UNITED NATIONS' HUMANITARIAN INTERVENTION IN ARMED CONFLICT: EXAMINATION OF THE LEGAL PERSPECTIVES*

Abstract

The first United Nations peacekeeping mission was established in 1948, when the Security Council authorized the deployment of the United Nations Truce Supervision Organization to the Middle East to monitor the Armistice Agreement between Israel and its Arab neighbours. Since then, there have been more than 70 United Nations peacekeeping operations around the world. This paper examines the peacekeeping operations of the United Nations over centuries of its existence and how it has evolved to meet demands of different conflicts and a changing political landscape. It studies the history of the organization and the legality of its missions in the area of humanitarian intervention. The paper analyzes how the United Nations Security Council deals with armed attacks, enforcement action, and dispute resolution. It argues that the issue of humanitarian intervention by the United Nations should be made part of what United Nations mission was earlier set to be. That is, armed intervention in conflicts to separate parties at war should now be authorized by the United Nations to include humanitarian interventions and peace building. The Paper concludes that humanitarian intervention should be fully incorporated into United Nations charter and its mission. An entrenched humanitarian intervention into the Charter will give legal backing for action and justify humanitarian intervention when the organizations meant to protect human rights failed or neglected to act.

Keywords: United Nations, Humanitarian Intervention, Armed Conflict, Legal Perspective

1. Introduction

The theory of humanitarian intervention has undergone various stages of development. In the 17th century, Hugo Grotius first expounded a theory of humanitarian intervention.[1] He believed that while rulers ordinarily could deal with their citizenry unimpeded, when the ruler terribly abused the citizens, others have a right to try preventing the mistreatment. In the latter half of the 19th and early 20th centuries, humanitarian intervention became widely accepted as almost an absolute right of a state. Therefore early recognition of the doctrine of humanitarian intervention is widely attributed to the works of the 17th century Dutch author Hugo Grotius,[2] who is often called the father of international law.[3] Grotius propounded a theory that when tyrants mistreat their subjects, and the subjects cannot defend themselves, others outside the state may take action to defend those oppressed subjects.[4] The theory flowed from a presumption that while citizens had no legal right to take up arms against their government, nothing prevented others from using force against the oppressive government for the benefit of those citizens. In view of this, this paper examines the history of United Nations interventions in armed conflict and the legality of its missions in humanitarian interventions.

Grotius employed a theory analogous to modem agency theory, whereby an action is illegal because the individual lacks standing to assert a legal right. An example of such an agency theory is illustrated in the guardian/minor relationship; the minor cannot legally contract or sue, but the minor's guardian can contract or sue on minor's behalf. Therefore, although the oppressed citizens (the minor) could not attach the government a different sovereign (the guardian) could do so for the oppressed citizens. Thus, Grotius believed that in certain instances, humanitarian intervention was permissible. Grotius did recognize that possible abuses could occur if humanitarian intervention were legal. He argued, though, that states could invoke any doctrine to use force as a mere pretext for that use of force. Thus, he concluded that the possible abuses do not necessitate the illegality of humanitarian intervention. Humanitarian intervention doctrine following Grotius was largely a theoretical argument. Specific invocation of the doctrine of humanitarian intervention by an intervening state arose mostly in the latter half of the 19th century. However, the first example of state practice when the doctrine of humanitarian intervention was used to justify military force occurred in 1829, when France, Britain, and Russia militarily enforced the 1827 Treaty of London in order to prevent massive bloodshed in Greece, then under Ottoman occupation.[5] France intervened militarily in Syria in 1860 to protect the Christian population from slaughter at the hands of the Ottoman Empire. The French intervention is considered a valid precedent for legalizing humanitarian intervention even by those opposed to it.

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[1] Grotius., H., *On the Law War and Peace,* 1853,288

[2] Oppenheim, L., *International Law,* Oxford, Oxford University Press, 1955, P. 312

[3] Falk, R., *International Law: A contemporary Perspective,* Boulder, West View Press, 1985

[4] Grotius, H, at 288

[5] Behuniak, T.E., 'The Law of Unilateral Humanitarian Intervention by Armed Force: A Legal Survey,'[1978], *Military Law Review,* (Vo.79), 157, 160

Another relevant example of state practice during this era occurred in 1912, when Greece, Bulgaria, and Serbia intervened in Macedonia to end mistreatment of Christians, also by the Ottoman Empire. These and other state practices led some authors to conclude that prior to the drafting of the U.N. Charter, customary international law, through state practice and in the opinion of leading scholars, unquestionably recognized the legality of humanitarian intervention.[6] The U.N. Charter fundamentally changed international law by outlawing almost all unilateral resort to the use of force. Therefore, the charter is completely divorced from the pre-existing body of rules under customary international law. Unilateral humanitarian intervention became illegal under the Charter because as posited by Benjamin Barry, Article 2(4) banned all uses of military force, except actions taken in self defence and actions authorized by the Security Council.[7] The United Nations recognizes state sovereignty and the Security Council preserves peace, security, and human rights through collective security.

The legislative history of the charter shows intent by the drafters to render illegal all excuses for resorting to military force, except those explicitly stated in the Charter. This legislative intent is generally understood to forbid self-help and military reprisals. Article 2(4)'s ban on all force thus covers unilateral humanitarian intervention. These provisions outlawing all resort to military force except when approved by the Security Council are considered the most important provisions of the Charter and have been unanimously reaffirmed numerous times. Therefore, the prevailing view finds that the underlying purposes, as well as the express provisions of the Charter, render unilateral humanitarian intervention illegal. For this reason, the charter needs a review in order to make provisions for humanitarian intervention by the forces while carrying out other mandates. To examine the legal implications of UN humanitarian intervention in armed conflict, the paper is divided into five sections. Section one is the introduction. Section two examines the State practice on humanitarian intervention in armed conflict while section three is the examination of legal, moral and practical justifications for humanitarian intervention in armed conflict. Section four examines the UN Articles on enforcement action through the Security Council. Section five is the conclusion of the paper.

2. State Practice on Humanitarian Intervention

Before international rule-making bodies such as the United Nations developed, international law consisted mainly of customary rules. These customary rules derive from actions by states, called 'state practice.'[8] Over time, 'state practice' becomes the norm and thus legitimate. When interpreting a chain of state practices, however, it is sometimes difficult to discern the true motives behind the state's action. Discerning these underlying motives is important because they determine the legitimacy of state practice, and thus legal action in the international community. The Indian intervention in East Pakistan in 1971 ('the India case') is a classic example of the problems associated with interpreting state practice and ascertaining whether such practice supports the legitimacy of humanitarian intervention. The birth of Pakistan came about after the separation of India in 1947. Pakistan emerged out of two distinct land masses, separated not only by hundreds of miles, but by ethnic, linguistic and cultural differences. In December 1970, the East Pakistani secessionist group, the Awami League, won a majority of seats in the Pakistan Assembly. The president of Pakistan, part of the controlling West Pakistan regime, proposed to hold a meeting at which the Assembly would draft a new Pakistani constitution. The president reneged on this promise and indefinitely postponed the meeting. As a result of this postponement, there were protests, riots, and demonstrations by Bengalis, who were the inhabitants of the area and supporters of the Awami League. Soon after the Awami League supporters gained control of Easter Pakistan, the Pakistani army attacked Dacca, the capital of East Pakistan, without warming. The Pakistani army gained control of the capital, used military force against many warmed civilians, outlawed the Awami League, and arrested many of the Awami League leaders. Following the death of approximately 10,000, Bengalis, about nine to ten million Bengalis refugees flowed across the border into India. With this massive influx of refugees came disease and scarcities of food and housing, causing severe hardship on India's economic and political security. Simultaneously Pakistan was violating minimal standards of human rights by killing massive numbers of Bengali civilians, destroying villages, committing rape, torture and murder, and executing individuals without trials. Following a Pakistani attack on an Indian air base located miles within the Indian border, India militarily intervened in East Pakistan. Within a few days, the Pakistani army surrendered, political prisoners were released, and the extreme human rights violations stopped. Also, the new country of Bangladesh emerged out of East Pakistan. Before India intervened, however, the Indian government appealed to foreign governments and the United Nations failed to respond to India's appeals for aid. India's use of military force followed months of inaction by the international

[6] Fontyne at 235

[7] Benjamin, B.M., 'Unilateral Humanitarian Intervention: Legalizing the Use of Force to Prevent Human Rights Atrocities' [1992], *Fordham Law Journal*, (Vol. 16)

[8] U.N. SCOR, 26th Sess; 1606th mtg; at 15, cited in Michael Akehurst, *Humanitarian Intervention*, 1984, in Intervention in World Politics, H: Bull (ed.); 95-96

community. The United Nations failed to prevent or even address the human rights abuses taking pace in East Pakistan.

Conceding that humanitarian intervention is illegal, states that do act with humanitarian motives are forced to profess pretextual motivations to the international community. The Indian government initially maintained that humanitarian motives justified the use of force. The Indian government also proffered self-defense under Article 51 of the U.N. Charter to justify its use of military force.[9] This type of legal gamesmanship, where a state professes to conform its actions with established precedent despite the state's true motives has, in part, led to the current debate over whether humanitarian intervention should be legalized. In addition to India, Tanzania intervention in Uganda against ldi Amin's regime in 1976 was justified on humanitarian grounds and self-defence. Soon after the Khmer Rouge took power in Kampuchea in 1975, it started to systematically torture and murder massive numbers of citizens. Over 2,000,000 people died within three years. In 1978, Vietnam invaded Kampuchea and the Khmer Rouge government was ousted. The government of Vietnam declared that their reason for intervening was self- defence, in response to various border clashes between the two states. Although unilateral humanitarian intervention is currently considered illegal in international law because the accepted interpretation of the U.N. Charter requires such illegality, a growing number of scholars would have humanitarian intervention legalized. These authors believe that a revised interpretation of the Charter would establish the legality of humanitarian intervention. Such an interpretation focuses on an understanding of the conditions under which the U.N. Charter was drafted and evaluates the subsequent history of the United Nations. Interpretation of state practice, including the India case, may support both the illegality and the legality of humanitarian intervention.

3. Legal, Moral and Practical Justification for Humanitarian Intervention

Some scholars argue that legal arguments support the legality of humanitarian intervention. It has been proffered that states that commit such egregious human rights violations lose their legitimacy under international law.[10] As argued by Teson, states' right to exist derives not from any supposed international order, but rather from the duty of the government to protect the rights of the individual citizens.[11] Mr. Teson developed a theory based upon the social contract. 'States and governments exist because individuals have consented, or would ideally consent, to transfer some of their rights in order to make social cooperation possible'. Thus, there is no distinction between the rights of citizens of one state and the rights of foreigners; all people deserve protection where human rights are concerned and therefore humanitarian intervention should be legal. Based on this argument, a state forfeits its legitimacy when it commits human rights violations, and another state can legally intervene on behalf of the oppressed citizens.[12] In examining the United Nations' record on the protection of human rights, one author concluded that egregious or severe violations are no longer essentially within the domestic Jurisdiction of states, and therefore the principle of nonintervention is not applicable'[13] These commentators are also concerned with the preservation of humanity, and value human life over adherence to legal principles.[14] According to these authors, basic humanitarian sentiments support the view that no person can remain idle in the midst of government sponsored slaughter.[15] Also, defensive wars to protect human rights are considered the only morally justifiable wars.[16] In addition, these authors recognize that in practice, the U.N. collective security measures usually fail to prevent the most egregious cases of human rights violations. Numerous instances exist of the obvious failures of the U.N. collective security measure to provide the international security for which they were designed. The most recent examples include former Yugoslavia, Somalia, Sudan, Iraq, Biafra, Indonesia, Burundi, Bangladesh and Uganda. Furthermore, not responding to extreme human rights violations cause dictators to believe that they can commit massive human rights abuses with impunity. It was recognized very early in the U.N. era that the collective security measures of the Security Council might not be able to prevent serious tragedy, and that an individual state might retain the right to unilateral action.

Authors interpret the Charter in various ways to support the argument that unilateral humanitarian intervention should be legal. One thesis is that unilateral humanitarian intervention supports the purposes of the U.N. Charter because the preservation of human rights is one of the Charter's pnmary goals.[17] Another thesis is that humanitarian

[9] Oppenheim L., *International Law.*
[10] Teson, F., *States and Governments,* Florida, (Florida State University Press, 2001)
[11] Ibid.
[12] Ennacora, F., *Human Rights and Domestic Jurisdiction* at 124
[13] Lillich, R.B., "Humanitarian Intervention: A Reply to Ian Brownlie and a Plea for Constructive Alternative", in John N. More (ed.), *Law and Civil War in the Modern World,* 1974,229
[14] Leff, A.A., *Food for Biafrans,* New York Times, Oct. 4, 1968, at A46
[15] See Teson at 247
[16] Jessup, P., *A Modern Law of Nations* (4th ed.).
[17] Lillich, R.B at 240

intervention does not violate Article 2(4) of the Charter because an altruistic humanitarian intervention impairs neither the territorial integrity nor the political independence of the target state. This is because an altruistic humanitarian intervention maintains the territorial boundaries of the target state. If the government of the target states is overthrown, the political independence of the state is not impaired because the government forfeited its legitimacy. Some authors state that in cases where U.N. approval of the use of military force is extremely difficult to obtain, humanitarian intervention should be legal. This conditional approach would render humanitarian intervention illegal once U.N. security measures function as they intended.[18] In addition, another theory evaluates the legislative history of the U.N. Charter and concludes that because the drafters could have explicitly banned humanitarian intervention but did not do so, it remains legal.[19] Because law evolves overtime, commentators argue that Article 2(4) should not be read without reference to the present political and technological situation.[20] Lastly, it is proffered that the international community should affirmatively recognize an exception to Article 2(4) to allow for humanitarian intervention.[21]

Recognizing that the framework for the politics of the international community changes overtime, Professor Reisman argues that: One should not seek point-for-point conformity to a rule without constant regard for the policy or principle that animated its prescription, and with appropriate regard for the factual constellation in the minds of the drafters... Article 2(4) ... is premised on a political context and a technological environment that have been changing inexorably since the end of the 19th century. It is argued that recent state practice supports the legalization of humanitarian intervention. Precedents do exist to support such a theory, these commentators argue. These commentators cite, inter alia, the Congo case of 1964 where the Belgian, United States, and British forces combined in a military venture to rescue hostages held by rebel army in Congo, the India case of 1971, and the Tanzania case of 1979. In each of these cases, massive human rights atrocities were occurring and states intervened militarily, to prevent further abuses. In the India case, the situation warranted humanitarian intervention, and India provided it. The Pakistani military assaulted unarmed civilians and massive human rights violations continued unabated. The U.N. collective security measures designed to prevent such events failed miserably. Finally, India intervened and stopped the abuses, which would surely have continued without India's action. Thus, India's intervention has been called an almost perfect example of humanitarian intervention.

4. Enforcement Action of the United Nations through the Security Council: Examination of the Articles

The enforcement actions of the United Nations are provided in Articles 39 to 51 of the Charter. The Charter provides in Article 39 that the Security Council shall 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 Article 41 and 42, to maintain or restore international peace and security. In Article 40, the Charter provides that in order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures. The UN Charter in Article 41 provides that the Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include 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 represents a fundamental innovation with respect of the League of Nations Covenant ... While the League Council could merely recommend that states apply armed force against an aggressor, the newly created Security Council should, pursuant to Article 42, be able to take the necessary military measure itself. For this to become possible Article 43 required states to place troops at the disposal of the Security Council. But since the special agreements mentioned in Article 43 have not been concluded, the system of collective security as envisaged by Charter has remained incomplete in one of its most important parts... During the Cold War, the innovative character of Article 42 had almost no impact. Before 1991, the only case in which large-scale military operations followed a decision of the Security Council did not fall under Article 42. In the case of Korea, the Security Council merely recommended that states provide assistance to South Korea in repelling the North Korea attack on the basis of collective self-defence under Article 51. In contrast, the authorization of the peace-keeping operation in the Congo in 1960 contained elements which arguably fell under

[18] Fonteyn, J.P., 'The Customary International Law Doctrine of Humanitarian Intervention: Its Current Validity Under the U.N. Charter', [1973], *Cal. W. International Law* (Vol.4). 203

[19] Reisman, W.M., 'Coercion and Self-Determination: Construing Charter Article *2(4)* ',[1984], *American Journal of International Law*, (Vol.78), 642

[20] Levitin, J.M., 'The Law, of Force and the Force of Law: Grenada, the Falklands, and Humanitarian Intervention',[1986], *Harvard International Law Journal*, (Vol.27), 621

[21] Ibid

Article 42. Article 42 also provided the legal basis for the authorization of the United Kingdom to apply force against tankers approaching the harbour of Beira in order to discharge oil for Rhodesia.

Since 1990, however, the Security Council has made use of Article 42 in a significant number of cases. Most prominent among them was of course, the authorization of member states to repel the Iraqi invasion of Kuwait, which followed an earlier decision to enforce economic sanctions against Iraq by a naval blockade. Another large-scale operation was mounted in 1992 when the Security Council empowered member states to take military action in support of the peace-keeping force in Somalia, and in the following year, conferred enforcement powers on the peace-keeping force itself by the Security Council Resolution 814 of March, 26, 1993.uring the Bosnia War, the Security Council first confined its authorization of the use of force to the facilitation of the delivery of humanitarian assistance, and then expanded it to the enforcement of economic sanctions and of no-fly zone. Later it included the use of force in defence of certain safe areas, which led to significant air strikes in 1995. In 1994, another large- scale use of force was authorized in order to ensure the return of the elected president to Haiti after economic sanctions and a maritime blockade had proved unsuccessful. In contrast, the genocide in Rwanda in the same year met with a much less forceful reaction by the Security Council mainly due to the lack of readiness by States to provide sufficient troops. Only after a significant lapse of time did the Security Council authorizes an expansion of the mandate of the UN peace-keeping force and an intervention by particular member states. The Rwandan case was evidence of a significant change in the practice of the Security Council severe setbacks encountered in the course of some of the earlier operations, in particular those in Somalia and Bosnia which led the Security Council to adopt restrictive approach from 1994 onwards. Only toward the end of the 1990s, the Security Council again came to authorize larger operations on the basis of Article 42. In 1997, it endorsed the intervention of ECOWAS in Sierra Leone and under Article 53, empowered the organization to ensure the implementation of the economic embargo imposed on the country. When ECOWAS decided to withdraw its forces from Sierra Leone in 1999, the Security Council established a large-scale peace-keeping operation, endowed with powers to use force that reached far beyond self-defence. In the same year it authorized an international civil and security presence in Kosovo, likewise empowered to take forceful action on the basis of Chapter VII of the Charter and consisting of both multinational forces and a UN peace- keeping operation.

For East Timor, the Security Council established a similar transitional authority run by the UN, after a multinational force operating on the basis of a Chapter VII mandate had provisionally restored peace and Security in the territory. In 2000, the Security Council endowed the UN observer mission in the Democratic Republic of Congo with the right to use force in order to protect not only itself but also civilians under imminent threat and, in the end of 2001, it used Chapter VII to authorize an international force for the assistance of the Afghan Interim Authority in the maintenance of security in Kabul. Thus, after some caution of the Security Council in the middle of the 1990s, Article 42 has regained significance as a basis for enforcement action, though in a more limited way than some had expected after its revitalization in the Second Gulf War, and with mixed success. As the wording of Article 42 indicates it is up to the Security Council to decide whether to take military action and to which degree. For member states to be able to take military measures on behalf of the UN, it is thus not sufficient that the Security Council merely determines a threat to the peace without specifying the means and extent of the action designed to remove this threat. The same conclusion is to be drawn from Article 39, which clearly separates the determination of a situation allowing for enforcement action and the decision on the kind of action. Otherwise, the enhanced centralization of the use of force, as sought by the Charter in contrast to the Covenant of the league, would be severely put unto question. This implies that, in the absence of a specific decision in this regard the use of force by states to implement Security Council Resolutions are unlawful unless it can be based on independent legal grounds. Thus, in the case of Kosovo, NATO's claim to enforce previous Security Council Resolutions through the use of force against Yugoslavia was untenable, and the attack could have been justified only on the basis of unilateral right to act. The same holds true for the establishment and defence of the no-fly zone in Iraq, which had not been authorized by the resolution the acting states claimed to enforce. For the air strikes against Iraqi however, the United States and the United Kingdom relied on a Security Council Resolution, dating back to 1900 which indeed contained an authorization to use force, but could hardly be interpreted as allowing for such action after the Second Gulf War had been terminated. Similarly, the council did not authorize military action of the United States in response to the terrorist attacks of September 11, 2001; however, in reaffirming the right to self-defence it made clear that its resolutions were not intended to bar of a unilateral right to act neither do they bar action otherwise lawful under Article 51 of the Charter-right to collective self-defence (SC Res. 1368, Sept. 12, 2001; SC Res.1373, Sept. 28, 2001).

In practice, the deployment of peace-keeping forces has come close to the original conception of the Charter. These forces operate under UN command, mainly responsible to the Security Council, and therefore constitute a mode of centralized implementation on the basis of *ad hoc* agreements with member state. Until recently, however they did not take part in enforcement measures, but were confined to action with the consent of the parties, perhaps with the

exception of the (1960-64) Congo operation. To some degree this changed in the 1990s, when peace-keeping units were authorized to use force not only in self-defence, but also in pursuance of such goals as the delivery of humanitarian assistance or the protection of the civilian population; and in all these cases the Security Council based its resolutions on Chapter VII. The charter does not state clearly whether, in the absence of agreements under Article 43 the Security Council should be able to act under Article 42 at all, and this question has accordingly been much debated. it seems more in line with the concept of the Charter to permit action by the Security Council under Article 42 even though the conditions as se out originally, have not been met. In this vein, the ICJ, in its Advisory Opinion in the *Certain Expenses Case*, (1962) ICJ Reports p.167 rejected the view that the Security Council was barred from taking action by military means, stating that the charter could not be read as leaving the Security Council 'impotent in the face of an emergency situation when agreements under Article 43 have not been concluded'. Although the ICJ was solely concerned with peace-keeping and did not specifically mention action under Article 42, the same line of reasoning applies in the latter context. Accordingly, the predominant view in legal literature now subscribes to the view that in the absence of agreements under Article 43, the Security Council is able to take measures under Article 42, in particular through the authorization of member states to use force.

This interpretation is confirmed by the practice of the Security Council. While its action in Korea, constituting a mere recommendation to act in collective self-defence is inconclusive in this respect, the absence of agreements under Article 43 was not regarded as an obstacle to action under Article 42 in the Rhodesian case. After that, the question as to whether the Security Council could authorize member states to use force arose again in the Second Gulf War in 1990-91. Here, the Security Council called upon states to use force first in order to enforce the economic embargo, and later to drive Iraq out of Kuwait without, however, pronouncing itself on the legal nature of these authorizations. Some commentators, therefore, opined that the Security Council merely endorsed the exercise of collective self-defence, but did not replace it with international enforcement action. It seems more convincing, however, to see Article 42 as the basis of both resolutions since their stated aim was to enforce previous decisions of the Security Council, not to assist in self-defence. In addition, the scope of action authorized by Res.678 (Nov. 29, 1990) included the restoration of 'international peace and security in the area' and thus reached well beyond that allowed under Article 51. Moreover, both Resolutions were mainly intended to provide greater legitimacy to the use of force by making it an action of the international community rather than one of individual states. This is confirmed by the attitude of the acting states, which justified their operation primarily with reference to UN authority and only in rare instances through reliance on self-defence. Later, state practice confirms the view that the Security Council can authorize member states, in groups or individually, to use force despite the lack of agreements under Article 43. The Security Council followed this path in the cases of Somalia, Bosnia, Haiti, Rwanda, Eastern Zaire, Albania, the Central African Republic, Kosovo and East Timor. Moreover, in some of these cases, in particular in Somalia and Rwanda, no other legal basis for the use of force such as self-defence or consent of the State concerned, was available. Thus, by accepting the legality of the operations such states implicitly accepted the legality of the authorization practice of the Security Council. In all cases, the Security Council can extend the mandate of the authority to act whether for self-defence or total use of force as was the case in Security Council Res 918, May of 17, 1994, on the extension of the mandate of UNAMIR in Rwanda, recognizing that UNAMIR may be required to take action in self-defence against persons or groups who threaten protected sites and populations, United Nations and other humanitarian personnel or the means of delivery and distribution of humanitarian relief.

5. Conclusion

Humanitarian intervention should be legal but with limitations designed to protect against disingenuous invocations of the doctrine. United Nations Security Council should act promptly when is supposed to and to human rights violations. Today's world should not tolerate massive human rights atrocities when, in contrast to previous eras, modem technology has enhanced the possibility of detecting, and therefore, preventing pre-textual interventions. When state possess the determination and the will to prevent egregious abused from occurring, the doctrine of humanitarian intervention should permit such a state to intervene. A world community purportedly committed to peaceful co-existence should not remain idle while a state murders and tortures its citizens. Humanitarian intervention should be circumscribed to reduce incentives for the use of military force for self-interested, political gain, and thus protect against the potential abuse of the doctrine. Two levels of limitations best implement this goal. The first level consists of absolute prerequisites wherein humanitarian intervention should be legal only when human rights abuses are extreme and the international governing bodies are paralyzed and cannot prevent them. The second level consists of caveats which are not absolute requirements but provide rough guidelines by which states should abide when invoking the doctrine of unilateral humanitarian intervention. These caveats should distinguish between a disingenuous and an altruistic intervention. By and large, humanitarian intervention by the UN agencies or troops should be made part of the mission of the UN in all cases of intervention. Again, the UN Charter should be reviewed to incorporate humanitarian intervention in the Charter and make humanitarian intervention part of the mandate of UN in any troubled area; and humanitarian intervention conditioned upon

inaction by international organizations that are designed to ensure peace and protect human rights will be considered legal under the Charter.