

Humanitarian Intervention – Bad

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This brief covers forceful military intervention to prevent genocide/etc. (humanitarian intervention.) For evidence on peaceful humanitarian assistance, see the companion brief Humanitarian Aid (page 79). A few arguments can be cross-applied to/from the Humanitarian Aid briefs.

For general intervention evidence (not specifically humanitarian intervention), see Intervention - Bad (page 123). See also the National Sovereignty disadvantage (page 299).

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"When a man hath no freedom to fight for at home,
Let him combat for that of his neighbors;
Let him think of the glories of Greece and of Rome,
And get knocked on the head for his labors.

"To do good to mankind is the chivalrous plan,
And is always as nobly required;
Then battle for freedom wherever you can,
And, if not shot or hanged, you'll get knighted."

- Lord Byron, 1820

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Definitions: Humanitarian Intervention vs. Humanitarian Aid

Prof. Simon Chesterman (PhD in international law from Oxford, dean/professor of law at the National University of Singapore; formerly professor at New York University), 2001, Oxford University Press, "Just War or Just Peace? Humanitarian Intervention and International Law", accessed July 9, 2012, http://nus.academia.edu/SimonChesterman/Books/1523291/Just_War_or_Just_Peace_Humanitarian_Intervention_and_International_Law (page 4)

A preliminary distinction must be drawn between humanitarian intervention and other putative legal bases for actions that may include a humanitarian component. In addition to self-defence and Security Council authorized enforcement actions, these include claims of protection of nationals abroad (arguably a species of self-defence), consent of the target state, and authorization by treaty. It is also necessary to make clear that the doctrine of humanitarian intervention as considered here concerns the threat or use of force - over the 1990s the term has sometimes been used to refer to less intrusive actions, such as the provision of food, medicine and shelter. The term humanitarian assistance will be used for such non-forcible actions.

SOLVENCY: GENERAL

No Cooperation: Most states oppose intervention and will weasel out of commitments

Prof. Alex Bellamy (PhD in international politics, professor of peace and conflict studies at the University of Queensland), Summer 2006, Ethics & International Affairs, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit", Volume 20.2, accessed July 9, 2012, http://www.carnegiecouncil.org/resources/journal/20_2/articles/5384.html

The purpose of this article is to ask how consensus was reached on the responsibility to protect, given continuing hostility to humanitarian intervention expressed by many (if not most) of the world's states and whether the consensus will contribute to avoiding future Kosovos (cases where the Security Council is deadlocked in the face of a humanitarian crises) and future Rwandas (cases where states lack the political will to intervene). It suggests that four key factors contributed to the consensus: pressure from proponents of the International Commission on Intervention and State Sovereignty, its adoption by Kofi Annan and the UN's High Level Panel, an emerging consensus in the African Union, and the American position. Whilst these four factors contributed to consensus, each altered the meaning of the responsibility to protect in important ways, creating a doctrine that many states can sign up to but that does little to prevent future Kosovos and Rwandas and may actually inhibit attempts to build a consensus around intervention in future cases.

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Doesn't Work: Human rights come from domestic reforms, not intervention

Prof. Alex J. Bellamy (professor of peace and conflict studies at the University of Queensland) and Prof. Nicholas J. Wheeler (professor of international relations at the University of Wales), 2008, Oxford University Press, "Humanitarian Intervention in World Politics", accessed July 16, 2012, <http://cadair.aber.ac.uk/dspace/bitstream/2160/1925/1/Wheeler.%2520Bellamy.pdf> (page 8)

Intervention does not work A final set of criticisms suggests that humanitarian intervention should be avoided because it is impossible for outsiders to impose human rights. Liberals argue that states are established by the informed consent of their citizens. Thus, one of the foremost nineteenth century liberal thinkers, John Stuart Mill (1973: 377-8), argued that democracy could only be established by a domestic struggle for liberty. Human rights cannot take root if they are imposed or enforced by outsiders. Interveners will therefore find either that they become embroiled in an unending commitment or that human rights abuses re-ignite after they depart. Mill argued that oppressed peoples should themselves overthrow tyrannical government.

SOLVENCY/DA: MASKS OTHER MOTIVES

Tool of oppression: Rich and powerful use "intervention" to push their morals and politics

Prof. Ramesh Thakur (professor of international relations at Australian National University, formerly Assistant Secretary General for the United Nations, Senior Vice-Rector at the United Nations University), 2006, Cambridge University Press, "The United Nations, Peace And Security: From Collective Security to the REsponsibility to Protect", ISBN: 0521855179, accessed July 8, 2012, <http://books.google.com/books?id=CAoAordhNBUC&dq> (page 265)

We no longer have wars, only "humanitarian interventions" that rest on assumptions of moral superiority. The privileging of some crises that are securitised over others that are not reflects the interests and perspectives of the powerful and the rich at the expense of the weak and the poor. The voiceless in the human rights "discourse" are the marginalised and powerless in the global power equation. In Europe, centralising states sought to bring order to their societies by claiming a monopoly on the legitimate use of force. Developing countries fear that in some sections of the West today, the view has gained ground that anyone but the legitimate authorities can use force.

Can mask selfish motives - causing more death

Prof. Ramesh Thakur (professor of international relations at Australian National University, formerly Assistant Secretary General for the United Nations, Senior Vice-Rector at the United Nations University), 2006, Cambridge University Press, "The United Nations, Peace And Security: From Collective Security to the REsponsibility to Protect", ISBN: 0521855179, accessed July 8, 2012, <http://books.google.com/books?id=CAoAordhNBUC&dq> (page 268)

A number of reasons were advanced for rejecting "the doctrine of humanitarian intervention." First, it was claimed that there is no basis for it in the UN Charter which recognises only self-defence and the maintenance and restoration of international peace and security as legitimate grounds for the use of force. Second, the use of force for moral reasons is dangerous and counterproductive in its practical effects. On the one hand, it can encourage warring parties inside a country to be rigid and irresponsible in the hope of internationalising the conflict. On the other hand, it can facilitate interventions by those exploiting the cloak of legality for their own purposes. Both can prolong or result in large-scale killings.

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Used to hide other objectives

Prof. Simon Chesterman (PhD in international law from Oxford, dean/professor of law at the National University of Singapore; formerly professor at New York University), 2001, Oxford University Press, "Just War or Just Peace? Humanitarian Intervention and International Law", accessed July 9, 2012, http://nus.academia.edu/SimonChesterman/Books/1523291/Just_War_or_Just_Peace_Humanitarian_Intervention_and_International_Law (page 3-4)

This book explores the doctrine of humanitarian intervention in its historical and political context. The debate surrounding it encapsulates crucial tensions in the international legal order between sovereignty and human rights, between the prohibition of the use of force and the protection of human dignity. At the same time, it raises questions of evidence and motive in the formation of international law, as humanitarian justifications may be used in practice to cloak less altruistic foreign policy objectives in the robes of dubious legality. As a legal concept it will be argued that humanitarian intervention is incoherent - any 'right' of humanitarian intervention amounts not to an asserted exception to the prohibition of the use of force, but to a lacuna [void] in the enforceable content of international law.

Genuine humanitarianism is the exception, not the rule

Prof. Nehal Bhuta (professor of public international law at the European University Institute, assistant professor of law at the University of Toronto), December 2001, Melbourne University Law Review, "Paved With Good Intentions - Humanitarian War, The New Interventionism And Legal Regulation Of The Use Of Force", Vol. 25, accessed July 9, 2012, www.simonchester.com/books/just_war/Melb_U_L_Rev.pdf (page 4)

Genuinely 'humanitarian' interventions, then, are difficult to find: where states expressly profess humanitarian intentions, non-humanitarian reasons seem more significant; where interventions actually do terminate genocide or crimes against humanity, they are not justified, or accepted, as evincing a 'right' to do so.

Example - Laundry list: Humanitarianism often masks selfish motives

Prof. Dale Jamieson (PhD in philosophy, professor of environmental studies and philosophy), 2005, Journal of Ethics, "Duties To The Distant: Aid, Assistance, And Intervention In The Developing World", Vol. 9, Issue 1/2, accessed July 10, 2012, as.nyu.edu/docs/IO/1192/Duties_to_the_Distant.pdf (p167)

Moreover, we should be reminded that the language of beneficence is not the sole property of liberal democracies bent on humanitarian missions. Benito Mussolini too claimed the abolition of slavery as a justification for the invasion of Ethiopia. Japan claimed that it was invading Manchuria to rescue it from Chinese bandits. Even Adolf Hitler claimed that he was putting an end to ethnic strife when he invaded the Sudetenland. Once the principle is accepted that a country may be invaded for the good of its own people, the floodgates are open, especially if there is no requirement that such invasions be sanctioned by a legitimating international authority.

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Example - Iraq: "Humanitarian" exception to non-intervention invites abuse

Prof. Bruce W. Jentleson (PhD, professor of public policy/political science at Duke University), March 2006, draft paper for Conference on Delegating Sovereignty: Constitutional and Political Perspectives, Duke University, "Humanitarian Intervention and Sovereignty Delegation: Why? When? Who Decides? How Much?", accessed July 10, 2012, <http://www.law.duke.edu/publiclaw/pdf/workshop06sp/jentleson.pdf> (page 7-8)

Moreover, the fact that humanitarian rationales were invoked as part of the potpourri of *causus belli* made it even worse, demonstrating "the danger of abuse": [Quoting Adam Roberts, "If all wars can be "humanitarian", then the humanitarian exception itself ceases to have meaning . . . The danger with accepting the legal and moral arguments for war with Iraq is that it will undermine the veracity of those arguments: Security Council resolutions can be interpreted so broadly as to mean anything and nothing; pre-emptive self-defense blurs into aggression; humanitarian wars become the norm, but selectivity on the basis of the "national interests" of the interveners remains.] For these and other reasons Thomas Weiss concluded that "the blowback from Iraq precludes serious discussion [of guidelines for humanitarian intervention] for the foreseeable future."

DISADVANTAGE: VIOLATES UN CHARTER

Link: Humanitarian intervention prohibited in UN charter

Prof. Terry Nardin (PhD, professor of political science at the University of Singapore), 2003, Just Intervention, Georgetown University Press, "The Moral Basis for Humanitarian Intervention", ISBN: 0878403418, accessed July 10, 2012, <http://books.google.com/books?id=KPDlmgzOgcC&pg> (p11-12)

According to this principle [of non-intervention], states are forbidden to exercise their authority, and certainly to use force, within the jurisdiction of other states. The principle finds firm support in the UN Charter, which permits a state to defend itself from attack but forbids the use of armed force against the territorial integrity or political independence of other states. Taken literally, these provisions prohibit armed intervention, including intervention to protect human rights. And in general, humanitarian intervention finds scant support in modern international law. There is, however, a much older tradition in which the use of force is justified not only in self-defense but also to punish wrongs and protect the innocent. This tradition is in some tension with modern international law and especially with the UN Charter.

Impact: Undermines "new order" of rights and peace - charter needed to give permanency

Prof. Bardo Fassbender (JD, LL.M. from Yale, professor of international law at the Bundeswehr University of Munich Germany), 2009, BRILL, "The United Nations Charter As the Constitution of the International Community", ISBN: 9004175105, accessed July 11, 2012, http://books.google.com/books?id=rsTPPF111ioC&printsec=frontcover&source=gbs_atb#v=onepage&q&f=true (page 88)

A constitution 'outlines the program that legitimized the new order.' Reading the Charter, in particular its Preamble and Chapter I, in light of this observation, one clearly recognizes the will of its drafters firmly to establish a new world order in which international peace and security would be safeguarded,

[continues on next page]

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and friendly relations among nations be promoted. What Dieter Grimm said about the Constitution of the United States of 1787, applies, mutatis mutandis, also to the UN Charter: '[T]he Declaration of Independence and, therefore, the American Revolution were legitimized by values which would subsequently form the basic principles of a new order expressed in the Constitution. Only through the Constitution as a normative text did the new order assume permanence and acquire a legally valid form. In the case of the Charter, the values legitimizing the new order were, in essence, peace and fundamental human rights.

Impact: UN charter is essentially the Constitution of the World

Prof. Bardo Fassbender (JD, LL.M. from Yale, professor of international law at the Bundeswehr University of Munich Germany), 2009, BRILL, "The United Nations Charter As the Constitution of the International Community", ISBN: 9004175105, accessed July 11, 2012, http://books.google.com/books?id=rsTPPF111ioC&printsec=frontcover&source=gbs_atb#v=onepage&q&f=true (page 1)

The subject of this book is international constitutional law, understood as a sub-discipline of public international law. The reader is invited to participate in a search of international law for elements of a constitutional order which can be identified as the constitutional law of the international community-a law which has been influenced by constitutional ideas and practices developed in a national context, but which is "'standing on its own feet'. That constitutional law of the international community, I argue in this book, is built on and around the Charter of the United Nations, which therefore has a double constitutional character-it is the constitution of the United Nations as an international organization, and also, and even more importantly, the constitution of the international community.

Link Backup: Humanitarian intervention illegal under UN charter

Prof. Nehal Bhuta (professor of public international law at the European University Institute, assistant professor of law at the University of Toronto), December 2001, Melbourne University Law Review, "Paved With Good Intentions - Humanitarian War, The New Interventionism And Legal Regulation Of The Use Of Force", Vol. 25, accessed July 9, 2012, www.simonchester.com/books/just_war/Melb_U_L_Rev.pdf (page 849)

Some of the closest legal argument in Dr Chesterman's work is his convincing refutation of scholars who propound a narrow reading of article 2(4) in an effort to render it compatible with a purported right of humanitarian intervention. Put simply, their contention is that article 2(4) does not prohibit force which is not used to usurp another state's territory or impose alien rule upon its peoples, or which is used to promote one of the purposes of the United Nations. The argument has a superficial attraction, but is a specious reading of the relevant Charter provisions. As Dr Chesterman demonstrates, the intention of the drafters as discerned from the travaux preparatoires was to prohibit the use of force in the broadest possible terms, so as to render trans-border armed attacks illegal. To suggest that armed attacks which do not seize territory or colonise a state are not against that state's 'territorial integrity nor political independence' is to adopt a construction worthy of Orwellian Newspeak. Similarly, the words 'or in any other manner inconsistent with the Purposes of the United Nations' is revealed to have been inserted not to create new exceptions to the prohibition of the use of force, but as a residual phrase to ensure an 'absolute all-inclusive prohibition; the phrase "or in any other manner" was designed to insure that there should be no loopholes.' In any event, while the promotion of human rights through 'international cooperation' is to be found among the purposes of the United Nations, the first listed purpose in article 1 is the maintenance of international peace and security through the prevention and removal of threats to the peace, the suppression of breaches of the peace, and the peaceful settlement of disputes.

DISADVANTAGE: MORE GENOCIDE

Link/Impact: Increases rebellion, and hence genocide

Prof. Alan J. Kuperman (PhD in political science, associate professor of public affairs at the University of Texas), 2008, International Studies Quarterly, "The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans", Vol. 52, accessed July 9, 2012, <http://www.ukrainianstudies.uottawa.ca/pdf/Kuperman%202008.pdf> (page 49)

This article explores a perverse consequence of the emerging norm of humanitarian intervention, or "Responsibility to Protect," contrary to its intent of protecting civilians from genocide and ethnic cleansing. The root of the problem is that such genocidal violence often represents state retaliation against a substate group for rebellion (such as an armed secession) by some of its members. The emerging norm, by raising expectations of diplomatic and military intervention to protect these groups, unintentionally fosters rebellion by lowering its expected cost and increasing its likelihood of success. In practice, intervention does sometimes help rebels attain their political goals, but usually it is too late or inadequate to avert retaliation against civilians. Thus, the emerging norm resembles an imperfect insurance policy against genocidal violence. It creates moral hazard that encourages the excessively risky or fraudulent behavior of rebellion by members of groups that are vulnerable to genocidal retaliation, but it cannot fully protect against the backlash. The emerging norm thereby causes some genocidal violence that otherwise would not occur.

Example - Bosnia: War killing 100,000 people because intervention was expected

Prof. Alan J. Kuperman (PhD in political science, associate professor of public affairs at the University of Texas), 2008, Global Governance, "Mitigating the Moral Hazard of Humanitarian Intervention: Lessons from Economics", Vol. 14, accessed July 10, 2012, <http://www.epsusa.org/events/07conf/kupermanpaper.pdf> (page 223, 224)

In Bosnia, prior to the outbreak of genocidal violence, Muslim leaders negotiated, but then rejected, two compromises that they acknowledge might have averted such violence: keeping the republic in a rump Yugoslavia or accepting ethnic cantonization of Bosnia prior to secession from Yugoslavia. Instead, the Muslims organized and armed a 100,000-strong militia and, in March 1992 (with the republic's Croats), declared Bosnia's independence, against the will of Yugoslavia's government and Bosnia's Serbs, despite knowing that they could not defend themselves against expected retaliation. As Bosnian president Alija Izetbegovic later explained, "Our tactics were . . . the international community would defend this country." His foreign minister, Haris Silajdzic, confirms, "My main priority in the whole strategy was to get Western governments and especially the United States to get involved, because [Serbs] had the whole Army." Omer Behmen, perhaps the most influential Muslim official, says the goal was to "put up a fight for long enough to bring in the international community." The Muslims expected such intervention because of the emerging norm of humanitarian intervention after the Cold War. [later, in the same context:] The cost of three years of war turned out to be roughly 2 million displaced and 100,000 dead, mostly Muslim. Had it not been for the expectation of international intervention, the Muslims might not have seceded at all, or at least not without first agreeing to a cantonization plan, so the bloody Bosnian war might have been averted.

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Backup: Causes moral hazard and more genocide

Prof. Alan J. Kuperman (PhD in political science, associate professor of public affairs at the University of Texas), 2008, International Studies Quarterly, "The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans", Vol. 52, accessed July 9, 2012, <http://www.ukrainianstudies.uottawa.ca/pdf/Kuperman%202008.pdf> (page 51)

In some cases, moral hazard promotes irresponsibility: for example, a group's leaders will acquire arms and secede from the state even though they know this may trigger state retaliation that they cannot defend against, because they expect the international community either to deter such retaliation or intervene on their behalf in the event of violence. In other cases, moral hazard promotes outright fraud: for example, rebels will attack state officials deliberately intending to provoke retaliation against their own group's civilians, to attract international intervention that they deem necessary to attain their political goals. In practice, intervention does sometimes help rebels attain their goals, but usually it is too late or inadequate to avert retaliation against civilians. Thus, the emerging norm [of intervention] causes some genocidal violence that otherwise would not occur (Figure 1).

Backup: Warring parties may try to encourage intervention - increasing violence

Prof. Ramesh Thakur (professor of international relations at Australian National University, formerly Assistant Secretary General for the United Nations, Senior Vice-Rector at the United Nations University), 2006, Cambridge University Press, "The United Nations, Peace And Security: From Collective Security to the REsponsibility to Protect", ISBN: 0521855179, accessed July 8, 2012, <http://books.google.com/books?id=CAoAordhNBUC&dq> (page 268)

A number of reasons were advanced for rejecting "the doctrine of humanitarian intervention." First, it was claimed that there is no basis for it in the UN Charter which recognises only self-defence and the maintenance and restoration of international peace and security as legitimate grounds for the use of force. Second, the use of force for moral reasons is dangerous and counterproductive in its practical effects. On the one hand, it can encourage warring parties inside a country to be rigid and irresponsible in the hope of internationalising the conflict. On the other hand, it can facilitate interventions by those exploiting the cloak of legality for their own purposes. Both can prolong or result in large-scale killings.

A/T "THIS EXAMPLE SHOWS WE MUST INTERVENE"

Rwanda: Intervention would have been ineffective

Prof. Alan J. Kuperman (PhD in political science, associate professor of public affairs at the University of Texas), May 2001, Brookings Institution Press, "The Limits of Humanitarian Intervention: Genocide in Rwanda", ISBN: 0815700857, accessed July 9, 2012, <http://books.google.com/books?id=YPEAwx9fG1QC&printsec> (page vi-vii)

THE CONCLUSIONS of THIS book are significantly at odds with the assumptions I had when I started my research four years ago, in 1997.

[later, in the same context:]

However, as they say, facts are stubborn things. Looking into the issue more rigorously than my predecessors, I discovered that virtually all of the earlier claims were inaccurate. The genocide happened much faster, the West learned of it much later, and the requisite intervention would have been much slower than previously claimed. Accordingly, I was compelled to reach a very different conclusion: that a realistic intervention could not have prevented the genocide. Indeed, by my calculation, three-quarters of the Tutsi victims would have died even if the West had launched a maximum intervention immediately upon learning that a nationwide genocide was being attempted in Rwanda.

[later, in the same context:]

Rwanda and several other recent cases demonstrate that massive ethnic violence can be inflicted faster than the West can learn of it and deploy intervention forces to stop it. Thus if the West relies mainly on military intervention to prevent genocide and ethnic cleansing, it is doomed to failure.

Holocaust: Unlike the Holocaust, modern genocide is incited by rebellion

Prof. Alan J. Kuperman (PhD in political science, associate professor of public affairs at the University of Texas), 2008, International Studies Quarterly, "The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans", Vol. 52, accessed July 9, 2012, <http://www.ukrainianstudies.uottawa.ca/pdf/Kuperman%202008.pdf> (page 50)

Analogously, the emerging norm of humanitarian intervention is intended to protect vulnerable groups against state-perpetrated genocide or ethnic cleansing (both of which I refer to as "genocidal violence"). Unlike the famous case of the Holocaust, however, most such violence occurs only when members of a vulnerable group acquire arms and challenge a state's authority, prompting the state to retaliate disproportionately (Fein 1990; Harff and Gurr 1988; Kuperman 2005; Valentino, Huth, and Balch-Lindsay 2004).

DISADVANTAGE: POTENTIAL FOR ABUSE

Lack of guidelines; opportunity for abuse

Maxine Marcus (JD from Brooklyn Law School, MA in international affairs from Columbia University), 2003, Houston Journal of International Law, "Humanitarian Intervention Without Borders: Belligerent Occupation Or Colonization", Vol. 25, No. 1, accessed July 27, 2012

In spite of this broad outline of concepts that the Secretary- General viewed as crucial to a system of humanitarian intervention, presently there are no established guidelines for such interventions. When the United Nations or powerful industrial nations decide that violation of another nation's territorial integrity is necessary to protect individuals from egregious violations of human rights or genocide, then they are free to decide how to proceed. Apparently, there are no existing specifications for the parameters of the action: no guidelines concerning the length and extent of its mandate, the size and composition of the forces, the boundaries of its powers, or the relationship it will have with domestic state institutions. Furthermore, the status of a nation is unclear when its borders have been violated and its domestic jurisdiction has been suspended to a greater or lesser extent action. It is also uncertain to what extent international humanitarian law binds a .N. or humanitarian force. Will the rules applicable to the military component of the force also apply to the civilian component of the force? Without established guidelines directing instances of humanitarian intervention, a regime that is intended to protect individuals from abuse may too easily become an abusive system itself.

Not very different from belligerent occupation

Maxine Marcus (JD from Brooklyn Law School, MA in international affairs from Columbia University), 2003, Houston Journal of International Law, "Humanitarian Intervention Without Borders: Belligerent Occupation Or Colonization", Vol. 25, No. 1, accessed July 27, 2012

The most fundamental comparison between humanitarian intervention and belligerent occupation is that both involve the encroachment into another state without consent. There are international laws regulating permissible and impermissible activities of the belligerent occupier, viewed as an illegal action unless undertaken in self-defense, ° yet there are no international regulations controlling humanitarian intervention.

Intervening forces have few limits

Maxine Marcus (JD from Brooklyn Law School, MA in international affairs from Columbia University), 2003, Houston Journal of International Law, "Humanitarian Intervention Without Borders: Belligerent Occupation Or Colonization", Vol. 25, No. 1, accessed July 27, 2012

International humanitarian law prescribes limits to the occupant's authority for use of force restricting the rights of the occupied population. Intervening forces, not considering themselves to be occupiers, do not have any established and recognized limits on what rights they can restrict.