitarian crises are frequently internal matters that do not involve other states.\(^\text{36}\) While these catastrophes may have some repercussions in neighboring countries, they do not necessarily give rise to interstate conflict or regional instability. Thus, if the definition of threat to international peace is to apply to humanitarian crises that do not cause transboundary friction, the concept of threat to international peace must be expanded.\(^\text{37}\) The Security Council appears to be cautiously moving in this direction, in light of its authorization to use force in Somalia to render humanitarian assistance.\(^\text{38}\)

II. IRAQ, SOMALIA, AND HAITI

A. Repression of the Iraqi Kurds

Security Council Resolution 688 condemned Iraq’s treatment of its civilian population, including its Kurdish inhabitants, and found that the consequences of this repression
threatened the international peace and security of the region. The factual situation appears to fully support this finding. The controversy revolved around Iraq’s mistreatment of its Kurdish population. The government of Iraq quashed the Kurdish rebellion, causing a mass exodus of refugees into neighboring Turkey and Iran, both states with large Kurdish populations. The Kurdish uprising in Northern Iraq undoubtedly influenced and stirred Kurdish populations in Iran and, more notably, Turkey. The potential for interstate conflict in the region was confirmed by Iran and Turkey’s statements during the debates preceding passage of the Security Council Resolution. Moreover, this situation unfolded in the aftermath of a major war in the region, which undoubtedly increased the potential for regional instability. Accordingly, the case of Iraq exemplifies a classic scenario of internal human rights violations that pose a “threat to international peace,” as the term has traditionally been defined. It thus serves as an important precedent for future humanitarian crises that have external repercussions.

The scope of Security Council Resolution 688 was limited, however. First, the Resolution does not establish purely internal human rights violations, without transboundary effects, as threats to international peace and security. In fact, it explicitly states that it is the external effects of Iraqi repression that are threats to international peace. Second, Resolution 688 did not authorize the Security Council to use force to protect human rights in these circumstances. The Resolution contains no reference to Chapter VII, the only chapter of the U.N. Charter that permits the Security Council to use or sanction the use of force. Furthermore, the Resolution fails to mention collective enforcement measures. Given the narrow scope of the Resolution, perhaps it should not be characterized as sanctioning humanitarian intervention at all, since humanitarian interventions, by definition, entail use of force.

While Security Council Resolution 688 was relied upon initially to create safe havens for the Kurds and to authorize military measures by allied forces, the legality of these...
acts is questionable if the Resolution is their sole basis for authority.\textsuperscript{52} Perhaps these operations should be analyzed as unilateral interventions carried out by a group of states, once more raising the question of whether unilateral, unauthorized humanitarian intervention is permissible.\textsuperscript{53} Nonetheless, although the Security Council did not authorize force, it could have done so legally, based on its finding of a threat to international peace;\textsuperscript{54} it may take such a step in the future if a similar situation arises.

In passing Resolution 688, the Security Council carefully sought to avoid setting an unwelcome precedent for future action.\textsuperscript{55} Statements made during the debate on the Resolution reveal that most states, including those supporting the Resolution, struggled with balancing the right of the Security Council to consider the situation with the principle of non-intervention into a state's internal affairs. Article 2, paragraph 7 of the U.N. Charter and its application to this particular situation were discussed at great length, and the language of Resolution 688 reflects this tension.\textsuperscript{56} Unlike Somalia, where there was no functioning central government, and Haiti, where there were competing governments,\textsuperscript{57} Iraq had a single, sovereign, functioning government. The issue of sovereignty dominated the debate because many states questioned the authority of the United Nations to intervene against a sovereign government to address human rights abuses.

The Council also ordered Iraq to permit humanitarian assistance.\textsuperscript{58} Ultimately, this assistance was provided under U.N. auspices pursuant to several memoranda of understanding and was thus furnished with Iraq's begrudging consent.\textsuperscript{59} Nonetheless, an order to a state to permit humanitarian assistance is an innovative decision that is loosely

\textsuperscript{52} Whether Operation Provide Comfort might have been authorized by any of the panoply of resolutions passed during and after the Gulf War is beyond the scope of this Article. Other Member States appeared to view these operations as illegal, because they were unilateral actions undertaken without authorization. \textsuperscript{53} Malanczuk, supra note 45, at 19. While these actions were not condemned by the Security Council, this fact is not determinative because the veto can effectively block censure.

\textsuperscript{54} Id.

\textsuperscript{55} Id.

\textsuperscript{56} Id.


\textsuperscript{58} Gordon, supra note 4, at 549–50 (citing S.C. Res. 688, supra note 27).

in accord with developments in the General Assembly. The Assembly also appears to be gradually moving towards a view that humanitarian assistance may be supplied without consent in certain circumstances.60

B. Somalia

As compared to Iraq, Somalia presents a more intricate and complex case. The Security Council’s evaluation of the situation in Somalia resulted in Resolution 794, which found that the unfolding human rights crisis in Somalia and the obstacles to the delivery of humanitarian assistance constituted threats to international peace and security.61 Accordingly, the Resolution authorized all necessary means to establish a secure environment for relief efforts.62 The causes and effects of the crisis in Somalia appeared to be entirely internal, a fact reflected in the language of the Resolution, the statements preceding its adoption, and the Secretary General’s letter.63 Although regional instability64 was cited as a justification for intervention, the thrust of the Resolution and the rationale supporting the use of force centered around Somalia’s internal human rights crisis and the impediments to humanitarian assistance efforts.65 In Iraq the emphasis was on massive refugee flows that threatened regional stability. Here, Somalia’s internal humanitarian crisis in and of itself was a threat to international peace, despite the absence of any transboundary impact that might have incited interstate conflict.66 This finding, and the authorization to use force under Chapter VII, may have represented a turning point in the legality and legitimacy of humanitarian intervention.

The Council’s objective in authorizing the use of force was to create a secure environment for international aid agencies to deliver humanitarian assistance such as food and medicine.67 The use of force was limited to securing a safe environment for this assistance,68 thus satisfying the principle of proportionality. The operation in Somalia may

60. For example, the language in a recent resolution provides:

The sovereignty, territorial integrity and national unity of States must be fully respected in accordance with the Charter of the United Nations. In this context, humanitarian assistance should be provided with the consent of the affected country and in principle on the basis of an appeal by the affected country.

G.A. Resolution on Humanitarian Assistance, supra note 10. Of course, without consent does not necessarily mean by means of force. Third World states reacted negatively to the allied intervention in Iraq. MALANZUK, supra note 45, at 19; see Stromseth, supra note 41, at 97-98.

61. S.C. Res. 794, supra note 38, at 1. The Security Council relied upon the Secretary General’s evaluation of the situation in Somalia and his recommendations for a solution to the crisis.

62. In U.N. parlance, this authorization meant the use of force.


66. See id.

67. Id.

68. At least this was the objective of the United States, which led the Unified Task Force. Michael R. Gordon, U.S. Is Sending Large Force as a Warning to Somalia Clans, N.Y. TIMES, Dec. 5, 1992, at A5 (reporting that “the Pentagon issued an official ‘mission statement’ for the operation, which underscored that the purpose of the intervention is to provide humanitarian aid.”); Jane Perlez, U.S. Forces Arrive In Somalia on Mission To Aid the Starving, N.Y. TIMES, Dec. 9, 1992, at A1 (stating that “the mission ... is intended to establish a secure environment for the delivery of humanitarian aid.”); United States Department of State Dispatch, Humanitarian Crisis in Somalia (Letter from President George Bush), Dec. 14, 1992, available in WESTLAW, Allnews Database, 1992 WL 3118381 (stating that “U.S. forces will remain in Somalia only as long as necessary to establish a secure environment for the humanitarian relief operation”); United States Department of State Dispatch, Humanitarian
also be another step towards mandating the delivery of humanitarian aid without the consent of the sovereign state. Given the absence of any centralized authority in Somalia, there was, of course, no entity from which to obtain consent.\textsuperscript{69} The governmental void in Somalia presented a unique situation, a fact echoed by the members of the Security Council.\textsuperscript{70} The void undoubtedly made this course of action more palatable and perhaps even possible. Hence, the impact of this resolution on the concept of sovereignty is difficult to discern.

C. Haiti

The Haitian scenario was even more complicated than that of Iraq or Somalia and was arguably not a humanitarian intervention. Though both the General Assembly and the Security Council voiced concerns over human rights abuses by the de facto government of Haiti,\textsuperscript{71} addressing these abuses was not at the heart of the Security Council’s resolution to use force in this situation.\textsuperscript{72}

U.N. Resolution 940 expressed grave concern regarding Haiti’s deteriorating social order and, in particular, noted the systematic violations of civil liberties and the desperate plight of Haitian refugees.\textsuperscript{73} Yet, in authorizing the use of force under Chapter VII, the express purposes of the U.N. intervention were to facilitate the departure of the Haitian military leadership, to secure the prompt return of the elected Haitian President, and to restore the legitimate authorities of the Haitian government.\textsuperscript{74} While these objectives were designed to remove the de facto government that was the root cause of the human rights
abuses, the actual goal appeared to be the reinstatement of Haiti’s elected government. Unlike Resolution 794 on Somalia, Resolution 940 did not authorize the use of force specifically to deal with the humanitarian aspects of the crisis. Nor was the goal of Resolution 940 to end government repression, as was the case in Resolution 688 on Iraq. Therefore, the Security Council’s operation in Haiti cannot be termed a humanitarian intervention, unless humanitarian intervention is defined to include the use of force to restore a democratically elected government—a proposition for which there is no evidence in international law.

III. TOWARDS A MORE EFFECTIVE ROLE FOR THE UNITED NATIONS

The concept of humanitarian intervention involves several additional difficulties which may be ameliorated or resolved to some extent by a more active U.N. role. Increased U.N. participation in this arena is a positive development. However, it may not resolve some of the underlying problems with this concept. Humanitarian intervention has been criticized as being a right exercised only by the strong against the weak; the decision to intervene has historically rested on a determination made by more powerful states. Thus, the concept has often been a thinly disguised pretext for intervention for its own sake. Indeed, some scholars maintain that there have been few, if any, interventions that were designed exclusively to save the lives of foreign nationals. Perhaps this perspective is not surprising because it is unlikely that the vast majority of states would agree to endanger their own citizens solely to rescue the nationals of a foreign state. Rather, danger to foreign nationals often functions as a pretext for a state’s intervention into another state’s internal affairs. Thus, it is not surprising that an ulterior national interest is often present when a state decides to intervene.

75. The United Nations’ interest in restoring the democratically elected government of Haiti may have been stimulated in part by its unprecedented role in the election of that government. Haiti was the first country ever to receive United Nations assistance to conduct free and fair elections. Electoral Assistance in Haiti, G.A. Res. 43/2, U.N. GAOR, 45th Sess., U.N. Doc. A/RES/43/2 (1990); U.N. GAOR, 45th Sess., 26th mtg. at 61–3, U.N. Doc. A/45/PV.26 (1990); Howard W. French, Haitians Overwhelmingly Elect Popular Priest to the Presidency, N.Y. TIMES, Dec. 18, 1990, at A1 (noting that Reverend Jean-Bertrand Aristide won 60–70% of the popular vote in Haiti’s first democratic election); Howard W. French, 1,000 Observers Look Out for Violence and Fraud as Haitians Prepare to Vote, N.Y. TIMES, Dec. 16, 1990, at A3 (explaining that the United Nations, the Organization of American States, and other observer groups were to monitor the voting at polling places and carry out “quick counts”); Paul Lewis, Haiti Wants U.N. to Monitor Votes, N.Y. TIMES, July 22, 1990, at A1 (reporting that Haiti is the first member state to request United Nations organization and monitoring of elections); Don A. Schanche, U.N. Takes a Role in Haitian Election, L.A. TIMES, Nov. 20, 1990, at H7 (noting that 400 U.N. observers and 65 unarmed U.N. military specialists in Haiti were to observe and verify the elections).

76. Id.

77. Id.

78. One very prominent scholar has argued for an emerging human right to democratic governance. Thomas M. Franck, The Emerging Right to Democratic Governance, 86 AM. J. INT’L L. 46 (1992). He does not argue, however, that such governments are to be installed by the use of force. Id. at 84.

79. Amison, supra note 10, at 200; Brownlie, supra note 6, at 147–48; Delbrück, supra note 1, at 891; Nanda, supra note 1, at 309; Kevin Ryan, Rights, Intervention, and Self-Determination, 20 DENY. J. INT’L L. & POL’Y 55, 66–68 (1991); Scheffer, supra note 1, at 258. Given the unilateral nature of these determinations to intervene and the constant presence of some non-humanitarian motive, the principle of non-intervention has been a powerful counterweight to vesting this concept with legality. Nafziger, supra note 1, at 23; Scheffer, supra note 1, at 258.

The United Nations can help temper the pretext problem by playing an active role in gathering information and gauging the extent and degree of human rights abuses and violations where intervention may be warranted. The United Nations can undertake this role in a manner that no Member State acting alone can. Information gathering may not always be necessary, given the strong role of the news media and other forms of international mass communication in increasing global awareness of human rights crises. Nevertheless, the United Nations can validate the existence of a true humanitarian crisis and provide an objective analysis to the international community of its severity and whether it is so critical that there is a need for intervention. Consequently, the pretext problem will be alleviated to a great extent.

If intervention is under U.N. auspices, the assessment to intervene must be made by a group of states, rather than one state. Even if one particular state pushes for intervention, it still must make its case to fifteen other states and convince eight of them that intervention is warranted. The state additionally faces the prospect of a veto by a permanent member of the Security Council. Considering that intervention is a tool of the powerful, the possibility exists that it will be a permanent member of the Security Council urging forcible intervention. Nonetheless, that member will have to convince a majority of Security Council members to go along with its assessment and convince the other permanent members to abstain. In the process, the resolution would be modified to meet the objections and concerns of other Security Council members, some of whom will invariably be from the target region or the same region as the member advocating intervention. If the past is any indication, there would undoubtedly be efforts to exert some form of U.N. control over the operation. It is uncertain whether any of these steps could prevent a powerful state intent on intervening from actually doing so, even in the face of international opposition. Thus, even if the United Nations addresses humanitarian intervention, it may still remain a tool of the powerful over the weak. In the absence of a United Nations standing force, intervention will still largely be shouldered by the powerful, albeit hopefully with the blessing of the Organization. Moreover, given the permanent member veto, there will be no intervention to address human rights abuses by the powerful, and human rights violations by each of these states is entirely plausible.

Ceding authority to the United Nations to intervene raises additional problems. Once the right to intervene is established by defining the parameters within which massive human rights in and of themselves are a threat to international peace, must that right be exercised? The establishment of a right does not necessarily mandate a duty to exercise it, but if the right is not exercised, it might raise consistency problems and the potential that humanitarian intervention would still be a tool to carry out national political goals. Collective intervention, as it would presently be exercised, does not resolve these doubts. It is no accident that the leading participants in the Iraqi, Somali, and Haitian cases were states with

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83. U.N. CHARter art. 27.

84. See supra pp. 4-5. However, if a state were to intervene without international approval, the fallout from the international community and the disapproval in its wake would likely be substantial.
some additional stake in the situation. This does not mean that the nations involved did not have sincere humanitarian motives and objectives but only that additional interests may also influence decisions to intervene.

The weakness of collective international intervention is exemplified by the situation in Rwanda. Rwanda presented a classic case for international intervention; there was massive genocide which was well-publicized by widespread international media coverage. Admittedly, Rwanda involved a precarious situation that was very difficult to address because any intervention would most likely have resulted in loss of life on the part of the massive genocide which was well-publicized by widespread international media coverage. Although the carnage in Rwanda was horrific, the United Nations never authorized the use of force to halt it. Ultimately, the only nation to render assistance was

85. The United States, France, and the United Kingdom played the lead role in the humanitarian intervention in Iraq. They were also the principal powers in the war against Iraq. The Haitian intervention was carried out by the United States, which is the major power in the hemisphere and had an interest in ensuring stability in Haiti. While the United States led the Unified Task Force, this force was multinational. There were no clear interests on the part of the United States or the other intervening nations in this case, which supports the case for this intervention being closest to a pure humanitarian intervention. Nonetheless, it is open to question if even this situation would have transpired as it did, if it were not perceived as easy to execute with a minimal loss of life and if President Bush had not been a lame-duck President.


87. See supra note 7.
France, a nation with historical ties to Rwanda.\textsuperscript{88} It is difficult to imagine French intervention in Rwanda absent its historical, political, and economic connection.

At present, it may be unreasonable to expect the international community to carry out international interventions for purely humanitarian motives. Perhaps international society simply has not reached the stage where its members care more about the lives of others than the lives of its own. If the situation is to improve, the international community must develop a set of criteria to discern and remedy human rights abuses independently of the interests of powerful nations. It must also develop the means and will to intervene in all of the situations that fall within these criteria, and consider organizing and maintaining its own standing army to execute Security Council decisions. Until these measures are taken, humanitarian intervention under U.N. auspices must be viewed as a desirable constraint on purported unilateral humanitarian interventions. Nevertheless, such intervention is an imperfect tool that retains some of the problems of unilateral intervention.