

Humanitarian nation  
charter provides  
exceptions to this rule.  
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Humanitarian Intervention The Principle of Non Intervention : The principle of non intervention is one of the basic norm of the international law. It is also the most fundamental rule of customary international 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, from threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purpose of the United Nations”. And “ Nothing contained in the present charter shall authorise the United Nation to intervene in matters which are essentially within the domestic jurisdiction of any state or shall.....” It is a necessary derivative from the principle of state sovereignty.

In the eyes of international law, a state is sovereign and vis-à-vis every other. No state is entitled to interfere in the internal affairs of another unless consent is given by that state. Military intervention or any type of intervention should not take place without prior permission or express agreement under international law.

However, the charter does not absolutely prohibit the use of force. The United Nation charter provides exceptions to this rule. The first exception is in case of self defence mentioned in article 51 of UN charter and Second exception is collective security as referred under chapter VII (Article 39 & 42) of the charter which provides power to the Security 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 humanitarian grounds 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 across state borders by one state or a group of states which is aimed at preventing grave violation of the fundamental human rights of individual other than its own citizens, without the permission of the state within whose territory force is applied." Adam Roberts defines humanitarian intervention as: "Military intervention in the state, without the prior approval of its authorities and with the sole purpose of preventing the widespread suffering or death among the inhabitants." According to Martha Finnemore, "humanitarian intervention is a military intervention with the goal of protecting the lives and welfare of foreign civilians.

"In Bhikhu Parekh's words, "humanitarian intervention is intervention in the internal matters of another country with a view to end the physical suffering caused by gross misuse of authority of the state, and helping create conditions in which a viable structure of civil authority can emerge". Outside Europe, the US intervened in Cuba in 1988. Ian Brownlie, however expressed the view that the motives for these interventions were not solely humanitarian ones, but also the result of politics of western and eastern states.

The efforts were made to check this practice and hence there was an evident decline in the so called 'humanitarian intervention' by the countries amongst them during the first fifty years of the twentieth century which also is considered as the period of establishment of traditional doctrine of humanitarian intervention. The Birth of a Concept: Responsibility to Protect

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(R2P) :-Caught at the crossroads between assault on sovereignty of a state and gross and systematic violation of human rights at the hands of the state, the UN Secretary General, Kofi Anan, wanted to weigh national sovereignty against individual sovereignty. Few Instances of Humanitarian Interventions:-

- Kurdistan (North Iraq) 1991 In February 1991, Iraq started attacking and killing Kurdish people which compelled 1.5 million Kurdish people to flee towards Turkey and Iran. The Security Council on 3rd April, 1991 passed a resolution through which it demanded Iraq to end this repression. However, resolution did not mention Chapter VII of the Charter as an authorisation to use military intervention as China and Russia would not accept this intervention due to their reluctance to limit the principle of sovereignty.

Therefore, the US and its European allies on 16th April intervened in Northern Iraq to establish "safe havens". Though in later in General Assembly, some states criticized the intervention as violation to the sovereignty of

- Somalia 1992-93 The Security Council passed a resolution in context of total breakdown of public order in Somalia. In this Resolution, the Security Council came to 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, cause threat to international peace. The Security Council acted under chapter VII of the UN Charter authorised the member states and the SG to use all required means to secure the environment for human rights operation in Somalia. Is humanitarian intervention a solution? Even though on numerous occasions after the end of cold war United Nations 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 and do all the needful to halt such war crimes.

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

References:

- Dr. O. H Agrawal International law and human rights.
- Peter Hilpold, Azizur Rehman and Md. Jahid Hossain Bhuiyan, "Legal status of Humanitarian Intervention".
- Jolyon Howorth, paper on 'Humanitarian intervention in post cold war era: a provisional balance sheet in light of Libya, Syria and Mali'.
- Sabankardas, 'perceptions' in Journal of International Affairs.
- Fusun Turkmen presentation 'from Libya to Syria: Rise and fall of humanitarian intervention?