

THE SPECIFICITY OF INTERNATIONAL HUMANITARIAN INTERVENTION IN THE LIGHT OF CURRENT INTERNATIONAL TRANSFORMATIONS

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Abstract:

The phenomenon of humanitarian international intervention is one of the manifestations that have helped the international community to solve many international problems and crises that posed a real danger to the security and stability of most peoples and societies, especially if we know that these tensions have been witnessed in many different regions of the world. It is worth noting that this intervention includes humanitarian aid, as it is often carried out under a legal cover established by the United Nations in order to give it a character of legitimacy. In light of this, we find that international transformations have had a direct impact on international humanitarian intervention, and this is the subject of our current study, which we are about to address.

Keywords: *International transformations, humanitarian intervention, humanitarian aid, international community.*

INTRODUCTION:

The exposure of many countries around the world to collapse and disintegration after the end of the Second World War manifested itself in various forms, including mass displacement, massacres and slaughter, in different regions of the world. This necessitated international humanitarian intervention to alleviate the suffering of people and communities in these countries. Natural disasters have also played an important role in highlighting and activating humanitarian intervention on the international stage. Natural disasters, such as the floods in Bangladesh and the drought in Africa, have sounded the alarm for humanitarian assistance from countries and international non-governmental organisations to the victims of these disasters. The United Nations has emerged as a prominent actor in intervening to ensure the flow of humanitarian aid to countries suffering from natural disasters or civil, ethnic or rebel conflicts that have caused local chaos.

The importance of this issue is directly related to the principles of humanity, as intervention involves actions with humanitarian objectives, which are imposed by the ethical and humanitarian obligations of the international community.

Furthermore, humanitarian intervention has serious implications, especially when carried out unilaterally by states, as it can threaten international peace and security. Moreover, attempts by dominant states, especially those with influence over international organisations such as the Security Council, to use humanitarian intervention as a means of interfering in the internal affairs of other states raise doubts about the legitimacy of humanitarian intervention. The question posed here, therefore, is to what extent international transformations have influenced international humanitarian intervention. In order to answer this question, the descriptive-analytical approach has been adopted to examine the available information and ideas in the study, to analyse them and to draw conclusions.

through two main sections as follows:

Section 1: Conditions for humanitarian international intervention.

Section 2: Cases of humanitarian international intervention.

First section: Conditions for humanitarian international intervention.

There have been conflicting views and differing concepts of what constitutes “humanitarian international intervention”. From a legal perspective, Christopher Greenwood states that “the



concept of humanitarian international intervention is currently an initiative by a state or a group of allied states to undertake a mission under the auspices of the United Nations for the protection of humanity”¹. Based on this, jurisprudence and law have established a set of rules and conditions that the humanitarian intervener must comply with in order to maintain international legitimacy. Therefore, in this section we will examine the objective conditions from the perspective of states and jurisprudence. We will also examine the conditions required by international law for humanitarian intervention to be considered legitimate, within the following three requirements:

Requirement 1: Conditions for international humanitarian intervention from the perspective of states.

Major states and proponents of legal intervention have addressed the doctrine of decisive intervention as the international community has entered a period of change². This debate began in the context of the 1999 Kosovo war, where the United Kingdom took a significant step in shaping this doctrine. According to this doctrine, armed or military intervention can be justified even without a Security Council resolution, based on the need to respond to humanitarian needs that cannot be resisted. This doctrine requires three conditions to be met:

First, there must be a strong humanitarian necessity, such as humanitarian disasters or widespread human rights violations.

The second: That there is no other alternative to save human life.

The third: that the work presented is in accordance with human will³.

While the conditions for humanitarian intervention have expanded under the international circumstances that witnessed the establishment of a new international system, in addition to the occurrence of humanitarian disasters, the major powers have increased the factor of human rights violations on a large scale, which will completely change the cases and forms of humanitarian intervention thereafter⁴. This has triggered a deep debate among scholars of international humanitarian law, so that it does not become an absolute right.

From the foregoing, it is clear to us that the process of humanitarian intervention from the perspective of states depends on conditions that must be met.

The second condition: Conditions for humanitarian intervention from a legal perspective.

We find that these objective conditions from the perspective of international jurisprudence can be summarised as follows:

The first condition: Limitation of the objective of armed or military intervention, which is the condition of humanity and nothing else.

The second condition: The existence of a serious and grave violation of human rights, which the jurist “Arentz” - one of the founders and enthusiasts of humanitarian intervention - stressed, when it acts within the limits of its sovereign right, either through countermeasures against the interests of other states or through injustices that deeply deviate us ethically and civilisationally, in this case the intervention becomes legitimate according to the established controls⁵.

And this is what has led the jurisprudence to lean towards certain criteria that it considers necessary for resorting to international humanitarian intervention:

1- Recognition of humanitarian intervention as part of serious violations of human rights and the rights of peoples.

¹- Saad Allah Hakki: Principles of International Relations, Dar Wael for Printing and Publishing, Amman, 2000, p. 390.

²- Fawzi or Seddik: The Principle of Intervention and Sovereignty: Why? And How? Dar Al-Kitab Al-Hadith, Algeria, Cairo, Kuwait, 1999, p. 233.

³- Fawzi or Seddik: The previous reference, p. 234.

⁴- . Saad Allah Hakki: The Previous Reference, p. 391.

⁵- Fawzi or Seddik: The previous reference, p. 234-235.



2- For peoples threatened by organised genocidal activities, the right to appeal to an international or regional body to request humanitarian intervention¹.

3- Resort to humanitarian intervention should be made only after all peaceful means have been exhausted.

4- Organised intervention should be preceded by notice to the states engaged in genocidal activities.

5- The aim of intervention should be to restore political stability, not to impose a policy designed to serve the political interests of a particular state, which may go beyond economic interests.

6- The primary objective should be a minimum threshold of justice and the right to a safe and dignified life².

There is another aspect of jurisprudence that argues for the need to meet the following conditions for humanitarian intervention to be legitimate: specificity in terms of timing and practice, and compliance with the ethical rules of the profession³.

The third school of jurisprudence adds another condition, namely the impartiality of the intervener. It argues that humanitarian interventions are always risky because the interveners should be impartial parties to the conflict and should not use armed force. In other words, intervention should only take place when the necessary conditions are met.

There are those who disagree, as we find them demanding the presence of only two conditions for humanitarian intervention to be legitimate. These two conditions are as follows:

The first condition: Humanitarian intervention must be allowed, provided that it is not directed against the territorial unity of the state, so as not to confuse the restoration of individual rights with the seizure of territorial lands⁴.

The second condition: Humanitarian intervention must not be directed against the political independence of the state⁴.

Others have demanded the existence of additional conditions, which are as follows:

1. That the intervention be carried out by the United Nations in the case of human rights violations⁵.

2. That the UN intervention be legitimate and not contrary to the provisions of Article 2(7) of the Charter.

Accordingly, the International Law Institute favours the following conditions for the legitimacy of international humanitarian intervention:

1. The state committing serious human rights violations must be given notice to stop, except in cases of great urgency.

2. The action must be proportionate to the gravity of the violations.

3. The intervention must be limited to the territory of the state committing the violations.

4. The intervening party must disregard its own interests in favour of the interests of other individuals and states, and must avoid intervention that affects the standard of living of the peoples concerned.

These are the conditions advocated by scholars for humanitarian intervention to be legitimate⁶.

The third requirement: Conditions for humanitarian intervention from the perspective of international law.

The rules of international law take into account the principle of sovereignty enshrined in Article 2(1) of the Charter of the United Nations. Therefore, it is necessary to define the necessary and objective conditions for exercising the right of humanitarian intervention within the framework of respecting

¹- Omar Saad Allah: *Studies in Contemporary International Law*, second edition, Diwan of University Publications, Algeria, 2004, p. 173.

²- Omar Saad Allah: *The Previous Reference*, p. 174.

³- Fawzi or Seddik: *The previous reference*, pp. 237-238.

⁴- Hadi Khadhrawi: *The Most Prominent Issues of Contemporary International Politics Through Concepts and Structures*, Dar Al-Hadith, Beirut, 2002, p. 103.

⁵- Masaad Al-Rahman Zidan Qasim: *United Nations Intervention in Non-International Armed Conflicts*, Dar Al-Kitab Al-Qanuniyyah, Egypt, 2008, p. 163.

⁶- Masaad Al-Rahman Zidan Qasim: *The Previous Reference*, p. 163.



the sovereignty of the state¹. In the Guiding Principles annexed to Resolution 46/182 of 1991, the General Assembly of the United Nations established a number of conditions, according to which humanitarian assistance must be:

1. Be provided in accordance with the principles of humanity, neutrality and impartiality.
2. Be provided with the consent of the affected State and, in principle, at its request.
3. Be provided with full respect for the territorial sovereignty and national unity of States².

The following conditions can be summarised:

Condition 1: The act of humanitarian intervention must be limited to emergencies and circumstances.

Condition 2: It must be carried out with the prior consent of the state concerned.

Condition 3: Humanitarian assistance may only be provided in the event of the inadequacy of the material means of the affected state, in the case of natural disasters or military conflicts, which are effective in rescuing the victims.

Condition 4: Humanitarian intervention must be seen as an exception to the principle of non-intervention.

Condition 5: It must be considered as the last available alternative and only take place after all other means have been exhausted.

Condition 6: There must be reliance on specialised international or regional organisations to carry out collective action away from personal whims.

Condition 7: Humanitarian intervention must be limited in time, not exceeding the period specified in the UN Security Council Resolution on the situation in Rwanda³ and Resolution 244 of 1999 on the situation in Kosovo⁴. The main purpose of this condition is to prevent a humanitarian intervention from becoming a prolonged occupation.

From the above-mentioned conditions imposed on humanitarian interveners in a specific humanitarian situation, we can conclude that they must provide their humanitarian assistance without deviating from humanitarian principles and without discriminating between one situation and another within all possible forms of discrimination, without overstepping positions.

of the intervening States on their territory and in compliance with the principle of respect for the sovereignty of the latter.

The second topic: Cases of international humanitarian intervention.

Although international humanitarian intervention seeks to achieve a general objective, which is determined by the purpose of protecting human beings, the means of achieving this objective differ according to the international mechanisms concerned. Accordingly, the cases of this intervention are justified according to the legal basis on which it is based, and this basis distinguishes between two types of humanitarian intervention: legitimate and illegitimate⁵. The former has a legal basis, while the latter does not. Therefore, in this topic we will address two demands:

The first demand: Legitimate humanitarian intervention.

The legitimacy of humanitarian intervention is determined by the legal rules on which it is based, be they customary or conventional, in addition to the decisions of international organisations, which have added a new dimension to the subject. In this context, legitimate humanitarian intervention is defined in two main ways: either in peacetime or in wartime, the former being governed by human rights law and the latter by international humanitarian law.

Peacetime intervention differs from wartime intervention because of the different nature of the human rights violations that require intervention and the nature of that intervention. The violations that occur during peacetime are not the result of a state of peace, and these violations are determined according to the international covenants that have taken care of peaceful intervention mechanisms. This is done through assistance.

¹ Article 1/1 of the United Nations Charter for the Protection of Human Rights, 1945.

² Resolution No. 46/182 on the Guiding Principles, adopted by the United Nations General Assembly in 1991.

³ Resolution No. 929 on the situation in Rwanda, adopted by the United Nations Security Council in 1994.

⁴ Resolution 244 on the situation in Kosovo, adopted by the United Nations Security Council in 1999.

⁵ Hadi Khadrawi: The Previous Reference, p. 107.



With regard to intervention in times of war, we find that the human suffering caused by the state of war, both in times of peace and in times of war¹, far exceeds that which occurs in times of peace. And although the international community has not been able to make war impossible, it has at the same time taken important steps to mitigate its severity and has given rise to international humanitarian law. Due to the magnitude of human suffering that accompanies the state of war, humanitarian intervention has been one of the axes that has been raised in the field of mitigating the severity of war.

Intervention in the case of war differs according to the nature of the armed conflict, whether the armed conflict is international or whether the armed conflict is international (civil).

International humanitarian law has defined the parties that have the right to intervene according to its principles and determinants, and these parties are

1- The States Parties: The States Parties to the Conventions that make up International Humanitarian Law are obliged to implement this law, as the Common Article 1 of the Geneva Conventions imposes on the States Parties the obligation to respect and ensure respect for these Conventions in all circumstances².

2- The Protecting Power: This is the neutral State entrusted by another State. This contributing State undertakes to supervise and implement the Geneva Conventions and the First Additional Protocol thereto³.

3- The International Committee of the Red Cross and other humanitarian organisations: The Geneva Conventions recognise the right of the International Committee of the Red Cross and other humanitarian organisations to carry out unhindered humanitarian activities for the protection of the wounded, sick, shipwrecked, prisoners and civilians, provided that the parties concerned agree⁴.

In the case of non-international armed conflicts (civil conflicts), intervention must be determined in the form or within the framework of the Additional Protocol to the Geneva Conventions. Intervention may not take place contrary to the provisions of this Protocol or outside its scope, and any intervention carried out contrary to these provisions is considered unlawful⁵.

With regard to forms of humanitarian intervention in non-international armed conflicts, international humanitarian organisations have an important and clear role to play in providing protection and assistance to the victims of such conflicts. Article 3 common to the Geneva Conventions allows any humanitarian body or organisation, such as the International Committee of the Red Cross (ICRC), to offer its services to the parties to the conflict⁶.

The second demand: Illegal international intervention.

International humanitarian intervention is considered to be one of the most important shields that states have used to give a legal character to their unlawful actions by attributing a humanitarian aspect to their intervention, despite the fact that most of them concealed colonial ambitions that were not explicit. As a result, these interventions did not gain sufficient legal acceptance and legitimacy to be considered legal interventions. They were considered unlawful not only because they lacked a legal basis, but also because they contradicted many other principles of international law, such as the principle of sovereignty and the prohibition of the use of force.

Interventions aimed at protecting individuals from persecution and mistreatment in response to such abuses breach the barrier of state sovereignty and violate its territorial sovereignty⁷. The aim may be to protect the rights of citizens of the intervening state, or to protect individuals who have no

¹ Jean Pictet: *International Humanitarian Law (Development and Principles)*, 1st edition, Geneva, 1984, pp. 84-85.

² Article 8 of the same Convention.

³ Article 1 of the Geneva Convention for the Protection of Human Rights in Times of War, signed in 1949.

⁴ Article 2 of the same Convention.

⁵ Article 4 of the Second Protocol to the Geneva Convention of 1949.

⁶ Article 3 of the Geneva Convention for the Protection of Human Rights in Times of War, signed in 1949.

⁷ Abd Al-Wahid Mohammad Al-Ghar: *The Nature of the International Economic Norm under the Existing International System*, Cairo University Press, 1985, pp. 21-22.



connection with the intervening state, such as citizens of Western states. This idea of the “right to intervene” is also driven by the desire to protect their economic interests in other countries and to counter the nationalisation movements and property disputes that have arisen in most countries, especially developing countries, after gaining independence and shedding the heavy burden of colonialism¹.

This type of intervention is also considered illegitimate because it violates the permanent sovereignty of states over their resources and natural wealth, which is an important pillar of the right to self-determination².

This does not mean, however, that a state cannot protect its citizens who are in another state and have suffered harm³. Intervention to protect the citizens of the intervening state is not the only legal basis for humanitarian intervention recognised by traditional law.

It has been broadened to allow intervention to protect the citizens of a foreign state when their own state treats them in an inhumane manner that offends human conscience.

Jurists have authorised this kind of intervention in certain cases, such as intervention to liberate an oppressed nation from another state or people, or when a particular people suffer from despotic rule, or when a people are subjected to harsh treatment or moral oppression⁴.

(Grotius) is considered one of the most enthusiastic jurists for the idea of humanitarian intervention, as he considered intervention permissible and legal when despotic rulers mistreat their peoples and these peoples are unable to defend themselves⁵.

The jurist “Oppenheim” also emphasised that humanitarian intervention is permissible and legal when a state, as a result of oppressing its citizens in a way that denies their fundamental rights in a way that shocks the human conscience, turns itself into a civil society, and in this case the other states are allowed to violate the territorial sovereignty of the state that violates human rights and protect the oppressed citizens⁶.

As far as intervention for the sake of democracy is concerned, intervention for the purpose of establishing a democratic system or against an undemocratic government in a state has been considered one of the cases recognised as a form of international humanitarian intervention, and during the Cold War, intervention for the sake of democracy was one of the methods of this war that the United States resorted to, based on the Truman Doctrine⁷, which is based on the idea that respect for the principle of non-intervention is not unconditional when democracy is threatened⁸.

The main hypotheses in which the United States intervenes for the sake of democracy are:

1. Intervention against rebel movements against friendly governments with democratic tendencies.
2. To carry out military operations against bases or so-called “terrorist” (revolutionary) organisations or the countries that support them.
3. Supporting opposition fronts fighting against revolutionary tendencies in some Third World countries⁹.

Despite the importance that democracy has surpassed as a successful method of governance, and due to its association with ensuring the protection of human rights, respect for the law and the system of government, it is at the core of the particularities of states, and there is no specific pattern that

¹- Abd Al-Wahid Mohammad Al-Ghar: The Same Reference, p. 23.

²- Suluk Rashad Al-Sajarri: Humanitarian International Intervention in Public International Law, Master’s Thesis, College of Law, University of Mosul, Iraq, 2000, p. 151.

³- Essam Al-Atiyya: Public Law, College of Law, 5th edition, University of Baghdad, 1992, p. 1992.

⁴- Abd el-Wahid Mohammad Al-Ghar: The Previous Reference, p. 24.

⁵- Abd el-Wahhab Al-Kaylani, Kamil Al-Zuhairi: The Political Encyclopaedia, Arab Foundation for Studies and Publishing, Beirut, 1984, p. 285.

⁶- Abd el-Wahhab Al-Kaylani, Kamil Al-Zuhairi: The Same Reference, p. 286.

⁷- Moustafa Salama Houssein: Discrimination in International Law, Dar Al-Nahda Al-Arabiya, 1987, p. 103.

⁸- Moustafa Salama Houssein: The Same Reference, p. 102.

⁹- Abd el-Wahhab Al-Kaylani, Kamil Al-Zuhairi: The same reference, p. 287.



can be imposed on all states. Rather, it is part of the right of peoples to choose the system of government they consider appropriate¹.

These concepts have been widely used and exploited by countries that raise the slogans of human rights and democracy to practice the most dangerous form of intervention in the internal affairs of states and to violate the rules of international law².

CONCLUSION:

From our study of this topic, we conclude that the phenomenon of international humanitarian intervention is an idea with an old frame of reference in the international community, since its origins are linked to the emergence of the principles and rules of international humanitarian law. The latter, we note, has been applied to public international law. The results we have obtained are as follows:

- The dominance of advanced countries over organisations involved in international humanitarian intervention.
- The increase in crises and tensions in the underdeveloped regions of the world has led the advanced countries to assert their hegemony over the political and economic situations and relations in the international community.
- The legitimisation of international humanitarian intervention through the laws and regulations of international organisations.
- The multiplicity of cases and forms in which international humanitarian intervention takes place.

As for the recommendations that are finally proposed, they are the following:

- The need for developing and third world countries to form blocs and unions to ensure real protection of their peoples and societies from international humanitarian intervention under the pretext of protecting human rights.
- Finding formulas for international agreements and laws aimed at providing effective guarantees against the intervening state exceeding the limits of intervention and committing itself to what is stated in these agreements.
- To propose that the countries of the Third World vote for the member states that represent them in the various world organisations, in order to defend their rights and interests.

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