

Is Humanitarian Intervention Legal The Rule Of Law In An

The Law against War is a translated and updated version of a book published in 2008 in French (Le droit contre la guerre, Pedone). The aim of this book is to study the prohibition of the use of armed force in contemporary positive international law. Some commentators claim that the field has undergone substantial changes arising especially since the end of the Cold War in the 1990s. More specifically, several scholars consider that the prohibition laid down as a principle in the United Nations Charter of 1945 should be relaxed in the present-day context of international relations, a change that would seem to be reflected in the emergence of ideas such as 'humanitarian intervention', 'preventive war' or in the possibility of presuming Security Council authorisation under certain exceptional circumstances. The argument in this book is that while marked changes have been observed, above all since the 1990s, the legal regime laid down by the Charter remains founded on a genuine jus contra bellum and not on the jus ad bellum that characterised earlier periods. 'The law against war', as in the title of this book, is a literal rendering of the familiar Latin expression and at the same time it conveys the spirit of a rule that remains, without a doubt, one of the cornerstones of public international law. From the Foreword by Bruno Simma 'Corten's book is weighty not just by its size, but above all through the depth and comprehensiveness with which it analyzes the entirety of what the author calls the law against war, the jus contra bellum... Corten tackles his immense task with a combination of methodical rigour, applying modern positivism and abstaining from constructions of a lex ferenda, and great sensibility for the political context and the ensuing possibilities and limitations of the legal regulation of force.'

A singular development of the post Cold-War era is the use of military force to protect human beings. From Rwanda to Kosovo, Sierra Leone to East Timor, and more recently Libya to Côte d'Ivoire, soldiers have rescued some civilians in some of the world's most notorious war zones. Could more be saved? Drawing on over two decades of research, Thomas G. Weiss answers "yes" and provides a persuasive introduction to the theory and practice of humanitarian intervention in the modern world. He examines political, ethical, legal, strategic, economic, and operational dimensions and uses a wide range of cases to highlight key debates and controversies. The updated and expanded second edition of this succinct and highly accessible survey is neither celebratory nor complacent. The author locates the normative evolution of what is increasingly known as "the responsibility to protect" in the context of the global war on terror, UN debates, and such international actions as Libya. The result is an engaging exploration of the current dilemmas and future challenges for robust international humanitarian action in the twenty-first century.

Document from the year 2008 in the subject Law - European and International Law, Intellectual Properties, , 70 entries in the bibliography, language: English, abstract: With the advent of Human Rights in international law, several core ideas of the traditional system of international law have been challenged, such as the principle of non-interference and state sovereignty, as well as the prohibition of the use of force, especially with the decision that massive human rights violations can form a threat to international peace and security to which the UN Security Council can respond with measures according to Chapter VII of the UN Charter. While at first sight a change of paradigm in international law, or in any legal system, is not negative per se, the rules which collide with a truly effective and universal protection of HR through international law are the very rules which form the foundation for international peace and security, the primary reason for the existence of international law. While international peace and security require the stability provided by the Westphalian system, they can at the

same time be endangered by massive violations of human rights. On the other hand can Human Rights only be enjoyed in times of peace while the Westphalian system can limit the effective and universal enforcement of Human Rights in cases in which the UN Security Council has failed to take action under Chapter VII. This short book is an attempt at reconciling these needs which are at times direct against each other, at times interlinked ones with a special focus on massive violations of human rights which are not being addressed effectively by the UN Security Council. To this end, we will look at the Human Rights dimensions of international peace and security outlined above before we come to the core issue of the paper, the legality of the use of force for the protection of Human Rights in cases in which the UN Security Council fails to act, or, in other words, the question of in how far the need for universal respect for human rights can overrun the need for peace, given the links between both factors indicated above.

Humanitarian Interventions - that sounds nice; much nicer than wars, battles and use of military force. Foremost, the phrase makes you think of the delivery of sanitary goods, medication, of soup-kitchens. Here we are not supposed to think of interventions of this kind; we have to have humanitarian interventions in mind which are humanitarian intervention-wars. (I) At exactly what point is the use of military force a humanitarian intervention? What is the humanitarian aspect of those interventions? Their occasion? Their motive? Their alleged as well as their actual consequences? (II) At exactly what point are humanitarian intervention-wars morally justifiable? Are they justifiable even if they are wars of aggression breaching international law? And finally: (III) Was the war which was presented to us as the paradigmatic example of a humanitarian-intervention-war, that is: the war in Kosovo in the spring of 1999 (with over 37,000 bombing missions), really justifiable as a humanitarian intervention? Many of us wanted to believe so at the time. Does our ex ante judgement hold today in an ex post reflection? And which lessons for the future should we learn from the success or failure of this humanitarian war? These are the questions proposed in this book; therefore, it is concerned with problems of semantics (part I), problems of moral assessment (part II) and with the moral, legal and political conclusions we draw from our experiences with the war in Kosovo, our primary example of a humanitarian intervention (part III). International experts in the areas of philosophy, international law, sociology and peace studies debated these questions vigorously for several days. This is the resulting volume.

This thesis aims at the resolution of a dilemma which has been bothering international lawyers for at least two decades, namely whether armed intervention as a response to gross and massive human rights violations is ever legally justified without the authorization by the Security Council pursuant to Chapter VII of the United Nations Charter. Thus far, international lawyers may be said to have been caught between giving a negative answer on the basis of the rules in the Charter, and a 'turn to ethics', i.e. declaring humanitarian intervention legitimate on moral grounds, while leaving questions of legality to the side. These two camps may be termed 'positivists' and 'moralists' respectively. In this thesis, a third solution to this dilemma is proposed. The idea is presented that many equitable principles may qualify as 'general principles of law recognised by civilised nations' - the third principal source of international law, a conclusion based upon detailed research of both national legal systems and the international legal system itself. These principles, having normative force in international law, are then used to craft an equitable framework for humanitarian intervention. It is argued that the dynamics of their operation allow them to interact with the UN Charter regime and customary international law in order to fill gaps in the existing legal structure and soften the rigours of strict law in extreme circumstances. It is asserted that many of the arguments of the moralists are justified, albeit based upon firm legal principles rather than ethical and philosophical theory. The equitable framework proffered in the final chapter is designed to provide an answer to the question of how the concept of humanitarian intervention may be integrated into the realm of law. Certainly, this will not mean

an end to controversies regarding concrete cases of humanitarian intervention. However, it will enable the framing of such controversies in legal terms, rather than as a choice between the law and morality.

International law makes it explicit that states shall not intervene militarily or otherwise in the affairs of other states; it is a central principle of the charter of the United Nations. But international law also provides an exception; when a conflict within a state poses a threat to international peace, military intervention by the UN may be warranted. (Indeed, the UN Charter provides for an international police force, though nothing has ever come of this provision). The Charter and other UN documents also assert that human rights are to be protected—but in the past the responsibility for the protection of human rights has for the most part been allowed to rest on the government of the state where the violation of rights occurs. Not surprisingly in this context, the question of what protection (if any) should be provided by the UN or otherwise to individuals when their human rights are violated by their governments or with the complicity of their governments remains a contentious issue. Should the principle of respect for state sovereignty trump the principle of respect for human rights? Historically it has been allowed to do so, but recently it has been more and more widely argued that when states fail to respect the human rights of their citizens (or of others who reside within their boundaries), they may be held accountable for their actions. Is military humanitarian intervention justifiable? And if so, under what circumstances? Those are the questions addressed in this collection of essays. The focus of the volume is on the abstract principles involved; though reference is sometimes made to specific cases, the essays here consist primarily of philosophical reflection on the abstract issues. (A companion volume on the specific issues surrounding a particular case, *Lessons of Kosovo*, is being published simultaneously.)

The issue of humanitarian intervention has generated one of the most heated debates in International Relations over the past decade - among both theorists and practitioners. At the heart of the debate is the alleged tension between the principle of state sovereignty, a defining pillar of the UN system and international law, and the evolving international norms related to human rights and the use of force. This edited book investigates the controversial place of humanitarian intervention in the theory and practice of International Relations. Although the subject has gained greater prominence, it continues to have an uneasy relationship with both the major schools of thought in the discipline of IR, and the behaviour of states, international organizations, and non-governmental actors. Many academic discussions focus on the question of whether there is a legal 'right' of humanitarian intervention, giving insufficient attention to the underlying ethical issues, the politics within international organizations and coalitions, and the practical dilemmas faced by international actors - before, during, and after the intervention. The book analyses humanitarian intervention through the lenses of both theory and practice, and assesses the challenges it poses for international society in a post September 11th world. It includes chapters by well-known academics from the disciplines of law, philosophy, and international relations, as well as those who have been actively engaged in cases of intervention during the past decade. The cases cover not only well-known conflicts such as Somalia and Bosnia, but also the recent international interventions in East Timor and Afghanistan. Three main themes emerge from the study. First, the contributors show that the alleged conflict between human rights and state sovereignty has been addressed by two recent developments in international society: an evolution in the notion of sovereignty from 'sovereignty as authority' to 'sovereignty as responsibility'; and an expanded definition of the Security Council on what constitutes a threat to peace and security. Second, despite this new climate of permissiveness, humanitarian intervention remains a controversial norm in International Relations, due to continued opposition from certain members of international society, and concerns about its potentially negative consequences. Finally, while the past decade has seen some successful cases of intervention to address humanitarian catastrophes, the

current capability of international organizations to undertake humanitarian interventions remains limited. As the book demonstrates, the issue of humanitarian intervention has the potential to divide international institutions such as the UN and damage their credibility. This raises questions about whether and how individual members of international society should respond to humanitarian crises.

New essays on philosophical, legal, and moral aspects of armed humanitarian intervention, including discussion of the 2011 bombing in Libya.

It is not a matter of astonishment that a lot of suffering is caused by war, and the International humanitarian law endeavours to alleviate the misery and anguish caused by war. Thus, the International humanitarian law is the system of laws that is applicable in situations of armed conflicts to individuals, and in controlling the existing hostilities. The notable feature about this law is that its regulations and commitments pertain to all individuals when they are exposed to armed conflicts whether they are state or non-state actors. Among the different principles of the International humanitarian law the basic one is that a distinction has to be made between combatants and civilians as combatants are immune to prosecution for lawful acts of war and civilians have to be protected from the aggression of armed conflict. The Geneva Conventions of 1949, their two additional protocols of 1977 and the customary international law govern the minimum standards for conduct-armed conflicts.

Humanitarian Intervention and the AU-ECOWAS Intervention Treaties Under International Law Towards a Theory of Regional Responsibility to Protect Springer

When can a state give political support to a military intervention in another state? The Government of the Netherlands commissioned an Expert Group to examine this complex, topical and time-sensitive question and to consider whether it should press for international acceptance of humanitarian intervention as a new legal basis for the use of force between states in exceptional circumstances. This volume is the result of those efforts. The Expert Group was led by Professor Cyrille Fijnaut and consisted of Mr. Kristian Fischer, Professor Terry Gill, Professor Larissa van den Herik, Professor Martti Koskeniemi, Professor Claus Kreß, Mr. Robert Serry, Ms. Monika Sie Dhian Ho, Ms. Elizabeth Wilmshurst and Professor Rob de Wijk. Their thorough analysis and recommendations offer important insights that can aid governments in formulating a position on political support for the use of force between states and humanitarian intervention. The volume also constitutes a useful tool for scholars and practitioners in considering these difficult and important issues.

Seminar paper from the year 2005 in the subject Law - Comparative Legal Systems, Comparative Law, grade: Distinction, Coventry University (Coventry Business School), course: International Law in the Contemporary World Arena, 49 entries in the bibliography, language: English, abstract: The dilemma of what to do about citizens of another sovereign country who see themselves confronted with horrifying abuses by their own government has remained with us throughout the era post World War II. The recent events in the Sudanese region of Darfur, labelled not only civil war, but "ethnic cleansing" have, again, triggered discussions about the question of "humanitarian intervention". We can quote various instances in recent history after 1945, where appalling violations of basic human rights, including the mass killing of civilians on a high scale happened within the sovereign

territory of a country, for example in Cambodia in the period 1975-1979, in Ex-Yugoslavia in the early 1990s, in Rwanda in 1994, to name but these.³Time and again, alongside those tragic events, different voices have called for military actions driven by humanitarian considerations, seemingly subscribing to the catchphrase “humanitarian intervention [as opposed to] inhumanitarian non-intervention”. The military actions of NATO in Kosovo especially, having been branded the first “humanitarian war”, have attained a remarkable degree of attention in the academia, raising new and old questions about the legitimacy and viability of the model of humanitarian intervention. While there seems to be an unanimous agreement that there are in existence both moral and ethical *raison d'être* as well as some agreement of how the *modus operandi* of a humanitarian intervention should look like¹⁰, there exists some substantial disagreement as to if at all and under which conditions such a venture is to be deemed legally permissible. In the face of an absence of a comprehensive legalistic framework under international law that would govern humanitarian interventions (the human rights framework is severely limited by the weaknesses of its enforcement mechanisms), the essence of the contemporary debate predominantly stems from a clash of imperatives between the principles of the protection of state sovereignty as laid down in Art. 2 (4) and (7) of the UN-Charter and the obligation of the protection of human rights (that might be achieved through a humanitarian intervention), in other words, a “conflict between justice and [legal] order”. From Kosovo to Libya, humanitarian intervention is seldom out of the news. While the 'Responsibility to Protect' (R2P) has often been at the centre of these debates, its effectiveness as a means of preventing and resolving mass atrocities is disputed. The book provides a systematic overview of the theory and practice of R2P, and examines how the doctrine has been interpreted and implemented since it was first conceived. Aidan Hehir argues that, while it has undeniably raised international consciousness regarding humanitarian intervention, R2P has not significantly improved the international response to large-scale intra-state crises. Hehir advances an alternative strategy involving a strengthening of international law – based around obligations rather than discretionary rights – and major structural reform to the United Nations. Broad-ranging and insightful, this innovative text provides a clear grasp of the key issues and debates surrounding humanitarian intervention and advances a major new critique of R2P. The main argument of this research is to show that there are still many legal, political and practical problems associated with the issue of intervention for humanitarian purposes and the absence of the legal framework for carrying out such interventions enormously contributes to the increase of unauthorized and usually selective interventions as well as humanitarian disasters in the future. The research argues that although there is little hope that this norm is going to be developed in a treaty form, be it through the amendments to the UN Charter or otherwise, the possibility of the emergence of a rule on the Responsibility to Protect as a norm of customary law is not completely excluded.

The debates surrounding humanitarian intervention and the responsibility to protect concern a series of central and interrelated issues in International Relations, international law, and political philosophy. These include the relationship between state sovereignty and human rights, the reasons for state behaviour, the role and adequacy of the United Nations, and whether states have a moral and legal obligation to protect those beyond their borders. This major work provides a detailed and systematic

understanding of these political, legal, and ethical debates surrounding humanitarian intervention and responsibility to protect as they have evolved since the 1990s. Divided thematically, Volume I considers more closely the politics of humanitarian intervention, Volume II focuses on the international law on humanitarian intervention, Volume III considers the ethical issues, and Volume IV focuses explicitly on the responsibility to protect doctrine. This Major Work is designed to be a key reference for those interested in humanitarian intervention and the responsibility to protect from a wide range of fields, including International Relations, political science, international law, and political philosophy. Volume One: The Politics of Humanitarian Intervention Volume Two: The International law on Humanitarian Intervention Volume Three: The Ethical Issues Surrounding Humanitarian Intervention Volume Four: The Responsibility to Protect and Humanitarian Intervention

In the report it is concluded that current international law provides no legal basis for humanitarian intervention without Security Council authorisation, and also that no such legal basis is yet emerging.

Using legal arguments consistent with international law, this book explores whether and under which circumstances a State (or States) may establish and militarily enforce safe zones in countries that produce large-scale refugee outflows so as to protect its (or their) own interests by averting said outflows, as well as to alleviate human suffering in today's world of civil and internal warfare. Though large-scale refugee outflows have become an increasingly frequent problem in inter-state relations, international law offers no clear remedy. Accordingly, interpretation and adaptation of the existing rules and principles of international law, in addition to State practice and the jurisprudence of international courts, are required in order to find appropriate and lawful responses to such situations. The book examines countermeasures, necessity and humanitarian intervention as possible legal grounds to justify the establishment of safe zones. Since the proposal of a safe zone for Syria remains on the international community's agenda, the specific conditions of this case are particularly addressed in order to assess the suitability and legality of a possible safe zone in Syria.

This book critically examines the right of humanitarian intervention, asserted most spectacularly by NATO during its 1999 air strikes over Kosovo. The UN Charter prohibits the unilateral use of force, but there have long been arguments that such a right might exist as an exception to this rule, or linked to the changing role of the Security Council. Through an analysis of these questions, the book puts NATO's action in Kosovo in its proper legal and historical perspective.

The question of humanitarian intervention's legality remains unanswered to date. This book offers a new approach to the legality issue by combining legal theory and international law. With humanitarian intervention, hard choices still have to be made by the international lawgiver.

2.1. Order and justice

This thesis proposes that ASEAN adopt a legal framework to carry out humanitarian intervention (HI) in situations of actual or imminent man-made humanitarian disasters. It considers whether ASEAN can overcome the "ASEAN Way" principles to carry out HI, in view of the history of mass killings in the region. It reviews the international law position on HI and assesses the need for

regional organisations to develop HI capabilities in view of the deficiencies in the international security system. Finally, a legal framework for HI by ASEAN is outlined, using lessons drawn from African HI models and leading academic writing.

Examines the ethical, legal, and political dimensions of military intervention for humanitarian reasons.

Master's Thesis from the year 2014 in the subject Law - European and International Law, Intellectual Properties, grade: DISTINCTION, University of Hertfordshire (Faculty of Law), course: International Law, language: English, abstract: In this thesis, the concepts of Sovereignty, non-intervention and Humanitarian Intervention will gradually be unveiled, especially in subsequent chapters. The cases of Syria and Libya will serve as watershed for the theoretically unveiled concepts.

The principle of State Sovereignty plays a great role in the formation of international law as it sets a basic foundation on which the international society is built. The natural supposition is that international order is best maintained if states respect one another's sovereignty by adhering to the norms of non-intervention in the internal affairs of other states. The modern idea of Sovereignty dates back to Ancient Rome in which all sovereign powers were bestowed on the Emperor. It was deemed an absolute, unified, inalienable power based upon a voluntary but irrevocable contract.

"There is a veritable cottage industry of books on humanitarian intervention (the use of military force to stop atrocities) and the vast majority favors the project. The Conceit of Humanitarian Intervention challenges this consensus by pointing up the strategic, legal, and ethical problems associated with it. The book also disputes the claim that humanitarian intervention, particularly as manifested in the doctrine of "The Responsibility to Protect," has become a universal norm that offers a comprehensive and effective solution to mass killing"--

The book reconciles the conflicts and legal ambiguities between African Union and ECOWAS law on the use of force on the one hand, and the UN Charter and international law on the other hand. In view of questions relating to African Union and UN relationship in the maintenance of international peace and security in Africa in recent years, the book examines the legal issues involved and how they can be resolved. By explaining the legal theory underpinning the validity of the AU-ECOWAS laws, the work provides a legal basis for the adoption of the AU-ECOWAS laws as the frameworks for the implementation of the R2P in Africa.

An interdisciplinary approach to humanitarian intervention by experts in law, politics, and ethics.

This collection presents an analysis of the imperatives of sovereignty, human rights and national security in the post 9/11 era, and examines their relationship to procedural and substantive legitimacy in liberal democratic states

Research Paper (postgraduate) from the year 2016 in the subject Politics - International Politics - Topic: Public International Law and Human Rights, grade: 9.00, University of Sarajevo (Center for Interdisciplinary Postgraduate Studies), course: Human Rights and Democracy in South East Europe, language: English, abstract: This paper aims to

examine the so-called doctrine of “humanitarian intervention” in accordance with the changing character of state sovereignty. It focuses on legal and moral challenges posed by this doctrine and considers its justification and legitimacy in practice. I argue that humanitarian intervention cannot be divorced from self-interest of intervening states and that it would be unreasonable to think that these actions come only from pure altruism, but that humanitarian motivation should be prevalent in actions of this kind. I also briefly consider the uncertain future of humanitarian intervention and how its practical implementation can be amended to better serve humanitarian goals.

During the 1990s, humanitarian intervention seemed to promise a world in which democracy, self-determination and human rights would be privileged over national interests or imperial ambitions. Orford provides critical readings of the narratives that accompanied such interventions and shaped legal justifications for the use of force by the international community. Through a close reading of legal texts and institutional practice, she argues that a far more circumscribed, exploitative and conservative interpretation of the ends of intervention was adopted during this period. The book draws on a wide range of sources, including critical legal theory, feminist and postcolonial theory, psychoanalytic theory and critical geography, to develop ways of reading directed at thinking through the cultural and economic effects of militarized humanitarianism. The book concludes by asking what, if anything, has been lost in the move from the era of humanitarian intervention to an international relations dominated by wars on terror.

This book examines the international law of forcible intervention in civil wars, in particular the role of party-consent in affecting the legality of such intervention. In modern international law, it is a near consensus that no state can use force against another - the main exceptions being self-defence and actions mandated by a UN Security Council resolution. However, one more potential exception exists: forcible intervention undertaken upon the invitation or consent of a government, seeking assistance in confronting armed opposition groups within its territory. Although the latter exception is of increasing importance, the numerous questions it raises have received scant attention in the current body of literature. This volume fills this gap by analyzing the consent-exception in a wide context, and attempting to delineate its limits, including cases in which government consent power is not only negated, but might be transferred to opposition groups. The book also discusses the concept of consensual intervention in contemporary international law, in juxtaposition to traditional legal doctrines. It traces the development of law in this context by drawing from historical examples such as the Spanish Civil War, as well as recent cases such those of the Democratic Republic of the Congo, Somalia, Libya, and Syria. This book will be of much interest to students of international law, civil wars, the Responsibility to Protect, war and conflict studies, and IR in general.

From its sweaty beats to the pulsating music on the streets, Latin/o America is perceived in the United States as the land of heat, the toy store for Western sex. It is the territory of magical fantasy and of revolutionary threat, where topography is the travel guide of desire, directing imperial voyeurs to the exhibition of the flesh. Jose Quiroga flips the stereotype upside down: he shows how Latin/o American lesbians and gay men have consistently eschewed notions of sexual identity for a politics of intervention. In *Tropics of Desire*, Quiroga reads hesitant Mexican poets as sex-positive voices, he questions how outing and identity politics can fall prey to the manipulations of the state, and explores how invisibility has been used as a tactical tool in opposition to the universal imperative to come out. Drawing on diverse cultural examples such as the performance of bolero and salsa, film, literature, and correspondence, and influenced by masters like Roland Barthes, Walter Benjamin and a rich tradition of Latin American stylists, Quiroga argues for a politics that denies biological determinism and

cannibalizes cultural stereotypes for the sake of political action.

Essay from the year 2004 in the subject Politics - International Politics - Topic: Peace and Conflict Studies, Security, grade: 1,8, University of Edinburgh, 46 entries in the bibliography, language: English, abstract: Especially since the post-1945 era and the United Nations-establishment, international political theory has been concerned with the topic of humanitarian intervention and a complex debate, touching principles of international society and our human existence, has emerged. It focuses on two levels: the traditional debate is concerned with the arguments for and against intervention in relation to the principles of sovereignty, non-intervention and non-use of force versus global human rights norms. The critical approach to humanitarian intervention moves beyond the classical debate and its limits in providing new aspects.¹ Additionally, the international society recently has to deal with lots of problems. 9/11 and the war in Iraq have given rise to new challenges and terrorism prescribes a new and unique dimension for humanitarian intervention. This essay aims to provide a clearer understanding of current issues and the complex debate concerning humanitarian intervention. Due to lack of space it can only give a rough overview about the topic. Thus it first offers a definition of humanitarian intervention and a brief historical overview about the UN. Secondly, it deals with the classical debate and related issues. The third section is concerned with critical approaches to and new ways of looking at intervention. The essay concludes by offering possible solutions to the debate. ¹ The complexity of the debate has been perfectly expressed by Hoffman: "The very act of intervention and non-intervention and the justification offered tells us a great deal - about how we conceive of ourselves, how we construct our identities and how we conceive of and construct the world in which we live." (1993: 194)

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