

# [Humanitarian nation charter provides exceptionsto this rule. the](https://assignbuster.com/humanitarian-nation-charter-provides-exceptionsto-this-rule-the/)

Humanitarian Intervention The Principle of Non Intervention : The principle of non intervention is one of the basic norm of theinternational law. It is also the most fundamental rule of customaryinternational law and state practice. This principle is envisaged in Article 2(4) and 2 (7) of United Nation Charter which states that:          “ All the members shall refrain in their international relations, fromthreat or use of force against the territorial integrity or politicalindependence of any state, or in any other manner inconsistence with thepurpose of the United Nations”. And           “ Nothing contained in the present charter shall authorise the UnitedNation to intervene in matters which are essentially within the domesticjurisdiction of any state or shall…….” It is a necessary derivative from the principle of statesovereignty.

In the eyes of international law, a state is sovereign and vis-à-vis every other. No state isentitled to interfere in the internal  affairs of another unlessconsent is given bythat state. Military intervention or any type ofintervention should not take place without prior permission or expressagreement under international law.

However, the charter does not absolutely prohibit the use of force. The United Nation  charter provides exceptionstothis rule. The first exception is in case of self defence mentioned in article51 of UN charter and Second exception is collective security as referred underchapter VII (Article 39 & 42) of the charter which provides power to theSecurity Council to take recourse to armed forces as it would be needed to  maintain the international peace and security. As per this chapter Security Council is entitled to intervene on humanitariangrounds if it determined that there is a threat to the peace or  breach of peace or could be an  act of aggression have occurred.  Definition of humanitarian intervention : J.

L. Holzgrefe says that humanitarian intervention is:” The use of force acrossstate borders by one state or a group of states which is  aimed at preventing grave violation of thefundamental human rights of individual other than its own citizens, without thepermission of the state within whose territory force is applied.” Adam Roberts defines humanitarian intervention as:” Military intervention inthe state, without the prior approval of its authorities and with the sole purposeof preventing the widespread suffering or death among the inhabitants.” According to Martha Finnemore, “ humanitarianintervention is a military intervention with the goal of protecting the livesand welfare of foreign civilians.

“ In Bhikhu Parekh’s word, “ humanitarianintervention is intervention in the internal matters of another country with aview to end the physical suffering caused by gross misuse of authority of thestate, and helping create condition in which a viable structure of civilauthority can emerge”. Outside the Europe, the US intervened in Cuba in 1988. Ian Brownlie, however expressed the view that the motives for these interventions were notsolely humanitarian ones, but also the result of politics of western andeastern states.

The efforts were made to check this practice and hence therewas an evident decline in the so called ‘ humanitarian intervention’ by thecountries amongst them during the first fifty years of the twentieth centurywhich also is considered as the period of establishment of  traditional doctrine of humanitarianintervention. The Birth of a Concept: Responsibility to Protect (R2P) :-Caught at the crossroads between assault on sovereignty of a stateand gross and systematic violation of human rights at the hands of the state, the UN Secretary General, Kofi Anan, wanted to weigh national sovereigntyagainst individual sovereignty. Few Instances of Humanitarian Interventions:-·       Kurdistan (North Iraq) 1991In February 1991, Iraq started attacking and killing Kurdish peoplewhichcompelled 1. 5 million Kurdish people flee towards Turkey and Iran. TheSecurity Council on 3rd April, 1991 passed a resolution throughwhich it demanded Iraq to end this repression. However, resolution did not mention Chapter VII of the Charter as anauthorisation to use military intervention as China and Russia would not acceptthis intervention due to their reluctance to limit the principle ofsovereignty.

Therefore, the US and itsEuropean allies on 16th April intervened in Northern Iraq toestablish “ safe havens”. Though in later in General Assembly, some statescriticized the intervention as violation to the sovereignty of Iraq. ·       Somalia 1992-93The Security Council passed a resolution in context of totalbreakdown of public order in Somalia. In this Resolution, the Security Council cameto the conclusion that the amount of human tragedy to  the conflict in Somalia, further increased  the obstacles being created in  the distribution of humanitarian assistance, causesthreat to international peace. The Security Council acted under chapter VII ofthe UN Charter authorised the member states and the SG to use all requiredmeans to secure the environment for humanrights operation in Somalia.    Is humanitarian intervention a solution? Even though on numerous occasion after the end ofcold war United Nation has invoked chapter VII of the UN charter for use offorce on humanitarian grounds, this principle of humanitarian intervention hasnot got its due approval from the international community. There are many instanceswhen such interventions have been severely criticised and condemned as it hasfailed to provide any long run solution to the cause of conflict.

Also it has been seen many times that theseintervention lose its importance due to its delayed timing as in the case ofRwanda and currently in case Syria. The inaction on the part of internationalcommunity especially UNSC has resulted into loss of several innocent lives inSyria. Another criticism of humanitarian intervention isthat it is selectively applied by dominant countries particularly US and itsallied partners and there is also no proper guideline which can govern such interventions. A vast majority of small and weak states have never supported this doctrine dueto its vagueness. These states especially express doubt about the motive behindsuch intervention as this doctrine best serves the benefit of the strong andpowerful and least protects the real interest of small and weak. ConclusionEven though the principal of non intervention isthe norm of international law which prohibits states or states to use of forceagainst another, one also can not  denythat gross violation of human rights occurs in many part of the world and oftenthese violations assume the form of outright atrocities. There can be no doubtthat in many cases from a moral point of view intervention is not only justified, it is a real obligation. The principle of state sovereignty does point a fingerat this doctrine as it is fundamentally in conflict with it but when theprotector itself become the abuser and indulge in gross violation of humanrights it is the moral responsibility of the complete world to condemn such atrocities at the hand of sovereign anddo all the needful to halt such war crimes.

However doctrine of humanitarianintervention has its own flaws and weakness which require serious inspection. There is a need to radically reform intervention wherein a long run solution tothe cause of conflict can be sort out and in this regard the global communityhas a big role to play. It is also necessary to further strengthen the corpusof human rights provision and the means to enforce them peacefully. Much can bedone to create an environment where a need to intervene does not even arise. Thereisneed for a strong central institution which can effectively strengthen thestatus of human rights multilaterally so that human right thinking becomes sostrong that there is never a conflict between human rights and sovereign.

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