An Almost Impossible Task: Humanitarian Intervention in the 21st Century

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Abstract

Humanitarian intervention has a long history in international relations, however, it does not have a reputation as what people usually expect. The reason for that is that it has not been recognized by the existing international law. In practice, generally speaking, it is very difficult to obtain success for humanitarian intervention. A very important point is that if we only rely on the military means to defend human rights, we will not get the expected effect. On the contrary, more humanitarian disasters will be emerged. Moreover, there are also a lot of questions that we can not settle well, such as who will intervene? when to intervene? how to intervene? In this sense, humanitarian intervention has never been successful. Therefore, humanitarian intervention in international relations in the 21st century must be more strictly regulated and controlled.

Keywords: Humanitarian Intervention; International Law; Use of Force; Human Rights

Introduction

Since the end of the Cold War, we witnessed the characteristics of the war of this era, that is, war mainly breaks out within one country, and in this case, the external forces have more opportunities to seek humanitarian intervention.

However, humanitarian intervention has been a controversial topic for a long time in international relations. Studies show that there is a great distinction in the doctrine of humanitarian intervention in the 19th century. Overall, those who supported the principle of humanitarian intervention were mainly Anglo-American scholars, such as William Edward Hall, Oppenheim, Henry Wheaton, the JD Woolsey, Lawrence, Moore, Stowell, and so on; while

the most continental Europe scholars were against the principle of humanitarian intervention, such as Heffter, Liszt and so on.[1] Unpleasantly, until today, this debate is still going on. In fact, this controversy is largely due to the vagueness over the definition of humanitarian intervention. And then, what is humanitarian intervention on earth? Different scholars have their different views about it."[T]here may be few concepts in international law today which are as conceptually obscure and legally controversial as 'humanitarian intervention'. This results from a lack of agreement on the legal meaning of both the term 'intervention' and the term 'humanitarian'."[2] Since the issue of humanitarian intervention is related to international law, political science, morality and international relations, one may come across different definitions and categorizations.[3] Some people think that it may be defined as the use of force in order to stop or oppose massive violations of the most fundamental human rights (especially mass murder and genocide) in a third state, provided that the victims are not nationals of the intervening state and there is no legal authorization given by a competent international organization[4]. Others argue that "humanitarian intervention" refers to the threat or use of force by a state or states against another state for the purposes of preventing or stopping the latter state from committing extensive and grave violations of humanitarian law and human rights law.[5] Another writer affirms that "humanitarian intervention is defined as coercive action by states involving the use of armed force in another state without the consent of its government, with or without authorization from the United Nations Security Council, for the purpose of preventing or putting to a halt gross and massive violations of human rights or international humanitarian law".[6] Another similar view was that the so-called humanitarian intervention on existing international law is generally defined as: when a country shows cruelty and persecution to its nationals and denies the basic human rights, and shocks the conscience of mankind, the overall interests of humanity will surpass the value of non-intervention norm, thus the community has a right of the armed intervention.[7]

Of course, there are a few people who think that a state has the right to use force for protecting its citizens abroad. Furthermore, this action should belong to the scope of humanitarian intervention.[8] Under the influence of the above theory, during the Cold War, many countries regarded the action of use of force to protect its nationals abroad as the act of humanitarian intervention, such as

the intervention by France and Britain in Egypt in 1956, the Belgian intervention in the Congo in 1960, the US intervention in Dominican Republic in 1965, the intervention by US in Grenada in 1983, the intervention by France and US in Rwanda in 1994, and so on. However, the dominant viewpoint does not recognize the above opinion, because in that event, it will lead to expand the scope of humanitarian intervention. Moreover, it may seem inconsistent with the provisions of restrictions on the use of force in UN Charter. The Japanese scholar Onuma Paul Zhao also holds the same view that we should distinguish between humanitarian intervention to protect the other country's nation and armed intervention to protect its citizens abroad.[9] So, just as what J. Wheeler Nicholas insisted humanitarian intervention's aim was just to protect strangers.[10]

In summary, according to the definitions of humanitarian intervention, many scholars have different ideas, while most scholars have reached a general consensus on some of its essential characteristics as follows:

(1) humanitarian intervention refers to armed intervention; (2) humanitarian intervention does not necessarily require the consent of the target country; (3) humanitarian intervention is undertaken by a state or a group of states without advance authorization from the UN Security Council; (4) The sole purpose of humanitarian intervention is to protect civilian populations of the target country.

I. The Illegality and Illegitimacy of Humanitarian Intervention

Legitimacy is a key concept in political science and usually refers to such a fact, that is, as a whole, the government as a kind of authority, which is widely recognized by the people. While legality is usually a basic concept in the science of law, in this context, it not only means that some kind of behavior has the legitimacy, namely, it will be morally recognised by the most people, but also means that it is consistent with the provisions of the law.

A. The Illegality of Humanitarian Intervention

As we all know, the 1648 treaty of Westphalia upheld the right of sovereign states to act freely within their own borders. Since then, sovereignty has become a core concept in international relations and state sovereignty became a very

important legal principle. That principle means that "no state may use or encourage the use of economic, political or any other type of measures to coerce another state in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages of any kind. Also, no state shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another state, or interfere in civil strife in another state."[11] However, since the end of the Cold War, the emergence of humanitarian intervention poses a severe challenge to the principle of state sovereignty.

But strictly speaking, humanitarian intervention has not been supported by international law.

It's been emphasized that humanitarian intervention is essentially a unilateral action. As we all know, the previous practices of humanitarian intervention, such as the India intervention in Pakistan in 1971, Tanzania intervention in Uganda in 1979, French intervention in Central African Republic in 1979, Vietnam intervention in Cambodia in 1978, and NATO intervention in Kosovo in 1999, were all illegal interventions.

As a matter of fact, on one hand, there are not any treaties to support the humanitarian intervention including the UN Charter. The UN Charter has made very clear in Article 2 (4) and in Article 2 (7) that all UN member states "*shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations*" and "*Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.*" It allowed only two exceptions to the prohibition on the use of force in international law: first, in accordance with section 51 of the Charter to take individual or collective self-defense; second, when international peace and security are threatened or destroyed, the United Nations Security Council in accordance with Chapter 7 of the UN Charter, shall take enforcement measures or authorize the countries concerned to use of force. Moreover, we must admit a fact, that is, "the humanitarian intervention doctrine has never been a principle of international law, even as an exception to

non-interference principle has not been generally recognized."[12]

On the other hand, a new rule of customary international law could not be created in the field of humanitarian intervention, either. It is very clear that the article 38 (1) (b) of the statute of the international court of justice ("ICJ Statute") defines international custom as "*a general practice that has been accepted as law*", accordingly, customary international law envisages two elements: the first is the objective element, which is also often referred to as state practice, and the second is the subjective element known as "*opinion juris sive necessitates*". With regard to humanitarian intervention, not only are there many different viewpoints in theory, but also there are few state practices that contribute to the creation of a new customary international law. On this occasion, we cannot say that a new customary rule has emerged. As a matter of customary international law, the international court of justice in Nicaragua v. United States concluded that custom does not permit unilateral humanitarian intervention.[13] In 1986, the UK Foreign Office, in its appraisal of the legal status of humanitarian intervention, stated that "the overwhelming majority of contemporary legal opinion comes down against the existence of a right of humanitarian intervention for three main reasons: first, the UN Charter and the corpus of modern international law does not seem to specifically incorporate such a right; secondly, state practice in the past two centuries, and especially since 1945, at best provides only a handful of genuine cases of humanitarian intervention, and on most assessments, none at all; and finally on prudential grounds, that the scope of abusing such a right argues strongly against its creation."[14]

B. The Illegitimacy of Humanitarian Intervention

However, we also should recognize that saving human lives might in some extreme circumstances override sovereignty. The former UN Secretary-General Kofi Annan said: "I recognize both the force and the importance of these arguments. I also accept that the principles of sovereignty and non-interference offer vital protection to small and weak states. But to the critics I would pose this question: 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?"[15]

Meanwhile, Canadian government set up an International Commission on

Intervention and State Sovereignty. And then, the Commission submitted a report "responsibility to protect" in 2001. In 2004, "A More Secure World: Our Shared Responsibility": the report of Secretary-General's High-Level Panel on Threats, Challenges and Change endorsed 'the emerging norm that there is an international responsibility to protect [civilians] . . . in the event of genocide and other large scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign governments have proved powerless or unwilling to prevent'.[16] In other words, the "international community" would take, if necessary, coercive action to protect people at risk of grave harm, such as genocide, war crimes, ethnic cleansing or crimes against humanity in accordance with clear criteria. In 2005, "in Large Freedom: towards Development, Security and Human Rights for all"[17]: the report of the Secretary-General and the final "Outcome Document"[18] reached by the 2005 World Summit have all accepted the above conception of "responsibility to protect". All of the above-mentioned documents reflect that the international community has a qualitative leap in awareness of traditional national security, that is, national security also includes personal safety, and if personal safety could not be guaranteed, national security will not be achieved, either, and vice versa. Therefore, "each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity..... The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII."[19] Nevertheless, the above files are not international law in the strict sense, because all of them can only be regarded as the political documents or the moral declarations at least.

From the above analysis, we can see that the so-called legitimacy of humanitarian intervention is a false question. This is mainly based on three reasons: first, legally speaking, the legitimacy is usually based on the legality, that is to say, if humanitarian intervention does not have a generally recognized legal basis, the legitimacy of humanitarian intervention will not morally and publicly be obtained. In fact, different from the multilateral intervention under

the UN framework, as an unilateralism behavior, humanitarian intervention itself means that it has not morally acquired the recognition of the majority of the members of the international society from the beginning to the end. The second, in practice, the intervenors often have the selfish motives regardless of the interests of the other country and the overall interests of international society, but even more important, humanitarian intervention in practice is often abused by many western countries. In addition, humanitarian intervention is also often beyond the fixed target of intervention, that is, it not only stops killing, but also seek to overthrow the target country's regime, even rebuild the country's regime. The third, as mentioned above, humanitarian intervention is unilateral, just because of this, there is no certain standards and rules, humanitarian intervention in practice is not feasible, thus, the intervenors will not get effects in practice. I will analyze this further as follows.

II. The Criteria of Implementation of Humanitarian Intervention

In practice, whether humanitarian intervention or the responsibility to protect, unfortunately, it is easier said than done. Generally speaking, relative to the multilateral intervention, it is very difficult to get some kind of criteria for the unilateral intervention. So, we should ask some questions before the implementation of humanitarian intervention, such as when it came to it, who would be willing to intervene? Everyone knows a fact that the international community did nothing to stop Rwandan genocide in 1990s. For this purpose, someone has posed a lot of questions: "But what, if anything, should the international community have done to stop the carnage? Did it have a moral duty to intervene? Did it have a legal right to do so? What should it have done if the United Nations Security Council had refused to authorize a military intervention? If it had a duty to intervene, how could it have overcome the political barriers to intervention? And, most importantly, what measures should be taken to prevent similar catastrophes in the future?"[20] That refers to the criteria of the implementation of humanitarian intervention. "While there is no universally accepted single list, in the Commission's judgment all the relevant decision making criteria can be succinctly summarized under the following six headings: right authority, just cause, right intention, last resort, proportional means and reasonable prospects."[21] Those six headings seem very attractive, but

very difficult to achieve in practice. From the behavior of legitimacy, in all of these criteria, the right authorization from the UN Security Council is one of the most important. In addition, the following criteria would need to be applied[22]:

(1) that there is convincing evidence, generally accepted by the international community as a whole, of extreme humanitarian distress on a large scale, requiring immediate and urgent relief; (2) that it is objectively clear that there is no practicable alternative to the use of force if lives are to be saved; (3) that the proposed use of force is necessary and proportionate to the aim (the relief of humanitarian need) and is strictly limited in time and scope to this aim – ie it is the minimum necessary to achieve that end. It would also be necessary at the appropriate stage to assess the targets against this criterion.

However, unfortunately, practices (Such as the Kosovo War in 1999 and the Libya War in 2011) have proved that the number of humanitarian intervention actions did not meet the above criteria.

About the first criteria, "there was general acceptance that there must be limited exceptions to the non-intervention rule for certain kinds of emergencies. Generally expressed, the view was that these exceptional circumstances must be cases of violence which so genuinely 'shock the conscience of mankind', or which present such a clear and present danger to international security, that they require coercive military intervention."[23] For this reason, finding the truth of massacre is very important. Within a state, when civil conflicts are so violent that the civilians encountered massacre, genocide or ethnic cleansing on a large scale, the international community will have the responsibility to protect. But what is the "on a large scale"? How do we verify "on a large"? From this point, did the Kosovo civilians encounter massacre, genocide or ethnic cleansing "on a large scale"?

French "L'Humanité" April 15-16 in 2000 article exposed the lip of the Western countries, some political figures on the number of victims in Kosovo: In April 1999, the U.S. State Department announced that 500,000 Kosovo Albanians were missing, "People are worried that they are already dead"; A month later, U.S. Defense Secretary William Cohen to confirm the 100,000 Hermes Scarves military age were missing, "may be killed"; June, the British Foreign Office said the people killed, Clinton also claimed that 10,000 Kosovo stuffed family killed. From 500000-10000, which is free to amend the U.S. and British official figures of the "ethnic cleansing". The facts provided by the

newspaper: September 1999, a group of Western countries, forensic Kosovo field trips, and found 187 dead; November, a survey conducted by the International Tribunal for the Former Yugoslavia Hermes Bags to find a 2108 body. However, as the "Washington Post (March 26, 2000), the article pointed out, there can not be sure these people have died from the Federal Republic of Yugoslavia.." [24]

Thus it can be seen that the truth of slaughter is often buried in the propaganda machine of great power. Sadly, the lies of killing civilian population on a large scale of the influence have occurred, and ultimately they affected the international public opinion, of course, and then, the so-called "humanitarian military intervention" will occur.

With regard to the second criteria, a corollary of the prohibition of the use of force, the principle that states must settle their international disputes by peaceful means according to the Arts 2 (3) and 33 of the UN Charter, the principle has been also reaffirmed in a number of General Assembly resolutions. In 2011, before using the force to strike against Libya, the peaceful means were not exhausted at that time under this circumstance. From 26 February 2011 to 17 March 2011, the two resolutions above passed, and on 19 March 2011, Odyssey dawn air strikes, the whole intervention operation was very hasty. In fact, the United Nations Security Council has passed resolution No. 1970 and resolution No.1973. By the two Resolutions, the UNSC had taken a series of measures, such as ICC referral, arms embargo, travel ban, asset freeze, designation criteria, humanitarian assistance, no fly zone, etc. Li Baodong, the Chinese permanent representative to the United Nations, made the statement at the Security Council after he abstained from voting on the resolution, "In the Security Council's consultations on Resolution 1973, we and some other council members asked some specific questions. However, regrettably, many of those questions failed to be clarified or answered. China has serious difficulty with part of the resolution." Hence, if we want to respect the United Nations Charter, the humanitarian crisis must be ended through peaceful means. Of course, we must be firmly against the use of force when those means are not exhausted.

As for the third criteria, here, we are still taking the Libya War as an example. Resolution 1973 (2011) adopted by the UN Security Council at its 6498th meeting, on 17 March 2011, "Determining that the situation in the Libyan Arab Jamahiriya continues to constitute a threat to international peace and security, acting under Chapter VII of the Charter of the United Nations", in

order to protect civilians, "Authorizes Member States that have notified the Secretary-General, acting nationally or through regional organizations or arrangements, and acting in cooperation with the Secretary-General, to take all necessary measures …… to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya" (Paragraph 4). "Decides to establish a ban on all flights in the airspace of the Libyan Arab Jamahiriya in order to help protect civilians" (Paragraph 6); "Authorizes Member States that have notified the Secretary-General and the Secretary-General of the League of Arab States, acting nationally or through regional organizations or arrangements, to take all necessary measures to enforce compliance with the ban on flights imposed by paragraph 6 above" (Paragraph 8). Obviously, the purpose of Phrase "to take all necessary measures" is to set up a no-fly zone to protect civilians, the western coalition's subsequent military action against Libya army had been clearly beyond the scope of this mandate to use force.

Ⅲ. The Ineffectiveness of Humanitarian Intervention

There is no doubt that the illegality of humanitarian intervention has increased its political and moral pressure and costs. "There are a number of possible reasons why global discussion has continued to focus on military intervention. However, the use of force as the central means by the international community to prevent human rights disasters has proved to be both an insufficient and ineffective strategy, not least because of the inadequacies of international legal mechanisms to facilitate such action."[25] The effectiveness and moral justification of humanitarian intervention are based on the premise that military intervention for human protection purposes can only be justified in humanitarian terms if the intervention does more good than harm.

A. The Limitation of the Military Means

From the recent practices of humanitarian intervention, the war is not symmetrical. Relative to the past war, while the duration of the modern war is always short: the Gulf War for 42 days in 1990, the Kosovo War lasted 78 days in 1999, the Iraq War lasted 35 days in 2003, the Libya War lasted for more than 190 days in 2011. However, the modern war has raised its high costs and huge risks. Furthermore, humanitarian interveners can't always reach the

military victory. Have we succeeded in the interventions in Somalia, Bosnia and Herzegovina, Rwanda, Kosovo and elsewhere? In the case of Somalia, the UN Security Council passed the Resolution 794, which authorized U.S. intervention in Somalia in December 1992. At last, the military operation failed, the secure environment was not yet established and there was still no effective functioning government in Somali. However, ironically, later in May 2000, the civil war in Somalia ended under the mediation by Djibouti, a small country in Africa, finally the transitional government was founded at Jerusalem. Why could we not get success? This is mainly based on two reason: first, there are contradictions and differences between the external intervention forces; second, there is also fierce contest between many domestic political parties in target country. In this case, the involvement of the external power will not only intensify the unrest of the domestic situation in target country, but also complicate the situation. Although humanitarian military intervention in most cases temporarily stopped the violence, the intervenors usually could not underestimate the complexity of the political and social problems of the target country. In the long run, the external intervention may cause more confusion and humanitarian tragedy.[26] "When internal forces seeking to oppose a state believe that they can generate outside support by mounting campaigns of violence, the internal order of all states is potentially compromised."[27] 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.[28] For example, Libya crisis is such in 2011. 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.[29] Thus, we should admit the fact that the military means is indispensible in international relations, but not a unique and suitable one. For example, since the end of the Libya war in 2011, Libya has still not gained peace and security, on the contrary, she is still struggling against the disorder and the new separatism.

B. The Inhumanity of Humanitarian Intervention

Humanitarian protection is always the pretext of war. Consequently, just as what Mao Zedong pointed out: "politics is war without bloodshed, while war is

politics with bloodshed."[30] From the viewpoint of humanitarian law, it is a contradiction in the terms of humanitarian "intervention" or "interference", as the term "humanitarian" should be reserved to describe action intended to alleviate the suffering of the victims. Yet, "humanitarian intervention" refers to armed intervention, often carried out with a political agenda. International humanitarian law recognizes the right to provide humanitarian assistance, and impartial humanitarian aid cannot be condemned as interference or infringement of a state's national sovereignty.[31] Someone proposed five questions to determine if a past intervention was, in fact, humanitarian: (i) was there a humanitarian cause? (ii) was there a declared humanitarian end in view? (iii) was there an appropriate humanitarian approach—in other words, was the action carried out impartially, and were the interests of the interveners at any rate not incompatible with the humanitarian purpose? (iv) were humanitarian means employed? (v) was there a humanitarian outcome?[32] In practice, humanitarian intervention is always hard to meet the above humanitarian standards. "But 'military humanitarian intervention' is a self-contradictory term. War consists of killing and destroying. Any war creates killers and victims, cripples and mourners."[33] The humanitarian intervention not only had brought many civilian casualties, but there had been a lot of refugees, and also caused the havoc to the environment. "According to information supplied by the Yugoslav authorities, during the 78 days of the military operation over 1,300 civilians including some 400 children died, and thousands were seriously injured. The civilian population of Yugoslavia is still at risk from cluster bombs which failed to explode during NATO rocket attacks. There are currently thought to be between 30,000 and 50,000 unexploded cluster bombs in Kosovo (in addition to the mines laid by the rebels fighting against the Yugoslav army)."[34]

The few cross-case comparisons that delve deeply into the issue of effectiveness have looked at the question of legitimacy or the balance of costs and benefits but have not attempted to provide a set of criteria for judging the prospective effectiveness of future interventions. To establish that requires comparing the full costs of intervention with its benefits and asking whether those benefits could be achieved at a lower cost.[35] Therefore, "it is particularly important here that enthusiasm for rescue not swamp a prudent assessment of what armed intervention can and cannot achieve.....Should we think of success

in a short-term way as saving these lives now, or restoring these people to their homes, or should the criterion of success embrace longer-term objectives such as ensuring political stability and enduring safety for any in the area threatened with the same kind of persecution?"[36]

The conclusion that emerges from this brief overview is that forcible intervention in humanitarian crises is most likely to be a short-term palliative that does little to address the underlying political causes of the violence and suffering. It is for this reason that *the International Commission on Intervention and State Sovereignty* insisted that intervention was only one of three international responsibilities, the other two involving long-term commitments to building the political, social, economic, military and legal conditions necessary for the promotion and protection of human rights.[37] Among the three responsibilities (the responsibility to prevent, the responsibility to react and the responsibility to rebuild), "the prevention is the single most important dimension of the responsibility to protect: prevention options should always be exhausted before intervention is contemplated, and more commitment and resources must be devoted to it."[38] In its 1986 ruling on a case involving military and paramilitary activities in Nicaragua, the International Court of Justice stated that "the use of force could not be the appropriate method to monitor or ensure such respect [for human rights]".[39] Louis Henkins also said: "Peace was the paramount value. The Charter and the organization were dedicated to realizing other values as well self-determination, respect for human rights, economic and social development, justice, and a just international order. But those purposes could not justify the use of force between states to achieve them; they would have to be pursued by other means."[40]

IV. The State Responsibility Based on Humanitarian Intervention

According the report of ICISS, "the responsibility to protect" embraces three specific responsibilities: the responsibility to prevent, the responsibility to react, the responsibility to rebuild. However, when interveners have violated humanitarian law and human rights law, which responsibilities or crimes should they undertake in international criminal law? All the time, there is a big problem that the enforcement of international criminal law is absence of international criminal code or norms contained in positive international law. In

1947, the General Assembly of the United Nations adopted a resolution requesting that the *International Law Commission* (ILC) codify international crimes and prepare a Draft Code of Offences Against the Peace and Security of Mankind. *The 1996 Draft Code of Offences Against the Peace and Security of Mankind* has listed the five kinds of international crimes: crime of aggression, crime of genocide, crimes against humanity, crimes against United Nations and associated personnel and war crimes. Thus, in certain conditions, we can regard humanitarian intervention as the crime of aggression or the war crimes or the crimes against humanity. According to the article 3 (b) of the 1974 Resolution Concerning the Definition of Aggression, "Bombardment by the armed forces of a state against the territory of another state or the use of any weapons by a State against the territory or another State", which is qualified as an act of aggression; Yet, this legislation couldn't keep up with the development of the international situation.

In 1999, the armed forces of NATO had committed war crimes during the Kosovo War. In May 1999, Yugoslavia sued ten member states of NATO before the International Court of Justice (ICJ) in respect of the bombing campaign and its consequences, including civilian deaths, injuries and privations, the effect on navigation on the Danube, and damage to the environment.[41] "The modalities selected disqualify the mission as a humanitarian one. Bombing the populated areas of Yugoslavia and using high performance ordnance and anti-personnel weapons involve policies completely inimical to humanitarian intervention. Moreover, bombing from a height of 15,000 feet inevitably endangers civilians, and this operational mode is intended exclusively to prevent risks to combat personnel."[42] The NATO's action was clearly in conflict with humanitarian law when it destroyed a number of civilian objects of no military value, such as non-military related factories, oil refineries, power stations, water supplies or the Serbian Television building. This clearly constitutes a breach of the Geneva Conventions, which forbids the targeting of civilian objects.[43] Therefore, despite the use of highly accurate weapons designed, according to a statement by the Alliance's leadership, to ensure that the operation was a bloodless one, NATO's military operations were accompanied by violations of fundamental rules and principles of the law of armed conflicts (international humanitarian law). In particular, during the course of its operations NATO forces violated provisions of Part IV, Section I of Additional Protocol I, on the general protection of

civilians against effects of hostilities.[44] It is a pity that Yugoslavia's application for provisional measures and the other requests were refused in all ten cases.

It is encouraging that the International Criminal Court came into being on 1 July 2002, where Article 5 of the Rome Statute grants the Court jurisdiction over four groups of crimes, which it refers to as the "most serious crimes of concern to the international community as a whole": the crime of genocide, crimes against humanity, war crimes, and the crime of aggression. However, by the influence of the political powers, the interveners are always the great powers, thus, the leaders or the commanders in these countries are very difficult to be an accused before ICC.

Conclusion

Since the Peace of Westphalia signed in 1648, the principle of the inviolability of the sovereignty of the nation-state and the principle of non-intervention in internal affairs have gradually become the two basic principles of international relations. The principle of respect for the territorial integrity of states is well founded as one of the linchpins of the international system, as is the norm prohibiting interference in the internal affairs of other states.[45] However, in recent years, especially, since the end of the Cold War, the principle of national sovereignty has been challenged from the expansion of the doctrine of human rights. Many scholars identified the 1990s as a 'decade of humanitarian intervention', during this time, not only there have been the unilateral humanitarian interventions, but also the UN Security Council authorized several military interventions on humanitarian grounds under Chapter VII of the UN Charter. For the latter, it is noteworthy that there have been some new situations. In 2011, the humanitarian military intervention in Libya, it can be said to be lawful since it was authorized by the Security Council in Resolution 1973, but this action had been beyond the scope of the authorization of the Security Council. More importantly, we should pay attention to the latest development of humanitarian intervention: first, a country's anti-government forces supported by the western foundations, or human rights organizations often provoke their Governments into committing gross violations of human rights in an internal unrest, and then take this opportunity to increase the Government's political and moral costs to quell the

unrest, on this basis, the western countries seek the chances for intervening in the civil war in this country, regarding the support of the United Nations as a moral excuse to "protect civilians", so that they can justifiably support the country's anti-government armed and, ultimately, to achieve the overthrow of the country through the way of aerial bombardment Government's objectives.

It is indubitable that the UN Charter abhors the world body from intervening in the domestic affairs of any state but since the end of the Cold War, the UN has adopted quite a number of resolutions that apparently broadens the definition of the threat to international peace and security purposely to have the benefit of the right of intervention for humanitarian goal in responding to crises even of domestic nature.[46] However, affected by the great power politics and veto of UN, in a situation of humanitarian crisis, the UNSC is always unable to take action, under this case, the unilateral intervention by a state or a group of states against another state to prevent gross and widespread violations of fundamental rights will often appear. Therefore, in order to contain the humanitarian intervention in the 21st century, it is necessary for us not only to raise the threshold of the unilateral use of force, but also to reform and strengthen the United Nations. At the same time, we are also facing some challenges. "At the beginning of the 21st century, a global order has taken shape in which one country enjoys the unrivaled role of global hegemony……The concept of humanitarian intervention serves exactly that purpose when it comes to the resort to the use of force by the hegemonial power."[47] What is more, humanitarian intervention is based not on territorial boundaries, but on values. Therefore, humanitarian intervention still remains a controversial and hotly debated issue in the field of international relations in the future. At present, the situation is getting more and more nervous in Syria, and will Syria be the next "Libya"? We can expect that with the increase of the risk of globalization and the expansion of the idea of human rights on a global scale, many developing counties will bear the great pressure about the humanitarian intervention from the external forces during the process of the construction and the management of these countries in the 21st century.

Notes

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