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Susan J. Atwood

University of Minnesota - Twin Cities

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From Just War to Just Intervention

Susan J. Atwood

What is Just War? What is Just Intervention? This paper examines the evolution of the criteria for Just War from its origins in the early Christian church to the twenty-first century. The end of the Cold War era has expanded the discussion to include grounds for intervention. Indeed, in the 1990s, a number of multilateral interventions took place on humanitarian grounds. But the debate is ongoing about whether the criteria applied in the Just War theory — proper authority, just cause, and right intent — remain valid in an era of Just Intervention. The author examines as case studies some multilateral interventions and the lessons learned from them as we seek to develop the framework of international law to address the evolving theory and current practice of Just Intervention. The philosophical background discusses the contributions of Saint Augustine and Saint Thomas Aquinas, Grotius and Vitoria and Sanchez, and others more recent.

The Just War Ethic, which traces its origins back to the medieval Christian church, has faced many challenges regarding its relevance in different historical eras. But until today, it has remained the touchstone for defining the just use of force. It has done so by undergoing a number of evolutionary changes in focus, in response to fundamental shifts in world thinking and order — the Reformation, the birth of the nation-state, the advent of the nuclear age, to name but a few.

In 1945, the United Nations Charter drew directly on the Just War Ethic in its commitment to uphold world peace. But it also laid the groundwork for an expansion of right cause in the latter part of the twentieth century by its commitment to protect human rights. In that second part of the twentieth century, “states have generally sought to deal with threats to peace through containment and deterrence, by a system based on collective security and the United Nations Charter.”¹ In terms of the Just War Ethic, the United Nations had, in the majority of cases, become the proper authority, the arbiter of right intent and just cause.

But by the 1990s we were no longer dealing with the tidy tableau of the Cold War, when the rules were laid down by the two superpowers; their nuclear balance of power defined world security as well as world vulnerability. New threats to global security began to emerge, posed by “rogue” states such as North Korea and Iraq; “failed” states such as Somalia; emerging nuclear powers such as India and Pakistan; and terrorists with potential access to weapons of mass destruction (WMD) such as the Al Qaeda network. The decade saw a number of multilateral “just” interventions

Susan J. Atwood is Global Leadership instructor at the University of Minnesota.

on humanitarian grounds under UN or NATO auspices. These interventions stretched the capacities of the UN to its limits but seemed, however tentatively, to augur a nascent commitment to a multilateral approach to just humanitarian interventions.

The nature of the debate changed dramatically after the terrorist attacks of September 11, 2001. The United States went to war, first with the Taliban government of Afghanistan, then with Iraq, based on what it claimed to be potential threats to national security interests. The intervention in Afghanistan was justified by the Taliban government's refusal to cease harboring Al Qaeda. The Iraq intervention was justified, in part, as an effort to stop Iraq from transferring WMD to terrorists. In other words, it was preemptive.

Is the twenty-first century to be characterized by a doctrine of preemptive wars and interventions based on perceived threats to national interests? And, most importantly, are such interventions "just"? UN Secretary-General Kofi Annan fears that such an approach "could set precedents that resulted in a proliferation of the unilateral and lawless use of force, *with or without credible justification*."² The nascent post-Cold War move to expand the definition of right cause to include humanitarian intervention within the borders of sovereign states, finds itself abruptly, if temporarily, sidelined by this more fundamental challenge to the Just War view of proper authority, just cause, and right intent.

In this article, I will examine the changing nature of the debate about intervention through the lens of the Just War Ethic. I will examine how we have responded to this new globalized world where the Westphalian notion of sovereignty and non-intervention in the internal affairs of a state are, after three hundred years, being reexamined in the light of such new threats as transnational terrorism, genocide, and failed states.

The Just War Ethic

Over the centuries, many people with different religious and cultural beliefs have contemplated the philosophical basis for war. In the early Middle Ages, at about A.D. 400, it was St. Augustine who first formalized the Just War Ethic within the Christian Church. Augustine believed that war was a result of sin as well as a remedy for sin. The Christian view of love that he espoused requires at one and the same time that man would do no harm, that man would prevent harm to others, that he would remove the source of harm, and that he would do good to others. These different manifestations of love may conflict, creating significant internal tension and exhortations that lead in different directions. Augustine breaks this tension by saying that killing human beings is *sometimes* justified. This was a profound shift away from the pacifism of the early church. In the thirteenth century Thomas Aquinas subsequently specified three conditions for undertaking a Just War: proper authority, right intent, and just cause.

The emphasis throughout the Middle Ages in debating the Just War Ethic was on *jus ad bellum* (just cause for war), rather than *jus in bello* (just conduct in war). The "moral" arguments for a just war put forward from the Church by Augustine were furthered by Thomas Aquinas, who justified self-defense, as it is "the nature of being to preserve one's own life." Augustine had explicitly discounted self-defense as just cause. This was a huge change in the just war doctrine and one that prevailed over time.

Beginning in the sixteenth century, the world had become a different place. The Reformation split the Christian World in the West, and the Peace of Westphalia in

1648 opened the era of the rise of the modern state. No longer was there one “just authority” but many, both secular and religious. Prevailing wisdom held that it was the *right* of the state to defend itself against aggression by the use of force. Three thinkers — Hugo Grotius, a Dutch jurist, Francisco de Vitoria, a Spanish Dominican priest, and Francisco Suarez, a Spanish Jesuit priest, all of whom died in the century before 1648 — saw the need to change the focus of the debate about a just war in order to preserve the ethic. Believing that war and politics *must* be constrained within the moral order, they took the lead in moving from discussion of just cause, *jus ad bellum*, to just means, *jus in bello*.

The concept of “simultaneous ostensible justice” was also introduced at this time — in other words, it was held to be possible that both sides could be ostensibly convinced of just cause and that there was likely some justice on each side. This was a move away from the medieval concept of the holy just war — the Crusades — where Christians believed that they had just cause, right authority, and right intent all on their side against the “infidels” (whether we have moved back to this mode of thinking under the George W. Bush administration will be examined later). Now, one Christian state might find itself at war with another in defense of its territory. This was the period of the *droit de guerre* (right to war) and the emphasis was on *jus in bello*, the legal means by which to prosecute a just war. Just means included immunity for non-combatants and proportionality in the application of force, that is, the amount of force used must be in proportion to the problem encountered. From this period on, the two tracks, legal and moral, coexisted with some tension and some complementarity.

From the sixteenth to the early twentieth century, the focus was on order (that is, peace) over justice. The thinking behind the primacy of the sovereign state was that, in order to avoid an almost perpetual state of war, decisions about what was or was not just had to be decided within national boundaries. This was to change in the second half of the twentieth century, leading to the debate about just intervention in the internal affairs of a sovereign nation-state. The change marked a shift in emphasis of the debate from the legalist paradigm that “states should never intervene in the affairs of other states,” to the moral underpinnings of this concept that allowed for exceptions to this principle.³ As Walzer argues, “humanitarian intervention is justified when it is a response (with reasonable expectations of success) to acts ‘that shock the moral conscience of mankind.’”⁴

The twentieth century was bloody. After World War II, the Just War Ethic came under extreme pressure with the advent of the nuclear age. Could any war be justified if the means used were nuclear and could presage the end of mankind? Was even nuclear deterrence moral when it threatened nuclear destruction and huge civilian casualties, violating the ethic of noncombatant immunity, which was codified in the 1929 Geneva Convention. How could nuclear war ever be proportional, that is, limited? In this way, deterrence came to be the principal weapon for preserving world peace.

Meanwhile, the United Nations, founded in 1945 by sovereign states to preserve world peace (that is, order), but also to protect human rights (that is, justice), was stymied by the Cold War mentality that prevented action in the spheres of influence of the two superpowers, the United States and the Soviet Union. But within their respective spheres of influence the two superpowers felt free to intervene in the internal affairs of countries, including Hungary, Czechoslovakia, Afghanistan, Grenada, and Panama. So intervention to preserve order went forward unsanctioned by the world community. The concept of “just” intervention — intervention to

preserve justice and a return to the debate about just cause — was not yet on the radar screen.

The Just Intervention Debate

St. Ambrose could be said to be the father of the doctrine of universal intervention when he stated that “he who knows about evil but does nothing is as bad as the evil doer.” Intervention is not new. As we have seen above, intervention was common practice during the Cold War. Colonialism in previous centuries might be seen as a form of long-term intervention. But the presumption of nonintervention, based on the Westphalian notion of the primacy of sovereignty and the inviolability of national borders (or, at least, of spheres of influence), remained the norm until the second half of the twentieth century. The rationale for nonintervention had broad support across a wide spectrum of ideology and belief. Its supporters included realists, liberals, and anti-imperialists.

The realist case for nonintervention emphasizes the primacy of order over justice. It draws from the Westphalian tradition of the sovereign state and noninterference into the internal affairs of states, which, after one hundred years of religious wars, brought order into the anarchical European world. The liberal position is somewhat more difficult to characterize. John Stuart Mill held that at times when a community struggles for its self-determination, the rest of the world should stay away and allow the combatants to prove the rightness of their cause through their own efforts. Only thus will it have validity. Other liberal thinkers, however, favor intervention to defend the rights of the oppressed. The anti-imperialist school of thought holds that the concept of justice gives carte blanche to strong and large states to dictate to the small, weak ones. So, the principle of nonintervention serves three needs: order, self-determination, and justice. In the period just before the Iraq war, we have seen all these positions reexamined and, in some cases, reversed.

The second half of the twentieth century saw the beginning of a debate about *just* intervention. In other words, intervention on behalf of individual rights, a humanitarian intervention. In examining the precepts of this debate, it is helpful to revisit the basic philosophy of the just war tradition, which evolved over some 1600 years. A just war requires proper authority, just cause, and right intent. Intervention, as distinct from war, consists of engagement in the *internal* affairs of a state. In order to cross this line from war to intervention, it had increasingly become accepted wisdom that proper authority should be *multilateral*, such as that of the United Nations. Just causes for intervention in the 1990s were held to include genocide, ethnic cleansing, and the collapse of state authority. Right intent, while remaining the restoration of peace, has moved from the vital interest of a state to defend its own civilian population to the national or international interest in justice for the victims of oppression.

Other just war criteria include the principles of proportionality, last resort, and moral possibility of success. These can also potentially guide the just intervention debate. Clearly, if the United States had intervened in Hungary in 1956, there would have been a risk of superpower confrontation escalating to nuclear war. Such an intervention would not, therefore, have been proportional. Although the nuclear threat has not disappeared (and indeed the number of countries in the nuclear club has increased) in the post-Cold War era, there is now little likelihood of catastrophic nuclear war between the superpowers because there is only one superpower left. But we are still faced with the problem of where intervention is likely to occur. From

the perspective of proportionality, interventions are less likely to occur in large states such as China, or in the conflict in Chechnya, which would engage the Russians. Not surprisingly, therefore, the United Nations has witnessed more enthusiasm from the developed world for opening the debate on intervention and some outright opposition from developing countries who fear that they are the most likely targets of such interventions.

The principle of last resort also poses a dilemma. Sometimes, intervention can surely be more effective if it is *not* the last resort, thereby giving tyrants the time to carry out genocide or launch weapons of mass destruction. Indeed, this was one of the justifications employed by George W. Bush for the American invasion of Iraq. In the case of intervention in a failed state, it is worth considering that failed states are likely to be exactly those states where the vital interests of the developed world are hard to define, and whether intelligence on local conditions is poor. Under these circumstances, is there a moral possibility of success?

Other issues that have been hotly debated in the context of just intervention include the question of whether intervention can be both limited and impartial. This is the question posed by Richard Betts in his article "The Delusion of Impartial Intervention."⁵ He argues that if intervention is limited it has to be partial unless it is to prolong the conflict indefinitely. To be impartial and end the conflict presumes overwhelming both sides with force. For instance, in Bosnia, the United Nations was impartial. It is evident that its impartiality helped the stronger side, the Serbs. In addition, the presence of impartial peacekeepers on the ground inhibited NATO airstrikes, again helping the Serbs.

In Kosovo, by contrast, the NATO intervention was partial and limited and brought a speedy end to ethnic cleansing. Betts argues that limited and impartial intervention "makes sense in old-fashioned UN peacekeeping operations, where the outsiders' role is not to make peace, but to bless and monitor a cease-fire that all parties have decided to accept. But it becomes a destructive misconception when carried over to the messier realm of "peace enforcement," where the belligerents have yet to decide that they have nothing more to gain by fighting."⁶ The August 2000 Report of the Panel on United Nations Peace Operations, states that impartiality remained one of the bedrock principles of UN peacekeeping, but outlines exceptions to the principle "where one party to a peace agreement clearly and incontrovertibly is violating its terms." The Panel further acknowledged that "No failure did more damage to the standing and credibility of the United Nations peacekeeping in the 1990s than its reluctance to distinguish victim from aggressor."⁷

Other questions concerning just intervention revolve around the type of mandate that is contemplated. In other words, is the mandate limited to stopping the killing after which the intervener leaves the country, or should it extend to supporting the establishment of democratic institutions and economic and social development?

The last type of intervention has been characterized as "nation-building" and has come to have negative connotations, both for the developing world, which regards this as another type of imperialism, and for military personnel, who do not regard this as their role. George W. Bush came to the presidency pledging disdain for nation-building. He embraced it when he began to make the case for intervention in Afghanistan and Iraq. There may well be a case to be made for the United States serving as the emergency response, stopping the killing and then leaving. The postconflict work, the peace building, might be better left to other, smaller nations and the United Nations whose motives are less likely to be interpreted as imperialist and thus less likely to politicize the situation further. But a situation where the rich,

developed countries provide the money for intervention and the poor, developing countries provide the manpower, risks a further polarization of the whole concept of intervention.

So the question remains — given the complexities mentioned above, should the norm of nonintervention be modified and if so how? How would such a change translate into effective policy and international law? The current discussion resembles the post–World War II debate about the significance of nuclear weapons. First came a period of schizophrenia, from 1945 to 1958, when policymakers struggled to fit nuclear weapons into existing ideas about warfare and, at the same time, sought to remove them from the face of the earth. It was only in the late 1950s that a new strategy of deterrence for the nuclear age was undertaken. In the post–Cold War era, some fourteen years after the fall of the Berlin Wall, policymakers continue to struggle to determine whether the criteria of a just war still apply in the twenty-first century, and how they might be adapted to embrace the new challenges inherent in the concept of just intervention. If the “moral” decision is made to define what constitutes grounds for just intervention, a new policy and legal framework is needed. It is, however, worth noting that the Just War Ethic is the product of some 1600 years of evolutionary thought, while the just intervention debate is in its infancy.

Before exploring further such a moral and legal framework for an ethic of just intervention, I will look at selected cases of intervention in the 1990s and early twenty-first century to examine the lessons they offer and the precedents that they may have set.

New Rules of Engagement?

The United States, in partnership with the United Nations, had barely a year to reflect on the challenges of the post–Cold War era before the Gulf crisis. In September 1990, President George H. W. Bush articulated his vision for a “new world order.” President Bush stated, “Had we not responded to this first provocation with clarity of purpose; if we do not continue to demonstrate our determination; it would be a signal to actual and potential despots around the world.”⁸ This statement, made four months before the coalition went to war against Iraq, was followed, two weeks after the outbreak of the conflict, by another. Bush declared, “America was the only nation on this earth that could assemble the forces of peace.”⁹ Following the victory over Iraq, President Bush also alluded to the role of the United Nations in the new world order, “the United Nations, freed from cold war stalemate, is poised to fulfill the historic vision of its founders.”

It is ironic that the first attempt to define a role for the United States in the post–Cold War era was, in fact, precipitated by a conflict that had all the elements of a traditional war in a prenuclear age, rather than an intervention. Iraq’s aggression against a sovereign country, Kuwait, occasioned the conflict. The Alliance, led by the United States, in choosing to end the war after expelling Iraqi forces from Kuwait and not taking the war to Baghdad, consciously sought to adhere to the traditional doctrine of a just war (respect for national boundaries) ethic rather than entering the still undefined territory of just intervention. President Bush’s “new world order” was, in fact, a return to the vision of Woodrow Wilson, albeit under very different circumstances. Both visions foresaw:

- the guarantee of respect for sovereignty and territorial integrity
- ensuring the safety of democratic societies by a universal system of collective security against the threat of arbitrary power
- a leadership role for the United States¹⁰

The real challenges in dealing with a new era characterized initially by intervention and then again by war, were to fall to the next two U.S. administrations. And these challenges were very different in nature. President Clinton was confronted in short order by crises in Somalia, Rwanda, Bosnia, Haiti and Kosovo. The U.S. response to these various crises was slow and painful and took place broadly within the framework of a debate on multilateral just intervention on humanitarian grounds. President George W. Bush, on the other hand, confronted by a direct act of aggression on U.S. soil, took immediate action, initially with UN approval, against Afghanistan and, subsequently, undertook a preemptive, unilateralist approach to war against Iraq. The rationale for the Iraq war was a curious mixture of just cause, posited in terms of defense of vital interests (that is, security against weapons of mass destruction) and right intent, in terms of the humanitarian suffering of the Iraqi people. Above all, it highlighted the tension surrounding the issue of last resort — can a preemptive war be just? Is it “just” if evidence is subsequently found that “justifies” the intervention and therefore, to the contrary, if no evidence is forthcoming?

Judging Theory Against Reality: Intervention in the 1990s

To President Clinton, inaugurated in January 1993, fell the task of actively defining the role of the United States in the post–Cold War era. The Gulf War that had inaugurated the new era did not presage the challenges that were to follow and this allowed the first Bush administration, while referring to a “new world order” to, in fact, conduct business very much as usual on its watch. The Gulf War was a traditional war, with a clear aggressor (Iraq) against a sovereign state (Kuwait), albeit the most high-tech one in history. U.S. casualties had been minimal, popular and congressional support high, and there was a sense that the United States had finally shed the burden of Vietnam.

Samuel Berger, Clinton’s National Security Advisor, writes in *Foreign Affairs*, in late 2000: “Like no president before him, Bill Clinton has dedicated the power and passion of his presidency to peacemaking. Like most other presidents, he has had to contend with those who say America should do nothing about foreign conflict unless we are directly threatened. . . . We have worked for peace because we believe in defusing conflicts before, not after, they escalate and harm our vital interests.” His choice of the phrasing “vital interests” as distinct from national or international is interesting. Vital interests are usually defined as being those that directly threaten the security of the country and the safety of its civilian population. It is questionable whether intervention in a failed state, such as Somalia, would meet the traditional definition of vital interests.

Somalia

Somalia was the Clinton administration’s immediate inheritance from the first Bush administration. The first UN peacekeeping forces, United Nations Operation in

Somalia (UNOSOM I), arrived in Somalia in April 1992 in response to the collapse of civilian authority that had seen hundreds of thousands of Somalis dying of starvation and disease and fighting between rival clans. As the humanitarian crisis worsened, President Bush in December 1992 after his defeat at the polls announced the intention of the United States to deploy 28,000 U.S. troops as part of what was to become a 37,000-strong, U.S.-led Unified Task Force (UNITAF).¹¹ Bush stated, "Our mission is humanitarian, but we will not tolerate armed gangs ripping off their own people, condemning them to death by starvation." The seeds of confusion were already apparent in that statement and implied that, despite the humanitarian nature of the intervention, the United States would inevitably become involved in Somali politics.

For the United Nations, Resolution 794 of December 3, 1992, establishing UNITAF to implement humanitarian relief operations in Somalia, broke new ground. "This was the first time that an unambiguously internal and humanitarian crisis had been designated as a threat to international peace and security, thus justifying peace-enforcement measures."¹²

Somalia was to have a decisive impact on the just intervention debate for the wrong reasons — it was ultimately an unmitigated disaster. The death of eighteen U.S. soldiers in late 1993 led to the Clinton administration's decision to withdraw troops by March 1994, accompanied by all European troops. The UN forces withdrew completely by March 1995.

This experience tempered the approaches of both the United States and the UN toward humanitarian intervention. The immediate loser was Rwanda where some 800,000 people died as a result of genocide that began in April 1994 when the international community was still licking its wounds from Somalia and failed to intervene: "In Bosnia, UN peacekeepers under fire from or taken prisoner by Serb forces over the last two years were expected to turn the other cheek for fear of 'crossing the Mogadishu line,'" (that is, abandoning neutrality and becoming involved in a civil war).¹³

But the lessons supposedly learned from Somalia, a failed state, where a successful intervention could never have been short-term, did not necessarily apply to the very different cases of Rwanda, where a rapid end to genocide would have been the rationale for just intervention, nor apply to Bosnia in the throes of a civil war, where ethnic cleansing in the heart of Europe made the case for just intervention on humanitarian grounds.

The retrospective lessons from Somalia, laid out by Clarke and Herbst in 1996, provide a much more constructive blueprint:

This much is manifest: no massive intervention in a failed state — even one for humanitarian purposes — can be assuredly short by plan, politically neutral in execution, or wisely parsimonious in providing "nation-building" development aid. Nations do not descend into anarchy overnight, so intervenors should expect neither the reconciliation of the combatants nor the reconstruction of civil societies and national economies to be swift. There is an inescapable reciprocity between civil and military goals. Military commanders cannot expect a failed state to become inherently peaceful and stable and their efforts to be worthwhile in the long run without the work of developmental and civil affairs experts. Likewise, humanitarian workers must recognize that the relief goods they handle in failed states can become the currency of warlords.¹⁴

By the time of the signing of the Dayton Peace Accord in November 1995, which brought an end to the four-year agony of Bosnia, the lesson had been learned that an intervention characterized by impartiality and limited in scope cannot suffice when a

country has been devastated by civil war. But it came at a high price for the people of Bosnia. And it was of no help whatsoever to the 800,000 who perished in the Rwandan genocide between April and July 1994.

Rwanda

The roots of the Rwandan tragedy in the 1990s can be found in the 1959–63 explosion of violence between the two rival groups, the Hutus and the Tutsis. In the late 1980s, Tutsi refugees in Uganda formed the Rwandan Patriotic Front (RPF) which attacked the Hutu regime in Rwanda in 1990. After three years of conflict the Arusha Agreement was signed in August 1993. But the assassination of the president of Burundi, Melchior Ndadaye, a Hutu, October 1993, sparked mass killings first of Tutsis and then, in retaliation, Hutus. The subsequent deaths of President Juvenal Habyarimana of Rwanda and President Cyprien Ntaryamira of Burundi when their plane crashed on April 6, 1994, was used as a pretext by Hutu extremists to seize power and to attack all Tutsis and Hutu moderates.

Although it is arguable that the speed of the genocide, with the majority of the killings being carried out between April 3 and 20, 1994, would have rendered any intervention too little and too late, the lesson lies in the failure of foresight and preventive diplomacy. “US intelligence agencies committed virtually no in-country resources to what was considered a tiny state in a region of little strategic value. During the genocide’s early stages, the US government actually received most of its information from non-governmental organizations.”¹⁵

Other issues, raised by Romeo A. Dallaire, the Canadian commander of the UN forces on the ground, are the moral possibility of success and the role of non-major powers in intervention. He writes: “Yet a central, moral question remains unanswered: did the ineffectiveness of the UN mission in grasping the situation and poor handling of the political, humanitarian, and military response in extremis abet the genocide?” He answers in the affirmative. He goes on to say, “This gap between the intensely complex and desperately critical situation and the inadequacy of the resources provided to deal with it, raises a profound question of moral pragmatism. If the intervention comes to a point where it has little or no chance of being effective, should it have been withdrawn (or some might say undertaken) in the first place?”

Dallaire also reflects on the question of major power involvement:

The US involvement in and around Rwanda presents a paradox that does not suit a global power. In my mind, it remains evident that even though US soldiers and field commanders were more than willing to do much more, they were ordered to stay out, avoid casualties and smile for the cameras. Of course, domestic politics have a direct influence on foreign policy, but when spin doctors slow and enfeeble relief efforts of the big powers well below the minimum of support required to stop the enormous suffering at hand, I believe we should look more closely at what middle powers and third world nations, which also had to balance moral assessments of support against risks of casualties, can ultimately do. Canada, Australia, the United Kingdom, Ghana, India, Ethiopia, and Tunisia all put their efforts inside Rwanda . . . right on the front line where they were needed most. These nations, some desperately poor, shamed the world by doing the right thing. So, do we pursue these middle powers to deploy up front and keep the world’s first powers in reserve, in support of the operations? I believe this option merits serious study and review.¹⁶

So, by 1994, with Bosnia two years into its tragic war, the Clinton administration and the UN were already reeling from two ill-fated interventions in Africa. Although the United Nations High Commission for Refugees (UNHCR) had been

heavily engaged in coordinating the UN humanitarian response to the refugee crisis in the former Yugoslav republics since November 1991, nothing that had gone before predisposed the UN or the United States to look with optimism on supplementing humanitarian intervention by military intervention in Bosnia.

Indeed, the decade of the 1990s that had opened with such high hopes for peace and prosperity in the post-Cold War era was no longer looking so bright. "In the 1995 edition of *Agenda for Peace*, the fundamental policy document on UN peacekeeping, Secretary General Boutros Boutros Ghali expressed less optimism about the possibilities for intervention than in the 1992 edition, largely because of the United Nations's searing experience in Somalia."¹⁷ It would be left to his successor, Kofi Annan, to examine the legacy of the UN's peacekeeping role in the Brahimi report, issued in August 2000.

Bosnia

Bosnia was not a failed state (it was a brand-new one) such as Somalia; genocide was not being perpetrated as in Rwanda. Bosnia was an example of a civil war between the three major ethnic groups with outside aggression from Catholic Croatia and Orthodox Serbia. This outside aggression could have offered the international community the "just" option of intervening. But impartial intervention would have had to be massive to be effective, and, therefore, unpopular in public opinion, whereas intervention on behalf of one side was not necessarily supported by member countries of the European Union.

International reaction, therefore, was one of paralysis in the face of the unfolding crisis. This translated into a commitment to humanitarian assistance but little else. François Founiat, Coordinator of the UNHCR Task Force for the Former Yugoslavia (deployed in November 1991), stated in October 1993, "it is not simply that the UN's humanitarian efforts have become politicized; it is rather that we have been transformed into the only manifestation of political will."¹⁸ UNHCR itself came under severe criticism for allegedly facilitating ethnic cleansing by evacuating vulnerable civilian populations. High Commissioner Ogata described the predicament as follows: "In the context of a conflict which has as its very objective the displacement of people, we find ourselves confronted with a major dilemma. To what extent do we persuade people to remain where they are, when that could well jeopardize their lives and liberties? On the other hand, if we help them to move, do we not become an accomplice to 'ethnic cleansing'?"¹⁹

The paralysis of the international community had several root causes. First, the United States, despite a growing debate about multilateral intervention, was still hostage to baggage from the Vietnam war and held to two central premises: that a government had ultimately to be able to survive without external support and that casualties had to be kept to a minimum. Too many elements of the Bosnian conflict resembled the quagmire of Vietnam with its guerilla-type warfare and complex internal politics.

Profound difficulties arose as a result of deep-seated differences between the United States and the EU on interpretation of the root causes of the crisis and how to resolve it: "The US tended to see Serb aggression at the root of the conflict, while the Europeans (with the exception of Germany) tended to distribute blame more equally. The Europeans, therefore, approached the task more as mediators than as partisans. The Europeans were more inclined to believe that a solution would have to involve some form of separation while the Americans believed that a united, multiethnic Bosnia was not only desirable but also attainable."²⁰ The Dayton Peace

Accord of December 1995 marked the final reluctant acceptance by the US that, at least in the short term; Bosnia would be divided along ethnic lines. Dayton did, however, provide for assistance for the “right of return.” Ironically, Dayton differed remarkably little in its lines of partition from an earlier peace plan put forward in February 1992 by the Europeans that provided for Bosnia to become a confederation of three states.

During the 1992 U.S. presidential election campaign, Democratic Party candidate “Bill Clinton conveying a sense of moral outrage at Serb actions and atrocities, was calling for a more interventionist US approach.”²¹ Once elected, however, the Clinton administration “expressed great concern for the Muslims’ plight, yet it was equally adamant (as the Bush administration) in ruling out a combat role for US ground forces and was ambivalent even about helping to oversee the implementation of any peace accord.”²² However, the new Administration immediately took a more active role in the negotiating process with the EU and the UN and later joined with the United Kingdom, France, Germany, and Russia to form the “Contact Group” in April 1994.

Bosnia highlighted the differences between the United States and its European allies and underlined the absence of any clear definition of the principles for “just intervention.” Although the United States was rhetorically more inclined to intervene militarily in favor of the Muslims and against the Serbs, in practice it was not prepared to commit ground troops to that end. The EU, inclined to seek a peace accord based on ethnic partition and to deal in an even-handed way with the three parties, had peacekeepers on the ground and was opposed to airstrikes that would jeopardize their safety. The UN meanwhile had been handed a mandate of peacekeeping that implied its neutrality. This ultimately contributed to strengthening the strongest aggressor, the Bosnian Serbs.

The West at Dayton elevated President Slobodan Milosevic to the status of peacemaker. His popularity at home was undiminished. To the great disillusionment of the Albanian population in Kosovo, a province of Serbia, the Dayton Accord made no attempt to deal with its status. The human rights abuses against Kosovo’s Albanian majority population by the Serbs had long been seen as the potential flashpoint for conflict in Europe. The groundwork was in place for the evolution of the next crisis in Europe.

Kosovo

The crisis in Kosovo was hardly a surprise. Since 1989, when the province’s autonomous status within Serbia was revoked, Balkans experts had been predicting that Kosovo would be the tinderbox for another war in Europe.

In February 1998, clashes intensified between the Kosovo Liberation Army (KLA) and the Serbian security forces. The violence caused large numbers of Kosovars to flee to Albania and Montenegro, provoking a large-scale refugee crisis that threatened the fragile stability of those newly democratic governments.

Peace talks convened in Rambouillet, France, in February 1999 but when these collapsed, NATO launched a 78-day bombing attack on Kosovo and Serbia, as a “last resort.” This action was taken *without* authorization from the UN Security Council where Russian and Chinese vetoes were anticipated. The NATO decision itself was hard fought and had provoked serious tensions within the Alliance. “Even though by autumn 1998, all NATO nations agreed that there was a moral and political imperative to act, the members of the Alliance could not easily and unanimously find a legal ground for military action against Serbia. Six countries at least —

Belgium, France, Germany, Greece, Italy, and Spain — had political and legal misgivings reflecting the unfinished state of international law concerning humanitarian intervention (using force).”²³

Immediately prior to the NATO decision to begin its bombing campaign, the Russian Ambassador to the UN, Sergei Lavrov, asserted that to invoke “a humanitarian crisis in a country as a sufficient reason for unilateral intervention” would be “unacceptable and contrary to the foundations of the contemporary system of international relations and to the Charter of the United Nations.”²⁴ Once the bombing campaign started, Chinese officials condemned the operation in even stronger terms and “warned of serious consequences if the bombing did not stop.”²⁵ Western concepts about the evolution of the right of humanitarian intervention were, it appeared, by no means universal.

Kosovo was not a failed state; it was not a state at all. Aggression was being perpetrated by the government of the country on some of its (Albanian) citizens. Kosovo was the clearest example to date of the multilateral undertaking of just intervention in a sovereign state. Intervention in Kosovo was not impartial because there were none of the doubts that accompanied the issue of intervention in Bosnia concerning which side was the aggressor.

The NATO air campaign caused an initial escalation of violence on the ground as Milosevic appeared intent on wrapping up his campaign of ethnic cleansing. Thousands of Kosovar Albanians were killed and some 800,000 fled or were expelled from Kosovo after the start of the air campaign.²⁶ The NATO bombing was also responsible for the deaths of some refugees and of Serbian civilians in Belgrade and other major cities in Serbia proper, thus raising serious questions about noncombatant immunity and proportionality.

Was Kosovo an exception or would it set a precedent for just intervention? As the Clinton administration reached the end of its term, the next administration, under George W. Bush, seemed uninterested in grappling with the issue of just cause and just means with which to carry out interventions. In fact, it had publicly eschewed “nation building” during the election campaign and stated that it would begin to withdraw U.S. troops from Bosnia and Kosovo, a statement that it later recanted.

An Old Reality Revisited?

Iraq

Both the moral and legal framework for just intervention had been shown to be lacking in the 1990s, resulting in a number of interventions that lacked consistency in either the ways or means. Despite this, these interventions had some common features, in terms of proper authority (multilateral), just cause (humanitarian) and right intent (relief of suffering). The lessons they offered had been examined by the international community and the precedents they set have underlined the need to update and expand the evolving body of international law concerning humanitarian intervention. But in the aftermath of the September 11, 2001, attack on the World Trade Center, focus moved sharply away from humanitarian intervention and back to the more familiar territory of war.

Although the subject was more familiar, the players were different. The aggressor in this conflict was not a state, but non-state actors with access to the type of resources and intelligence that traditionally had been out of their reach. The initial outpouring of sympathy and support for the United States from most of the world

community reflected both the shock and the recognition that all states were potentially vulnerable to this type of attack. The rules of the game had been radically changed and the nature of the debates that followed reflected the disorientation of the major state players.

The Bush administration warned the Taliban government of Afghanistan that it should stop harboring Al Qaeda operatives. When it became clear that the Taliban would not oblige, the administration lost little time in going to war in Afghanistan. Although the United States took the lead itself, it enjoyed wide support both from UN member states and the U.S. public. By early 2003, Iraq had become the focus for the administration's concern. Saddam was deemed an "imminent" threat to U.S. vital security interests on the basis that he possessed the weapons of mass destruction (WMD). The administration intimated that there was a strong connection between Saddam and the Al Qaeda network, the implication being that he could provide terrorists with WMD for use against the United States.

The administration initially worked through the UN Security Council, and Resolution 1441 was passed, bringing UN weapons inspectors back to Iraq. Despite their failure to locate any WMD and their requests for more time, the United States decided to take military action. When the UN declined to follow the United States lead, the administration, supported primarily by Britain, proceeded to take preemptive-action and went to war, without UN proper authority.

The Bush administration cited the imminent threat to its vital national security interests as the main rationale for going to war with Iraq. It asserted the need to strike preemptively before Saddam Hussein could further develop and deploy WMD. But in an effort to depict the war in humanitarian terms that would be more palatable to a wider audience, it also made reference to rescuing the Iraqi people from oppression. Meanwhile, North Korea — another member of the Bush "axis of evil" — a country that was demonstrably closer to developing WMD than Iraq while continuing its domestic policy of oppression, was subjected to nothing more menacing than ongoing multilateral diplomacy. These two widely differing approaches led to inevitable speculation about the administration's hidden agenda, both by the American public and by the international community.

The administration floundered in its rhetoric, even as it moved decisively toward war. Terms such as "crusade" and "regime change" surfaced and then disappeared from the administration's official statements, but the harm was done. While some in the Bush administration saw Iraq as the first step toward creating a peaceful and democratic Middle East, other outside commentators speculated that for George W. Bush the real incentive was simply to get rid of Saddam Hussein, the man who had eluded and made attempts on his father's life.

The lack of one clearly stated and credible rationale for war with Iraq greatly damaged the international and national credibility of the Bush administration. It also provoked enormous strains with U.S. allies within the UN, particularly in Europe. The debate came to be less about the threat posed by Saddam and more about distrust of U.S. intentions.

Was the Iraq war a just war? In terms of proper authority, despite the UN's lack of sanction, the United States as a sovereign state has the right to defend itself from outside aggression, if such aggression actually was manifest. The cause would have been just if it was the destruction of WMD that could threaten the vital security interests of the United States — the problem was that no hard evidence was or has yet been found to support that claim.

As to right intent, the juxtaposition of so many conflicting reasons for war served

only to raise doubts as to intent. In terms of proportionality of means, although civilians were not explicitly targeted, there were many civilian casualties; however the conduct of the war adhered to post–World War II norms for noncombatant immunity. The war itself could be judged proportional (that is, among other things, not likely to provoke wider conflict) if viewed as an attack on a small, rogue state by the U.S. superpower. But if the war against Iraq comes to be seen as a war by Christians against Muslims, a twenty-first century crusade, it risks igniting the “Clash of Civilizations” predicted by Samuel Huntington. Seen in these terms, it does not meet the criteria of proportionality any more than did a U.S. intervention into Hungary in 1956. In addition, the war in Iraq appears to have distracted resources and attention from the fight against terrorism, as well as created new recruits for Al Qaeda. And far from offering hope for a wider Middle East peace, the war in Iraq threatens to further destabilize the region and to turn Iraq itself into a gathering point for terrorists. Certainly the Israeli-Palestinian conflict has only worsened in its aftermath.

There was a moral possibility, if not certainty, of military success. But in terms of the postconflict situation, there is no clarity of goals or timelines. The many different and conflicting reasons given for going to war have made it unclear what type of intervention the war in Iraq constitutes. Without benchmarks, it is impossible to judge success.

The Iraq war was not a war of last resort; it was a war of choice, not necessity. The conflict was also a radical departure from the “just” interventions of the 1990s. It bears more resemblance to the type of interventions carried out during the Cold War era by both superpowers into countries within their own spheres of influence to effect regime change or to restore order. In this sense, the Iraq war does not fit into the evolving framework for just intervention. It remains to be seen if the rest of the twenty-first century will follow the Iraq pattern with “coalitions of the willing,” led by the United States, becoming the norm, or whether we will revert to multilateral just interventions under UN or other auspices. The current and growing unpopularity of the Iraqi occupation among the U.S. public may well determine the direction as, indeed, may the 2004 American presidential elections.

Lessons Learned From Interventions in the 1990s and in Iraq

UN Secretary General, Kofi Annan, in reviewing the record of intervention in the 1990s, has expressed the hope that two cases, those of Rwanda and Kosovo, are never repeated. The first case he characterizes as a moral failure on the part of the international community and the second as a legal failure, when the UN was simply bypassed and the air campaign launched without UN authorization. In the 1990s “expectations and assignments given to the United Nations outran its capacity for effective action”.²⁷ The Brahimi report²⁸ was intended to review the record of the 1990s in the areas of peacekeeping and security and to make practical recommendations for the future.

In looking back on the decade, the panel stated:

as the United Nations has bitterly and repeatedly discovered over the last decade, no amount of good intentions can substitute for the fundamental ability to project credible force if complex peacekeeping, in particular, is to succeed. But force alone cannot create peace; it can only create the space in which peace may be built. Moreover the changes that the Panel recommends will have no lasting impact unless Member States summon the political will to support the United Nations politically, financially, and operationally to enable the United Nations to be truly credible as a force for peace.²⁹

Increasingly in the 1990s, the United Nations found itself deploying into situations where the warring parties had not signed a peace accord, or where a peace accord, such as the Arusha Agreement in Rwanda, had broken down. The UN, therefore, found itself in situations of ongoing conflict. Although the Brahimi Panel concurred that the “consent of the local parties, impartiality and use of force only in self-defense should remain the bedrock principles of peacekeeping,” it went on to acknowledge that experience had shown that the norms of impartiality and self-defense should be subject to exceptions. Thus, it should be understood that “where one party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the United Nations can in the best case result in ineffectiveness and in the worst may amount to complicity with evil.”³⁰

In addition, the panel recommends that the UN should be authorized to stop violence against civilians in defense of the principle of noncombatant immunity. But the Panel stresses that those UN missions charged with civilian protection should be given the appropriate resources with which to effectively carry out their mission – the moral possibility of success. This, most glaringly, was *not* the case in Srebrenica, Bosnia, where UN peacekeepers stood helplessly by while Bosnian Serb forces massacred Muslim civilians under UN protection in a designated “safe area.”

The panel makes a comprehensive list of recommendations to the UN. These focus on strengthening the UNs:

- intelligence gathering capacity
- ability to deploy more rapidly by creating standby multinational brigades and oncall lists of military officers, civilian police, international judicial experts, penal experts, and human rights specialists
- cooperation across military and civilian sectors through the creation of “Integrated Mission Task Forces”
- the capacity of UN headquarters to plan and support peace operations.

In commissioning this report, Annan showed courage and foresight. He recognized that the United Nations has become, *de facto* if not yet *de jure*, the primary institution charged, by its member states, with carrying out multilateral intervention, but that the record to date is a sorry one. In order for the UN to have the “moral possibility of success” in any future interventions, the lessons learned from the mistakes of the 1990s must be absorbed and measures taken to correct them.

Implementation of the panel’s recommendations necessitates political will from its member states but also flexibility and creativity from UN bureaucrats. If successful, they will go a long way toward ensuring that interventions in the twenty-first century will benefit from a more coherent approach than those of the last decade. With enhanced planning, integration, means, and coherence of mandate, the UN may finally be in a position to carry out the vision of its founders. In conclusion, the panel called on the leaders of the world assembled at the Millennium Summit, “to commit . . . to strengthen the capacity of the United Nations to fully accomplish the mission which is, indeed, its very *raison d’être*: to help communities engulfed in strife and to maintain or restore peace.”³¹

The Brahimi report was drafted to look at the hard lessons learned from the multilateral interventions of the 1990s. Kofi Annan recognizes, however, that if the United Nations is to remain relevant in the new debate about the just use of force, it needs to continue to reform its structure and practices. Therefore, three years after the Millennium Summit, Kofi Annan called on the Security Council to “begin a

discussion on the criteria for an early authorization of coercive measures to address certain types of threats — for instance, terrorist groups armed with weapons of mass destruction.”³² He spoke of his intention to create a new panel that would deal with the following four tasks:

- First, to examine current challenges to peace and security;
- Second, to consider the contribution which collective action can make in addressing these challenges;
- Third, to review the functioning of the major organs of the United Nations and the relationship between them; and
- Fourth, to recommend ways of strengthening the United Nations, through reform of its institutions and processes.

International Humanitarian Law

At the beginning of the twenty-first century, it is clear that there is as yet no new paradigm for “pro-democratic” or humanitarian intervention. Neither the moral nor legal framework fits the new reality. “International law governing the right of humanitarian intervention is incomplete. International practice has evolved swiftly during the 1990s. Yet the incipient political and moral consensus that intervention is sometimes necessary to prevent human rights violation on a major scale has not been formalized into a set of rules of international law. It is now urgent that this consensus should be transformed into international law.”³³

In the last decade, the moral practice of intervention has outstripped the current state of international humanitarian law. This must be addressed forthwith lest it lead to murderous delays or even be used as an excuse for indefinitely delaying intervention. The extreme confusion and different interpretations of the legal grounds for intervention surrounding the conflict in Kosovo are the most obvious example. China and Russia, as we have seen, accused the NATO members of violating the UN Charter, which requires Security Council authorization for intervention. The West Europeans, meanwhile, were equally conflicted. NATO Secretary General Javier Solana justified the action by arguing that the use of force was the only way “to prevent more human suffering and more repression and violence against the civilian population of Kosovo.”³⁴ This was a moral rather than legal argument and echoes Michael Walzer who, a prophet before his time, wrote in 1977, “Any state capable of stopping the slaughter has a right, at least, to try to do so. The legalist paradigm indeed rules out such efforts, but that only suggests that the paradigm, unrevised, cannot account for the moral realities of military intervention.”³⁵

The two bodies of law that are directly relevant in the debate on intervention are international human rights law and humanitarian law. The first of these is an offshoot of the UN’s Declaration of Human Rights and deals with violations by states, and the second, which evolves from the older tradition of *jus in bello*, deals with violations by individuals. These two bodies of laws have increasingly overlapped as international tribunals on Former Yugoslavia (1993) and Rwanda (1994) and the International Criminal Court (1998) have been created in recent years. “But what is also common to international human-rights law and humanitarian law is that however sophisticated they are becoming in laying out sanctions, they are silent on preventive measures. Yet, it is precisely the prevention of massive human rights violations or humanitarian catastrophes that has become the basis of ‘humanitarian intervention’ practices in recent years. These practices have not yet been codified into law. The only certainty about them is that, increasingly, they give primacy to

human rights over the sovereignty of states when the two principles conflict.”³⁶

As precedent is set in practice concerning just intervention within sovereign borders, international law is likely to follow. “The law evolves as practices become acceptable to most states in the international community.”³⁷ Kosovo might therefore serve as a precedent rather than as an exception. One difficulty with using this precedent to establish universal practice is that Kosovo could be argued to be subject to the Organization for Security and Cooperation in Europe (OSCE) human rights principles that “allow states to interfere with one another’s affairs well beyond what general international law permits.”³⁸ It may be that Europe, through the OSCE, should take the lead in developing specific rules for humanitarian intervention with the hope that the rest of the world will follow.

Where To Now?

In light of the lessons learned over the past decade, how should we construct a new just intervention ethic for the twenty-first century? The departure point should be to preserve nonintervention as the norm; intervention should be the exception that proves the rule. The Westphalian concept of state sovereignty *did* have some moral content in its goal of preserving order, in other words, peace. It also recognized that the first duty of a head of state is to his or her own people. Hence the definition of vital interests as being those that relate directly to the security of the civilians of one’s own state.

But in today’s globalized world, conflict inside state borders now has the potential to threaten regional or international security with a speed and intensity that was unthinkable in the Westphalian age. In addition, with the end of the Cold War, the international community, for the first time in fifty years, has the chance to focus on issues of justice within states’ borders and to reopen the discussion of just cause, as distinct from just means, that dominated the last four centuries. Vital interests retain their primacy but consideration of national and international interests now can and should be added to the equation. There must be consideration of contemporary causes that may override the presumption of nonintervention. In the 1990s, just cause for intervention included, in practice, genocide, failed states, and ethnic cleansing. Whereas it may be tempting to add to this list, it is a temptation that should be resisted.

In 2003, the Bush administration undertook intervention to prevent a state from developing WMD that, if employed, would threaten U.S. vital interests. An important line has been crossed here. A distinction should be drawn between the intent to use and the actual use which is qualitatively different — in other words, in nuclear terms, no first strike should be the rule for intervention. But such a distinction should not be applied to terrorist groups that may also acquire such weapons. Terrorist groups do not acquire WMD as a bargaining chip or to defend their own people, they acquire them with the express intent to use them against civilians of states that they seek to destroy. The U.S. intervention in Afghanistan to root out the terrorists who had, in this case, already attacked American civilians on American soil, and the regime that sheltered them, was thus in a completely different category than its intervention in Iraq.

Another cause that some would like to see added to the list is abuse of human rights that falls short of genocide or ethnic cleansing, but to cross that line is to open a Pandora’s Box. What country in the world do others at some point not see as committing human rights abuses? Such an approach also risks widening the

philosophical divide between the West and the developing world that would likely be the target of most interventions of this type.

Diplomacy, including selectively applied sanctions, should remain the tool of choice in issues of prevention — in terms of dissuading states from acquiring WMD as well as in seeking to avert internal conflict. As we have seen, the intelligence-gathering capacities of the United States and the UN should be strengthened, particularly in regions that have traditionally not been those of geo-strategic interest. Force should truly remain the last resort in terms of ending the aggression of whatever nature, otherwise the line become too easy to cross.

Interventions in the 1990s differed most notably from those of previous eras in their designation of proper authority. Multilateral intervention became the norm. A key building block for a new ethic of just intervention should be its multilateral nature. This would lessen fears that the United States or other major powers are acting in a hegemonic fashion and would give more credibility to claims of right intent. In the Cold War, the UN had a limited role. Now it has the chance to be the lead agency in the just intervention debate, but it must first resolve the paradox inherent in its own structure. Founded by sovereign states, it is also the home of the Charter of Human Rights. How does the UN balance these dual pressures? Secretary General Kofi Annan has expressed the view that two crises of the 1990s must not be repeated. First, the failure to intervene in Rwanda (a direct consequence of the debacle in Somalia) and prevent mass genocide was a moral failure. Second, the decision to bypass the UN in the Kosovo intervention was a legal failure. Now the U.S. intervention in Iraq threatens to undermine the United Nations Charter and the Just War Ethic itself.

A preference for a multilateral approach, however, need not necessarily restrict the designation of proper authority to the UN. There may well be a case for recognizing that in certain circumstances when, as in the case of Kosovo, the Security Council threatens to veto intervention for political reasons, despite obvious just cause, NATO could be the designated authority. In other situations, the European defense force, should it materialize, might be the appropriate authority. The European defense initiative may also spur other regions such as Africa, Latin America, and Asia to examine the possible security role of their own regional associations, such as Organization of African Unity — as in Liberia; the Organization of American States, and the Association of South East Asian Nations. Such a role might be defined in terms of intervention to preserve peace in their own neighborhoods, preferably still under a UN mandate to avoid fears of the emergence of regional hegemony and, where appropriate, with U.S. involvement. This would lessen the direct burden on both the UN and the United States.

The debate at the UN about lessons learned in the 1990s should go a long way to addressing the issue of moral possibility of success. With a more coherent mandate and increased means, the question posed by Romeo Dallaire in Rwanda about whether it would have been better under the circumstances for the UN never to have deployed at all will, we hope, not have to be posed in future UN interventions.

Although the end of the Cold War and the consequent decreased likelihood of intervention provoking a nuclear response eased temporarily the justification of the principle of proportionality, the potential advent of terrorists acquiring WMD and of the danger of a Muslim-Christian global war should serve to keep this question at the forefront of any debate about just intervention.

The 1990s presented the international community with new challenges — in Kofi Annan's phrase, "problems without passports" — that required a serious review

of the existing framework for the just use of force. In facing up to the hard lessons learned over the past decade, the dawning of the twenty-first century, despite the war in Iraq, holds out hope for the evolution of an ethic of just intervention, based on its much older counterpart, the Just War Ethic. The challenge of this next, global century is to improve the implementation of humanitarian interventions and to define their mandate, as well as to clarify international human rights law. At a moment in history when, increasingly, even local conflicts have global implications, abandoning the pursuit of justice within or across state borders in an attempt to recapture an illusion of order, is not an option. Z³⁹

Notes

1. Kofi Annan, September 23, 2003, address to the United Nations General Assembly
2. Ibid. My emphasis.
3. Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), 86.
4. Ibid., 107.
5. *Foreign Affairs* (November-December 1994), 20.
6. Ibid.
7. United Nations Panel on Peace Operations, August 2000, ix. The Brahimi report was commissioned by United Nations Secretary General Kofi Annan on March 7, 2000. The Panel on United Nations Peacekeeping Operations comprised: Lakhdar Brahimi (Algeria), Brian Atwood (United States), Ambassador Colin Granderson (Trinidad and Tobago), Dame Ann Hercus (New Zealand), Richard Monk (United Kingdom), General (ret.) Klaus Naumann (Germany), Hisako Shimura (Japan), Ambassador Vladimir Shustov (Russia), General Phillip Sibanda (Zimbabwe), Dr. Cornelio Sommaruga (Switzerland).
8. R. W. Tucker and D.C. Hendrickson, *The Imperial Temptation: The New World Order and America's Purpose* (Council on Foreign Relations, 1992), 29.
9. Ibid., 30.
10. Ibid., 56–57.
11. United Nations High Commissioner for Refugees, *The State of the World's Refugees: Fifty Years of Humanitarian Action* (Oxford University Press, 2000), 256.
12. L. Lewis and J. Mayall, *The New Interventionism 1991-94* (Cambridge University Press, 1996) 94.
13. W. Clarke and J. Herbst, "Somalia and the Future of Humanitarian Intervention," *Foreign Affairs* 75 (March-April 1996):70.
14. Ibid., 71.
15. Alan J. Kupperman, "Rwanda in Retrospect," *Foreign Affairs*, 79. (January-February 2000), 101.
16. Romeo A. Dallaire, "End of Innocence: Rwanda 1994," in *Hard Choices and Moral Dilemmas in Humanitarian Intervention*, ed., Jonathon Moore (Rowman and Littlefield Publishers, 1998) 85–86.
17. Clarke and Herbst, "Somalia and the Future of Humanitarian Intervention," 71.
18. Ibid., 220.
19. Ibid., 222.
20. Maynard Glitman, "US Policy in Bosnia: Rethinking a Flawed Approach" *Survival* 38, International Institute for Strategic Studies (Winter 1996/97), p. 68
21. Maynard Glitman. "US Policy in Bosnia: Rethinking a Flawed Approach," *Survival* 38 (Winter 1996/1997), 70.
22. L. Freedman, "Why the West Failed," *Foreign Policy*. 97. (Winter 1994-95) 61.
23. Ibid., 528.
24. Ibid., 531.
25. Ibid., 531.
26. United Nations High Commissioner for Refugees, *The State of the World's Refugees*,

- (Oxford University Press, 2000) 234.
27. J. Bryan Hehir, "Military Intervention and National Sovereignty: Recasting the Relationship," in *Hard Choices: Moral Dilemmas in Humanitarian Intervention*, ed. Jonathon Moore (Rowman and Littlefield Publishers, 1998) 49.
 28. See note 7.
 29. *Ibid.*, viii
 30. *Ibid.*, ix.
 31. Brahimi report, United Nations, August 2000, xv.
 32. Kofi Annan, September 23, 2003, address to the UN General Assembly.
 33. Catherine Guicherd, "International Law and the War in Kosovo," *Survival* 41, no. 2 (Summer 1999): 29.
 34. *Ibid.*, 19.
 35. Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977) 108.
 36. Catherine Guicherd, "International Law," 22.
 37. *Ibid.*, 24.
 38. *Ibid.*, 30.