Chapter 1

What is 'Humanitarian Intervention'?

One of the dominant controversies of our time is the question, 'What is to be done when a state is unwilling or unable to halt a humanitarian crisis within its territory?' Images and accounts of disaster often generate impassioned calls to 'do something' amongst observers, and reignite the debate regarding the rights and responsibilities that states, and the international community, have to alleviate suffering abroad. 'Humanitarian intervention' is an issue of uniquely broad interest which continues to be debated in the international arena, within academia and in the popular media. While there is general consensus as to the importance of humanitarian intervention, it is also one of the most divisive issues in contemporary international relations.

Ideally, an investigation into the controversy surrounding humanitarian intervention and its impact on international relations would start with a definition of humanitarian intervention. Central to the controversy surrounding humanitarian intervention, however, is that the very meaning of the term is itself controversial. As Anthony Lang notes,

> The contention over the meaning of ... 'humanitarian intervention' suggests both the difficulty and importance of definitions. In fact, in trying to define this particular term, two issues arise. First, there is no clearly defined understanding of the term. Second, any definition contains within it certain normative assumptions. (2003, p.2)

The term is also used widely in legal, political and philosophical literature, and the definition employed tends to reflect the field of the analyst. Humanitarian intervention is not, of course, unique in this respect; many terms employed in the social sciences, from 'terrorism' to 'sovereignty', evidence similar definitional controversies, and one could plausibly argue that all key concepts in politics are, to some degree, 'essentially contested'. Despite the acknowledged difficulty in determining precisely what 'humanitarian intervention' is, many have, for reasons of expediency, employed the term with a stated degree of caution. A number of definitions have been offered (see Box 1.2), and through an analysis of these definitions a composite definition can be formed which, although it might itself be contentious, at least narrows the parameters of the debate. This is the aim of this chapter.

This chapter comprises two sections. The first narrows the scope for ambiguity by outlining what humanitarian intervention is *not*, through differentiating 'humanitarian intervention' from both 'humanitarian action' and 'strategic military intervention'. The second section highlights those aspects of humanitarian intervention that impact on its definition. This section focuses on, in turn, the status of the parties involved, the question of consent, the means employed, the motives, and the issue of legality. These issues are examined here in terms purely of their impact on the formulation of a *definition* of humanitarian intervention, not on the process of evaluating the *legitimacy* of a given intervention.

'Humanitarian intervention', 'humanitarian action' and 'military action'

Central to the definitional difficulty, as Lang's earlier quote notes, is the word 'humanitarian'. As we shall explore in greater detail in this chapter, the use of an essentially positive adjective – humanitarian – to describe an intervention largely determines the parameters within which the evaluation of this intervention can proceed. An intervening party that declares its actions to be 'humanitarian' is explicitly attempting to legitimize these actions as non-partisan and moral, and hence inherently justified, rather than selfish and strategic, and hence necessarily contentious. Therefore, in a similar way to branding an act of violence 'terrorism', the term 'humanitarian intervention' carries intrinsic normative assumptions. Hence, the application of this term elevates any discourse beyond pure description, making it both subjective and contentious. In this respect the statement, 'In March 2003 the USA launched a military intervention against Iraq' constitutes a neutral description of Operation Iraqi Freedom, whereas 'In March 2003 the USA launched a humanitarian intervention into Iraq' is necessarily evaluative and subjective. As the International Commission on Intervention and State Sovereignty (ICISS) stated, '[the] use in this context of an inherently approving word like "humanitarian" tends to prejudge the very question in issue – that is whether the intervention is in fact defensible' (2001, p. 9).

One of the key distinctions which must initially be drawn is between 'humanitarian intervention' and 'humanitarian action'. 'Humanitarianism' and 'humanitarian action' are terms widely used among aid workers and non-governmental organizations (NGOs). In this context the term 'humanitarian' is used to denote an altruistic, apolitical concern for human welfare. Cornelio Sommaruga, President of the International Committee of the Red Cross (ICRC), outlined this distinction in an address to the UN General Assembly in 1992:

> humanitarian endeavor and political action must go their separate ways if the neutrality and impartiality of humanitarian work is not to be jeopardized . . . it is dangerous to link humanitarian activities aimed at meeting the needs of victims of a conflict with political measures designed to bring about the settlement of the dispute between the parties. (Lu, 2006, p.44)

The ICISS avoided using the term 'humanitarian intervention' in its 2001 report partly because of the opposition expressed by humanitarian agencies towards the militarization of the word 'humanitarian' (2001, p.9). Kofi Annan's address to a symposium organized by the International Peace Academy (IPA) in 2000 is particularly illustrative of this desire to separate humanitarian action from military intervention. Annan, noting the widespread confusion about the meaning of the term 'humanitarian intervention', called for the preservation of the specific role of humanitarianism:

> [We must] get right away from using the term 'humanitarian' to describe military operations. . . . military intervention should not . . . in my view, be confused with humanitarian action. Otherwise, we will find ourselves using phrases like 'humanitarian bombing' and people will soon get very cynical about the whole idea. (Annan, 2000)

Despite Annan's plea the term 'humanitarian intervention' continues to be used widely, and the cynicism he foresaw has indeed become a feature of this debate.

Traditionally humanitarian organizations adopted an apolitical stance, refusing to engage with questions of right or wrong, focusing instead on humanitarian need and relief. In recent times, however, the avowal of neutrality has been challenged by so-called 'new humanitarians' who reject the traditional approach. As Fiona Fox notes, 'New humanitarian aid provision is overtly political, embracing a politically conscious aid strategy which, it is argued, can positively impact on the politics of a conflict or post-conflict situation' (2002, p. 19). This clash between 'traditional' and 'new' humanitarianism is exemplified by the different strategies employed by the ICRC and Médecins Sans Frontières (MSF), a group established by activists frustrated by the ICRC's neutrality and refusal to publicly condemn human rights violators (see Box 1.1). MSF is one of a number of humanitarian organizations that have begun to increasingly focus on 'human rights' rather than 'human needs', thereby necessarily adopting a political strategy.

These new humanitarians have at times been amongst the most vocal supporters of military intervention. Bernard Kouchner, founding member of MSF, has consistently championed the merits of external intervention. He was a particularly vocal supporter of NATO's intervention in Kosovo

Box 1.1 Médecins Sans Frontières

According to its website, MSF 'was founded in 1971 as the first nongovernmental organization to both provide emergency medical assistance and bear witness publicly to the plight of the people it assists. A private nonprofit association, MSF is an international network with sections in 19 countries' (MSF, 2007). MSF has a stated commitment to 'intervene in any country or crisis is based solely on an independent assessment of people's needs – not on political, economic, or religious interests. MSF does not take sides or intervene according to the demands of governments or warring parties' (MSF, 2007). It also, however, publicly condemns offending regimes and seeks to pressurize states and international organizations to take certain action – including military interventions – against these states.

In 1999 MSF was awarded the Nobel Peace Prize. On accepting the award James Orbinski stated:

> Silence has long been confused with neutrality, and has been presented as a necessary condition for humanitarian action. From the beginning MSF was created in opposition to this assumption. We are not sure that words can always save lives, but we know that silence can certainly kill. Chandler, 2002, p. 31)

in 1999 and later supported the overthrow of Saddam Hussein in 2003, albeit with certain provisos (Kouchner, 1999; Sciolino, 2007). Similarly, Human Rights Watch (HRW), in its *World Report 2000*, endorsed the interventions in both Kosovo and East Timor in the previous year and offered a very favourable analysis of the 'international community's ... new willingness to deploy troops to stop crimes against humanity'. HRW urged this trend to continue and heralded 'a new era for the human rights movement' (HRW, 2000).

Thus while humanitarian organizations have been critical of the use of 'humanitarian' as an adjective to describe military intervention, many have adopted an approach that necessarily weakens the distinction between humanitarian action and humanitarian intervention, with groups engaged in the former often overtly calling for the latter. This has been criticized by certain observers who see the blurring of the distinction between military action and humanitarian intervention through the human rights discourse as compromising traditional humanitarian principles (Chandler, 2002, pp. 21–53). Many argue that the neutrality of humanitarian organizations has been key to their success, and the new dispensation risks the merging of humanitarianism and Western foreign policy, which would necessarily compromise the status of these groups and potentially make them targets in those conflicts where they have explicitly taken a partisan position (Weiss, 1999).

Humanitarian intervention is additionally different from what may be described as strategic military intervention. The UN Charter is clear about the prohibition of the use of force in international relations. This principle finds its clearest expression in Article 2.4: 'All members 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.' While the use of force is therefore clearly outlawed, certain exceptions to this rule do exist.

Article 51 of the UN Charter permits the use of force in self-defence. Chapter VII of the Charter also permits the use of force, but unlike Article 51, action taken under Chapter VII must receive prior approval from the Security Council (this is dealt with further in Chapter 5). Under Article 51 states are permitted to employ military force when they have been attacked, although the precise meaning of self-defence has become a particularly contentious issue since the launch of the 'War on Terror' in 2001 (Dinstein, 2005; Gow, 2005; Hehir, 2008c). The use of force in response to Iraq's invasion of Kuwait in August 1990 was sanctioned by UN Security Council Resolution 660 and constituted a manifestation of collective self-defence (Dinstein, 2005, pp. 273–7). The stated basis for the intervention was therefore not humanitarian but political. States need not advance any humanitarian rationale for the use of force if acting in self-defence. In fact, as Chapter 5 will demonstrate, humanitarian intervention is widely considered illegal and hence the trend has been for states to offer a legal justification based on Article 51 for instances of military intervention rather than a humanitarian justification, even when the latter was the more obvious impetus. A military intervention can thus be legal and legitimate without being humanitarian.

While the US-led intervention in Kuwait constituted a legal intervention sanctioned by the United Nations, many illegal military interventions and actions have evidenced a similar lack of an expressed humanitarian motivation. A military intervention is judged illegal if it transgresses international law, regardless of whether the aggressors advanced humanitarian motives or whether, if humanitarian motives were advanced, these motives were accepted as genuine.

Lassa Oppenheim's classic definition of war – 'a contention between two or more states through their armed forces, for the purpose of overpowering each other and imposing such conditions of peace as the victor pleases' (2006, p. 202) – makes no mention of humanitarianism. It is clear, therefore, that a military intervention need not be a humanitarian intervention, though a humanitarian intervention is widely considered necessarily to constitute a form of military intervention. Of course, the issue becomes more complex when states declare their military actions to be motivated by humanitarianism but these claims are not accepted by the wider international community. Infamously, Hitler portrayed Germany's invasion of

Czechoslovakia in 1939 as a humanitarian intervention, though few accepted his claims. In recent years the US-led invasion of Iraq has ignited controversy precisely because of the largely, though not exclusively, *ex post facto* humanitarian justifications offered (see Chapter 12). The issue thus becomes a matter of determining the legitimacy of the claims made, and this is the focus of Chapter 5. Of course, before the legitimacy of a putative humanitarian intervention can be determined it is necessary to determine a basic definition of 'humanitarian intervention'. It is to this task that we now turn.

Features of humanitarian intervention

Now that we have determined that humanitarian intervention is different from 'humanitarian action' and 'strategic military intervention', the following section will focus on those features routinely, though not uniformly, identified as fundamental to 'humanitarian intervention'. Box 1.2 provides a number of definitions of humanitarian intervention which form the basis for the analysis that follows.

The status of the parties involved

In the first instance definitions generally insist that the intervener is a third party to the conflict. J. L Holzgrefe's definition refers to states undertaking action 'aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens' (2005, p. 18). Many of the other definitions listed similarly focus on interventions where the subjects whose suffering has prompted the intervention are not citizens of the intervening state. In this respect we can see that there appears to be some consensus over the relationship between the intervening actor and those in distress. Yet Holzgrefe provides the example of Richard Baxter as a counter to this consensus. Baxter's definition, unusually, describes action taken 'for the protection from death or grave injury of nationals of the acting state' (Holzgrefe, 2005, p. 18).

The precise status and composition of the intervening actor is quite ambiguous; few definitions explicitly identify the intervening actor. They offer instead a broad list of potential interveners, such as John Vincent's 'a state, a group within a state, a group of states or an international organization' (Vincent, 1974, p. 13). This aspect of the definition – the precise nature of the intervener – is therefore seemingly of minor importance. Provided that the intervening party is not based within the state where the crisis is taking place, the identity and composition of this party – be it a substate, state or trans-state actor – is not deemed significant, at least to the definition of humanitarian intervention, though it is of some legal importance.

Box 1.2 Definitions of humanitarian intervention

the proportionate transboundary help, provided by governments to individuals in another state who are being denied basic human rights and who themselves would be rationally willing to revolt against their oppressors. (Tesón, 1998, p. 1)

the threat or use of force across state borders by a state (or group of states) aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens, without the permission of the state within whose territory force is applied. (Holzgrefe, 2005, p. 18)

action taken against a state or its leaders, without its or their consent, for purposes which are claimed to be humanitarian or protective . . . including all forms of preventive measures, and coercive intervention measures – sanctions and criminal prosecutions – falling short of military intervention. (ICISS, 2001, p. 8)

a short-term use of armed force by a government . . . for the protection from death or grave injury of nationals of the acting state . . . by their removal from the territory of the foreign state. (Baxter, in Holzgrefe, 2005, p. 18)

coercive interference in the internal affairs of a state, involving the use of armed force, with the purposes of addressing massive human rights violations or preventing widespread human suffering, (Welsh, 2006a, p. 3)

the threat or use of armed force by a state, a belligerent community, or an international organization, with the object of protecting human rights. (Brownlie, 1974, p. 217)

[When] the 'international community' . . . intervene[s] in the domestic affairs of one of its members for humanitarian reasons, which can provisionally be defined as 'primarily in the interests of the local inhabitants. (Brown, 2006, p. 135)

Activity undertaken by a state, a group within a state, a group of states or an international organization which interferes coercively in the domestic affairs of another state. It is a discrete event having a beginning and an end, and it is aimed at the authority structure of the target state. It is not necessarily lawful or unlawful, but it does break a conventional pattern of international relations. (Vincent, 1974, p. 13)

coercive action by one or more states involving the use of armed force in another state without the consent of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants. (Roberts, 2002, p. 5)

The question of consent

Definitions invariably identify humanitarian intervention as an act undertaken without the consent of the host state. States experiencing humanitarian crises can appeal, and have appealed, to the international community for help, resulting in many cases in the deployment of international troops, such as the establishment of the UN Mission in Sierra Leone in October 1999.

Jennifer Welsh's definition, however, does not stipulate 'non-consent'. This is because she claims that '"non-consent" is in practice very difficult to maintain – particularly when consent is ambiguous or coerced' (2006, p. 3). Indeed, while the Federal Republic of Yugoslavia (FRY) clearly did not consent to NATO's intervention in 1999, technically Indonesia did consent to the deployment of an Australian-led force in East Timor in September 1999. The nature of Indonesia's 'consent' does support Welsh's concerns given that extensive international pressure was brought to bear on the government of B. J. Habibie and the consent eventually given was, to a large degree, a function of coercion (Wheeler and Dunne, 2001). While the question of coerced consent is a valid one, it is nevertheless clear that the majority view assumes consent to be absent.

The means

The focus of this second section of the chapter is not on the debate surrounding the legitimacy of any given intervention, but rather on identifying those features that generally feature in definitions of humanitarian intervention. Therefore, the focus here on the means employed relates only to how they have been conceived in various definitions, rather than the more controversial issue of how the means impact on the perceived legitimacy of any given intervention (see Chapter 8).

Definitions of humanitarian intervention generally emphasize military means as a central component, as evidenced by Iain Brownlie's 'the threat or use of armed force', a formula emulated by many others (1974, p.217). As with the previous features analysed, however, there are definitions that do not conform to this view. Fernando Tesón's definition stresses that the means must be 'proportionate . . . including forcible', thereby suggesting that non-forcible intervention may still qualify as a humanitarian intervention (1998, p.1). David Scheffer explicitly emphasizes peaceful means, referring to 'non-forcible methods, namely intervention undertaken without military force' (Holzgrefe, 2005, p.18).

Perspectives on the issue of means are linked to the question of consent; an emphasis on non-consent will naturally encourage a focus on coercive means, and vice versa. In a literal sense, of course, humanitarian organizations such as Oxfam and Save the Children engage in humanitarian interventions insofar as they intervene in a state for humanitarian purposes.

This activity has not, however, been the cause of the controversy surrounding 'humanitarian intervention', and as stated earlier, one of the clearest differences between 'humanitarian intervention' and the work of Oxfam and others is the use of force. Generally, therefore, the popular conception of 'humanitarian intervention' involves the use of force, if only to facilitate the narrowing of the parameters of the debate.

The motives

Whether an intervention must be inspired by humanitarian motives to qualify as a 'humanitarian intervention' is a highly contentious issue, which is dealt with in detail in Chapter 8. It is clear, however, that many definitions do emphasize humanitarian motivations. While Adam Roberts indicatively states that the purpose must be 'preventing widespread suffering or death among the inhabitants' (2002, p.5), others have gone further, stressing that the intervention must be motivated solely by altruism and the intervening party must have no interests involved (Miller, 2000a, p.54). This would appear to be an unreasonably onerous requirement. Thomas Weiss notes that 'Motives behind humanitarian interventions are almost invariably mixed', and this, he argues, does not fundamentally undermine an intervention (2007, p.7). Chris Brown's requirement that the intervention be 'primarily in the interests of the local inhabitants' possibly best reflects opinion on this aspect of the debate (2006, p.135).

Nicholas Wheeler, however, does not place significant importance on the motives behind an intervention, and focuses instead solely on the outcome (2002, p. 38). While this view is endorsed by others, it is a minority position, with most definitions including at least some reference to humanitarian motives. Of course, an individual's perspective on this aspect of the definition of humanitarian intervention will have significant implications on their judgement regarding the legitimacy of a given intervention.

The issue of legality

One of the primary sources of controversy surrounding humanitarian intervention is its legal status. While there is some disagreement over whether humanitarian intervention is legal, the majority of legal scholars consider it to be illegal at present. This, however, does not necessarily have implications for the legitimacy of an intervention; NATO's intervention in Kosovo in 1999 was judged by the Independent International Commission on Kosovo (IICK) to have been 'illegal but legitimate' (2000, p.4).

The definitions in Box 1.2 evidence little reference to legality, and those that do mention it are ambivalent. When we examine the definitions provided it is clear that many refer to coercive acts undertaken without the consent of the host state. Given that non-consent implies a breach of

sovereignty, and as discussed earlier, such action is prohibited under international law, these acts are by definition illegal as they do not constitute acts of self-defence. If international law is mentioned in definitions it is only to assert that it is not integral to whether a particular act constitutes a humanitarian intervention. In this respect the question of legality has little real impact on the definition of humanitarian intervention.

Conclusion

As Alex Bellamy notes, 'almost every aspect of humanitarian intervention is contested' (2006b, p. 202), and hence defining humanitarian intervention is understandably contentious and difficult. The difficulty that surrounds the definition of the term derives largely from the normative assumptions inherent in the word 'humanitarian'. In this sense, the use of this subjective adjective necessarily complicates the formation of an objective definition, given that the word 'humanitarian', to a large extent, constitutes a positive value judgment. Catherine Lu suggests that the term should be abandoned in favor of 'label[ing] interventions in terms of the substantive activities that define them'. In this way NATO's Operation Allied Force would simply be described as a 'military intervention' (Lu, 2006, p.139). Similarly Antonio Cassese avoids the use of the term 'humanitarian intervention', preferring the more legally descriptive 'forcible countermeasures to prevent crimes against humanity' (1999, p.29).

These are valid concerns, yet while attempts have been made to change the terms of the discourse, most notably by the ICISS, 'humanitarian intervention' remains an oft used, though possibly misused, term. This is unlikely to change given how embedded the term has become in the public and academic lexicon. The pragmatic approach, therefore, is to conform to the prevailing discourse, accept that the term will continue to be used, and try to clarify its distinctive features. To this end, for the sake of further enquiry and based on the above analysis of existing definitions, the following definition constitutes the type of act to which all subsequent uses of the term 'humanitarian intervention' in this book refer:

> Military action taken by a state, group of states or non-state actor, in the territory of another state, without that state's consent, which is justified, to some significant extent, by a humanitarian concern for the citizens of the host state.

This composite definition is clearly not a legal definition, nor is it without contention, but it serves to differentiate 'humanitarian intervention' from 'humanitarian action' and 'strategic military intervention', and thus significantly narrows the parameters of enquiry. The legality, morality, legitimacy and broader implications of such an action for international relations and international law remain outstanding, and these issues constitute the remaining focus of this book.

Questions

- Does the term 'humanitarian intervention' carry intrinsic normative assumptions?
- How can we distinguish 'humanitarian intervention' from 'humanitarian action'?
- How does 'humanitarian intervention' differ from 'strategic military intervention'?
- Based on existing definitions, what are the key features of humanitarian intervention?
- Is 'humanitarian intervention' a useful term or is it inherently flawed?

Further reading

Bellamy, A. and Wheeler, N (2008) 'Humanitarian intervention in world politics' in J. Baylis and S. Smith (eds), *The Globalization of World Politics* (Oxford: Oxford University Press).

Chesterman, S. (2002) *Just War or Just Peace?* (Oxford: Oxford University Press); Chapter 1.

Dinstein, Y. (2005) *War, Aggression and Self-Defence* (Cambridge: Cambridge University Press); Chapter 3.

Holzgrefe, J. L. and Keohane, R. (eds) (2005) *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (Cambridge: Cambridge University Press); Chapter 1.

Lang, A. (ed.) (2003) *Just Intervention* (Washington DC: Georgetown University Press); Chapter 1.

Welsh, J. (ed.) (2006) *Humanitarian Intervention and International Relations* (Oxford: Oxford University Press); Chapter 1.

Wheeler, N. (2002) *Saving Strangers* (Oxford: Oxford University Press); Chapter 1

Woodhouse, T. and Ramsbotham, O. (1996) *Humanitarian Intervention in Contemporary Conflict* (London: Polity); Chapter 1.

Useful websites

International Commission on Intervention and State Sovereignty (2001) *The Responsibility to Protect*, http://www.iciss.ca/pdf/Commission-Report.pdf

Sherman, J. (rapporteur), 'Humanitarian Action: A Symposium Summary', International Peace Academy, International Policy Conference, 20 November, 2000, http://www.ciaonet.org/wps/shj04/

Simons, P. C. 'Humanitarian intervention: a review of literature', Ploughshares Working Paper 01-2, http://ploughshares.ca/libraries/WorkingPapers/wp012.html