

# “Humanitarian Intervention” And The „New World Order“: Violation Of The International Law (I)

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The term „humanitarian intervention“ is the American political neologism (newly coined word) to morally cover a new format of Washington’s global imperialism at the time of the post-Cold War’s „New World Order“ in which the USA feel very comfortable to play a role of a global policeman. Theoretically, according to the Western conception of „humanitarian intervention“, one or more states (the USA and the NATO) have a moral (quasi) obligation and/or right to intervene into the internal affairs of other state, if this state (according to the self-evaluation by Washington) does not respect commonly accepted principles of humanitarian law but in particular if the task of such military intervention is to save the lives of a particular group of people (minority) which the state’s authorities, to be intervened against, either threatens or is incapable of protecting. Here it is not of any importance whether such a group is of domestic or foreign origin (citizens).

Nevertheless, tensions between the state’s rights and human rights became very acute since 1990 due to the growth of so-called „humanitarian intervention“. The Great Powers assumed the right to intervene militarily in the inner affairs of other (sovereign) states in order to protect their citizens from abuse and possibly death, often at the hands of their own Government. However, on another hand, the question arises why has „humanitarian intervention“ been criticized?

The term „humanitarian intervention“ is composed of two words/terms: „humanitarian“ and „intervention“. The first word means being concerned with the interests of humanity, specifically through a desire to promote human welfare or to reduce human suffering. The second word means forcible action taken by one (sovereign) state against another (sovereign) state but without the latter’s consent. In a combination of these two words, „humanitarian intervention“ is, by scholarly definition, „military intervention that is carried out in pursuit of humanitarian rather than strategic objectives“.[1] However, the term became very contested and deeply controversial at least from the very point that military intervention cannot be of any humanitarian kind, i.e. to be legitimate and defensible just as it is labeled as „humanitarian“.



U.N. peacekeepers drive their tank as they patrol past the deserted Kibati village near Goma in the eastern Democratic Republic of Congo, August 7, 2013. A 17,000-strong U.N. force, known as MONUSCO, and Congo troops have struggled over the past decade to stem a conflict involving dozens of armed groups and complicated by national and ethnic rivalries.

It is true that, in fact, the concept of „humanitarian intervention“ is originating in the principle of intervention that is known in the history of political thoughts even from the classic period when the international public law could be (mis)used by some state to interfere unilaterally in the inner affairs of another state under the justification to preserve or change the political situation in the attacked state. However, (illegal) military interventions in many cases have been historically (mis)used and they are still (mis)used for the very purpose to justify bare aggression under the formal excuse to protect the moral principle of humanity – the protection of human (today minority and other „human“) rights in a particular state. And all this with arms. It is quite clear that such interventions in many cases are just a legitimization of political goals without true morality.[2]

It is just a matter of historical fact that the concept of „right to humanitarian intervention“ and a principle „right to protect“ (the R2P) based on it was abused countless times all over the world. Traditionally, by the international law, it was quite easy to justify the R2P as the war was not prohibited as an „instrument of diplomacy by another means“[3] to resolve certain disputes and problems between the states or other political actors.[4] However, after the WWII, when the contemporary international law is founded on the UN Charter, the R2P as a unilateral military intervention without the strict authorization by the UNSC is an act of aggression[5] and, therefore, it cannot be allowed or justified as the real principles of humanity and human rights[6] protection are just abused in this way.[7]

Here we have to keep in mind that even just threat of the use of force is itself breaking the contemporary international system of law as the Article 2(4) of the UN Charter forbids states to use threats of force, yet the meaning of the prohibition is unclear but, as a matter of fact, threats of force are quite common in international politics. One of such cases in recent history of open threats in order to extract political concessions was at the beginning of 1999 during the „negotiations“ in Rambouillet (France) between the political representatives of Kosovo Albanians and the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) when Belgrade was directly blackmailed by NATO's military intervention in order to agree with what the US' administration put on the table.[8] In this particular case, Washington even did not hide its policy of banditry diplomacy as the USA, referring to consensus among allies, had publicly declared that the strategy to resolve the crisis in Kosovo relied on „combining diplomacy with a credible threat of force“.[9] Such policy of banditry diplomacy was covered by political bias overwhelmingly used by both the USA and NATO in order to justify their policies in the region.[10]

## From The History Of Abusing The R2P

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Historically, the R2P or „humanitarian intervention“ represented one of the focal bases of colonial policy by the Great Powers in international relations. It was, basically, applied by the Western colonialists in order to hide a real intention of colonial aspirations which was direct and bare economic exploitation.

In the paragraphs below, only two remarkable cases from modern history before WWII in connection with (mis)using and abusing the R2P are going to be presented:

1. In modern history, an idea of „humanitarian intervention“ was (mis)used by the Western „liberal democracies“ during the Russian Civil War in 1917–1921 when, after the 1917 October Revolution, the Western powers organized military intervention against the Bolshevik's Government (commissioned by Germany)[11] under the crucial justification that a new regime did not recognize basic rights according to the international standards and which created the scope of the general principles of „civilized“ nations.[12] However, at that time, there was no instrument on either regional or internal level which dealt with the issue of human rights. In principle, these issues were considered to belong strictly to a state's inner affairs according to the basic principles of sovereignty agreed in Westfalia in 1648. Regardless that this Western pronouncement was essentially true, it only politically served as an excuse in the political game of the West for the acquisition of strategic

interests in Eurasia after the WWI.

2. Hitler's Germany justified its aggressions on other states by the need to protect "threatened" German minorities there (the *Volksdeutsche*).<sup>[13]</sup> Morally, such reason was of pure "humanitarian" nature. For instance, this was clearly pointed by Adolf Hitler himself in his letter sent to the UK's PM Neville Chamberlain on September 23<sup>rd</sup>, 1938 in which he claimed that the German minority in at that time Czechoslovakia was "tortured" and, therefore, some 120.000 of them were forced to emigrate (ethnic cleansing). For Hitler, it was now the international problem of the safety of more than 3 million ethnic Germans in neighboring Czechoslovakia who were in critical danger to survive. Therefore, taking into account and the nation's right to self-determination which must be allowed and respected, Hitler succeeded to create formal bases for Germany's military intervention, dismemberment, and occupation of Czechoslovakia as a sovereign state but by clear abusing the issue of human rights and the R2P.



These two and well-known examples, however, serve only to show that according to the international law and legal order, of the time the R2P intervention was morally permissible and it was not prohibited in practice by the Great Powers. Nevertheless, the R2P interventions in the majority of cases were used only to conceal the real reasons for interventions under the veil of "humanitarian action" and, therefore, in the 19<sup>th</sup> century there were some theoreticians who proposed that the principle of non-intervention in the internal affairs of other sovereign states should be accepted as an integral segment of the international law.<sup>[14]</sup> Finally, these suggestions became

concluded in a normative way by the adoption of the UN Charter by the prohibition of war (aggression) as a violent means to resolve disputes and, subsequently, since 1945 such prohibition became an integral part of the international law.

## **Right To Self-Determination And The 1823 *Monroe Doctrine***

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This right became used or respected under certain conditions by the Great Powers since the proclamation of the USA as an independent state in 1776 when the process of decolonization started in a global perspective. This process reached its peak after WWII and today decolonization is almost finished. It is quite true that the French Revolution proclaimed people's right to self-determination but at the same time according to the French Constitution from 1793, France would not interfere in the inner affairs of other states and will not tolerate interference of other states into her own internal affairs (the Article 119). At such a way, the basic principle in international relations is confirmed: the principle of sovereignty.

From the present-day perspective, the crucial creator of a focal anomaly of the (mis)used principle of the right to self-determination of the people (ethnonational groups) is the USA – a country which made its own political independence exactly based on such right and the country which up to the Cold War advocated the same right for the others. For instance, the US' President James Monroe<sup>[15]</sup> addressed the US' Congress on January 2<sup>nd</sup>, 1823 by four basic principles of his own *Monroe Doctrine* under the slogan: "America to Americans!":

1. The prohibition of further colonization of America by the European countries.
2. The prohibition of interference of the European states into the inner affairs of the American states.
3. The USA will not intervene in the internal affairs of the European states including and into the affairs of their colonies all over the world.
4. Any intervention of the European states designed at subjugating states proclaimed independent will be regarded as hostile to the USA.<sup>[16]</sup>

However, regardless of this historical development of the sovereignty rights of any recognized independent state in the world, the strongest post-Cold War power (the USA) is obviously after 1989 guided in foreign affairs primarily by its national interests and geopolitical aims which are violating the principles of the 1823 *Monroe Doctrine*. The highly developed system of protection of human rights after 1945 in the international law has, unfortunately, after the Cold War proved to be very fertile ground for both Washington's administrations and the US-governed NATO to present themselves as the superior advocates of protection of these rights including and the people's



right to self-determination. However, legally, the only legitimate protector of such rights is only the UNO – the only legal and legitimate institution to authorize the “humanitarian intervention” after the suggestion of the UN Committee for Human Rights and discussion within the UNSC. Concerning the regional level, for example in Europe, such authorized organizations are the European Court for the Protection of Human Rights and the OSCE which have to work on the basis of the European Convention for the Protection of Human Rights.

## **Turkey & Ex-Yugoslavia**

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There were and there are well known cases of large humanitarian crises and even catastrophes in recent history as, for example, in Colombia, Turkey, Myanmar, etc. where the local Governments liquidated thousands of their own citizens per year, when the same Great Powers including first the USA played the key role, did not show even the slightest concern about. The same happened with the exodus of several hundreds of thousands of people, for instance, the expulsion of some 250.000 ethnic Serbs from Croatia or some 330.000 Serbs, Montenegrins and other non-Albanian nationalities from the NATO-administered Kosovo after the 1998–1999 Kosovo War.<sup>[17]</sup> Contrary, those Great Powers strengthened the administrations which brought about these humanitarian crises and, therefore, directly participated in the policies of the human rights violations. During the Yugoslav civil war in the 1990s, when only the Serbs were accused by the Western Governments and mass media for all committed crimes on the ground, the case of Turkey (a member state of the NATO since 1952) and its Government’s repression of the Kurds, for instance, remained silent in the West only for the sake of the geopolitical interests in the region by the US and its puppet organization, the NATO. However, differently, to the Western Governments, Turkey was criticized on a number of occasions by the Council of Europe in Strasbourg for its policy of terror and violation of the human rights of the local Kurds.



Remains of the Yugoslav Army headquarters bombed by NATO during the aerial campaign in 1999

Differently from the Turkish case, however, when the crisis in southern Serbia's province of Kosovo-Metochia escalated due to the policy of terror by the Albanian Kosovo Liberation Army (the KLA), whose members were kidnapping and killing the Serbian civilians and attacking regular security forces, the NATO decided, without any grounds in the UN Charter and without any authorization by the UNSC, to bomb a sovereign and independent state in the formal name to prevent humanitarian catastrophe in the region (of ethnic Albanians). It is true that Serbia's police applied excessive force in combating the Albanian separatist movement represented by a terrorist KLA. Nevertheless, NATO did not have any legal right to bomb the country without an appropriate decision from the UNSC. Basically, *de facto* an aggression on a sovereign state was presented *de iure* as a "humanitarian intervention". The crisis, ultimately, which originally existed in the sphere of the war on terrorism, dramatically escalated to the extent of the real humanitarian catastrophe. That was a real reason how a humanitarian catastrophe for all citizens of Serbia and Montenegro, but especially in Kosovo-Metochia, became a reality. In the course of the war, primarily due to NATO's barbaric bombing and the revenge by the Serbian security forces, a large number of people of all nationalities found themselves as the refugees in the neighboring countries or as displaced persons. Subsequently, NATO's "humanitarian intervention" produced quite contrary effects. After the war, the Albanians under NATO's umbrella committed terrible acts of ethnic cleansing of the region but without any "humanitarian intervention" by the international community to stop or punish them.

To be continued

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**Endnotes:**

[1] Andrew Heywood, *Global Politics*, New York: Palgrave Macmillan, 2011, 319.

[2] On this issue, see in [Jörg Kühnelt (ed.), *Political Legitimization without Morality?*, Nürnberg: Springer, 2008].

[3] The most celebrated line by Carl von Clausewitz is: "War is the continuation of politics by other means" [Donald Stoker, *Clausewitz: His Life and Work*, Oxford–New York: Oxford University Press, 2014, 35].

[4] On the history of international protection of human rights, see in [Malcolm N. Shaw, *International Law*, Fifth Edition, New York: Cambridge University Press, 2006, 247–318].

[5] Aggression is „the initiation of actions that violate the rights and interests of others“ [Richard W. Mansbach, Karsten L. Taylor, *Introduction to Global Politics*, Second Edition, London–New York: Routledge, Taylor & Francis Group, 2012, 573].

[6] The fundamental human right is defined by the UN Declaration of Human Rights (the Article 1, 1948): „All human beings are born free and equal in dignity and rights“.

[7] About the use of force and international law, see in [Cristine Gray, „The Use of Force and the International Legal Order“, Malcolm D. Evans (ed.), *International Law*, Second Edition, Oxford–New York: Oxford University Press, 2006, 589–622].

[8] Nikolas Stürchler, *The Threat of Force in International Law*, Cambridge, UK–New York, US: Cambridge University Press, 2007, 150–156.

[9] New York Times, „Allies Call Kosovo Rivals to Peace Talks in France“ (January 30th, 1999).

[10] Vilijem Dž. Bakli, „Kako je etničko čišćenje skinulo prašinu sa socijalne pravde u međunarodnim odnosima: Društveni konflikt, moralna argumentacija i intervencija na Kosovu“, Jovan Babić, Petar Bojanić (urednici), *Humanitarne vojne intervencije*, Beograd: ЈП Службени гласник, 2008, 145–158. Political bias, by scholarly definition, refers to an expression of political views that systematically favor the values or interests of one group or political actor over another. It is mainly linked to the expression of opinions, rather than facts [Andrew Heywood, *Politics*, Third Edition, New York–London, 2007, 238]. For example, we can read the claim that allegedly Americans enjoy the most



benevolent political system that has ever emerged in the course of human history [John Kekes, *The Art of Politics: The New Betrayal of America and How to Resist it*, New York–London: Encounter Books, 2008]. Another example of the same issue is the publication by Henning-A. Frantzen which justifies the banditary policies of the NATO pact [Henning-A. Frantzen, *NATO and Peace Support Operations 1991–1999: Policies and Doctrines*, London–New York, Frank Cass, 2005]. The last example is the most notorious: Edward Lucas write a whole book in order to show how Russia is preparing an aggression against the West [Edward Lucas, *The New Cold War: Putin's Russia and the Threat to the West*, London–New York: Palgrave Macmillan, 2008]. Pure examples of political bias propaganda! However, on the opposite side to political bias is the objectivity on the same issue founded on the approved facts and sources, like [Andrew J. Bacevich, *American Empire: The Realities & Consequences of U.S. Diplomacy*, Cambridge, Mass.–London, England: Harvard University Press, 2002]. This book is unveiling the thru face of US' post-Cold War diplomacy: seeking to establish a global imperium.

[11] About the leader of the Bolsheviks, see in [Robert Service, *Lenin: A Biography*, London: Pan Books, 2002; Akim Arutiunov, *Leninas be grimo*, Vilnius: Briedas, 2017].

[12] The real reason for the Western interference into the Russian inner affairs up to the end of the WWI was a fact that they „feared a total disaster on the eastern front would release sufficient forces for Germany and other allies to press for victory on the west“ [Christopher Read, *The Making and Breaking of the Soviet System: An Interpretation*, New York–London: 2001, 28]. On the Bolshevik Revolution and the Russian Civil War from 1917 to 1922, see in [Georg von Rauch, *A History of Soviet Russia*, Fourth Edition Revised, New York–Washington–London, Frederick A. Praeger, Publishers, 1964, 34–123].

[13] *Volksdeutsche* were the local inhabitants outside Germany who claimed to be of the Gernam ethnic origin [Anne Applebaum, *Iron Curtain: The Crushing of Eastern Europe 1944–1956*, London: Allen Lane, 2012, 111].

[14] It is generally accepted that the development of international law started in 1625 when the Duch Hugo Grotius had published his famous work under the title *Law of War and Peace* in which he describes how restraints in fighting war are morally justified. In order words, according to Grotius, the Governments are obliged to respect specific rules of conduct even when fighting a war. In the course of time, the states finally accepted that warfare should only be used for purposes of self-defence or for upholding the fundamental outlines of the states system and its norms and laws [Jeffrey Haynes et al, *World Politics*, New York: Routledge, Taylor & Francis Group, 2011, 708–709].

[15] James Monroe (1758–1831) was US' Democratic Republican statesman and the 5th President of the USA (1817–1825). He is mainly remembered as the author of the 1823 *Monroe Doctrine*.

[16] Milan Paunovic, „Humanitarian Intervention as an Abuse of the Principle of Prohibited Use of Force in International Law“, *Eurobalkans*, Autumn/Winter, 1999, 19.; Dr Alan Isaacs et al (eds.), *A Dictionary of World History*, Oxford–New York: Oxford University Press, 2000, 421. However, while Monroe's message was enthusiastically received in the USA, it had little practical influence at the time as the European Great Powers never intended military intervention on any considerable scale and viewed the message with irritation and contempt [James Truslow Adams, R. V. Coleman (eds.), *Dictionary of American History*, Second Edition Revised, Vol. IV, New York: Charles Scribner's Sons, 1951, 13]. Nevertheless, the hidden essence of the message was clear: leave the territory of America to US' imperialism which started in 1845 by the annexation of an independent Texas (ex-Mexican territory). The Republic of Texas was an independent state, recognized as such and by the USA, from 1836 to 1845. The annexation of Texas by Washington in 1845 provoked the Mexican-American War in 1846 [Henri Bemford Parks, *Istorija Sjedinjenih Američkih Država*, Drugo izdanje, Beograd: "Rad", 1986, 323–339].

[17] Zoran Andjelković et al, *Days of Terror (in the presence of the international forces)*, Belgrade: Center for Peace and Tolerance, 2000, 16.