WHITHER THE SOVEREIGN STATE?

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WHITHER THE SOVEREIGN STATE?

HUMANITARIAN INTERVENTION

AND

STATE SOVEREIGNTY

By

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A Thesis

Submitted to the School of Graduate Studies

in Partial Fulfilment of the Requirements

for the Degree

Master of Arts

McMaster University

MASTER OF ARTS (1995)   McMaster University
(Political Science)   Hamilton, Ontario

TITLE: Whither the Sovereign State? Humanitarian Intervention and
State Sovereignty Since the End of the Cold War.

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NUMBER OF PAGES: v, 135

ABSTRACT

This thesis is an examination into the nature of sovereignty and humanitarian intervention since the end of the Cold War. This inquiry has tried to understand how the use of military force to secure safety zones, in order to safely deliver and distribute required humanitarian assistance, has effected commonly held beliefs about sovereign statehood. In particular, I have focussed on three questions: What does sovereignty mean to international relations in the 1990s, how has recent humanitarian intervention in Iraq and Somalia affected the sovereignty of the host state, and what lessons can be drawn from these recent cases in regards to both the future of humanitarian intervention and the future of sovereignty? In the end, I find that recent humanitarian intervention in Iraq and Somalia does not signal the end os sovereign statehood, but rather, demonstrates the central importance of sovereignty for international relations.

CONTENTS

Introduction

This thesis is an examination into the nature of sovereignty and humanitarian intervention since the end of the Cold War. The recent emergence of military force used to secure safety zones in order to distribute required humanitarian assistance has, in many ways, challenged traditional sovereignty norms such as the norm of non-interference. This stress between the customary rights of sovereignty and recent humanitarian operations provide three questions which I have sought to address in this thesis:

> (i) What does sovereignty mean to international relations in the 1990s?
> (ii) How has recent humanitarian intervention in Iraq and Somalia affected the sovereignty of the host state?
> (iii) What lessons can be drawn from these recent cases in regards to both the future of humanitarian intervention and the future of sovereignty?

It is useful if, from the outset, I explain why these questions are of importance, and outline how these three questions will be approached.

With the end of the Cold War a number of scholars embraced the notion that the international community was on the eve of a new era in global relations. Although there were some exceptions, such as realist John Mearsheimer who warned that the stability of the Cold War would soon be

missed,[1] academia welcomed this so-called "unipolar moment."[2] The end of the Cold War was the end of great-power politics. Clearly the world, more specifically the enlightened West, had reached "the end of history."[3] The war between competing ideologies had been fought and modern liberal democracy had won. The international community's common security could now be promoted and protected not only by the United States (US), but also by a United Nations (UN) no longer hindered by a Security Council in a state of constant stalemate because of Soviet-American rivalry. Indeed George Bush's "new world order", which assumed the maintenance of international cooperation and international peace, was not only embraced as a goal to work towards, but assumed to already exist.

However, it did not take long for the reality of international relations to undermine this so-called new world order. In August 1990, when Iraq invaded Kuwait, the international community was faced with its first major challenge to international security since the end of the Cold War. As George Bush stated:

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[1]John J. Mearsheimer, "Back to the Future" *International Security* 15 no.1 (Summer 1990).

[2]Charles Krauthammer, "The Unipolar Moment," *Foreign Affairs* 70, no.1 (1991): 23-33.

[3]Francis Fukuyama, *The End of History and the Last Man* (New York: Avon Books, 1992).

> What is at stake is more than one small country;
> it is a big idea: a new world order - where
> diverse nations are drawn together in common
> cause, to achieve the universal aspirations of
> mankind: peace and security, freedom and the rule
> of law.[4]

Despite such stirring rhetoric, it quickly became evident that the new world order was not so new. The Gulf War was fought in a manner that is consistent with the norms and rules of military engagement since the end of World War II. The only thing new was that both the Soviet Union and the United States worked towards solving "conflicts in which they had previously been on opposing sides."[5] Thus, as Mandelbaum wrote, "The Gulf War was, however, a false dawn - less the harbinger of the future than the last gasp of a morally and politically clearer age."[6] The Gulf War was not the first success of the post-Cold War era, but rather, the first indication that the end of the Cold War had not transformed the nature of international conflict.

Yet, in the wake of the Gulf War there did emerge a new type of collective security action: humanitarian intervention. As Stephen John Stedman wrote in 1993:

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[4]United States President George Bush, State of the Union speech, January 29 1991, United States Information Service.

[5]Fred Halliday, "The Gulf War 1990-1991 and the study of international relations," *Review of International Studies* (1994) 20: 111.

[6]Michael Mandelbaum, "The Reluctance to Intervene," *Foreign Policy* 95 (Summer 1994): 3.

> the end of superpower rivalry continues to
> entrance America with the chimera of a new world
> order. That illusion, alongside often violent
> disorder in many states, has produced a kind of
> `new interventionism.'[7]

This new interventionism began in northern Iraq after the

Gulf War when a US-led humanitarian operation was created in

order to protect Iraqi Kurds from the Iraqi government's

military repression. This intervention, known as Operation

Provide Comfort, set a precedent by identifying the

consequences of internal repression as a threat to

international security. In fact, Operation Provide Comfort

prompted the US and the UN to accept humanitarian

intervention in Somalia in 1992. As will be shown, both of

these cases do provide examples of a new type of American

foreign policy and UN operation.

Scholars have argued that humanitarian intervention in

Iraq and Somalia signals significant changes for

international relations. In particular, these two cases

provide examples of a new type of intervention which raises

a number of questions about the nature of sovereignty within

the post-Cold War era. Has humanitarian intervention

transcended the international norm of non-intervention? Is

the territorial integrity of sovereign states no longer

sacrosanct? Is this the first indication of the demise of

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[7]Stephen John Stedman, "The New Interventionists," *Foreign Affairs* 72, no.1 (1993): 1.

the sovereign state?

Discussing this "new interventionism" Stedman writes that, "the precepts of this new doctrine chafe at traditional notions of sovereignty."[8] Since the end of the Cold War, scholars have been quick to proclaim the death of the sovereign state. It has been written that global relations have reached "the end of sovereignty,"[9] that the sovereign state is becoming "extinct,"[10] "sovereignty is out of fashion,"[11] and that sovereignty "is no longer sacrosanct."[12] The experiences in Iraq and Somalia have fuelled this belief in the devolution of sovereignty.

Critics of sovereignty point to the humanitarian operations in Iraq and Somalia and suggest that human rights are now more important than the territorial integrity of a sovereign state. It appears that the norm of non-intervention and the right to self-determination,

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[8]Stedman, "The New Interventionists," 2.

[9]Joseph A. Camilleri and Jim Falk, *The End of Sovereignty? The Politics of a Shrinking and Fragmenting World* (Brookfield: Edward Elgar, 1992).

[10]Ali Khan, "The Extinction of Nation States," *American University Journal of International Law and Policy* 7 (1992): 197-234.

[11]Lee C. Buchheit, "The Sovereign Client," *Journal of International Affairs* 48, no.2 (Winter 1995): 527-540.

[12]Jaret Chopra and Thomas G. Weiss, "Sovereignty is No Longer Sacrosanct: Codifying Humanitarian Intervention," *Ethics and International Affairs* 6 (1992): 95-117.

essentially contradictory doctrines, come into conflict during these humanitarian operations. For instance, van Baarda notes that after Operation Restore Hope was initiated in Somalia, many Third World nations feared "that the principle of non-interference in internal affairs was being undermined."[13] Similarly, Fred Halliday asserts that the intervention in northern Iraq was "an infringement of Iraq's sovereignty and one that sets precedents for other countries in the world."[14] According to these scholars, the humanitarian operations in Iraq and Somalia transgressed the international norm of non-intervention; the rights of individuals as human beings are now more important than the sanctity of the territorial boundaries of sovereign states. As such, humanitarian intervention signifies the end of sovereignty.

Traditionally, the existence of sovereign states, as a predominate unit of international relations, has been assumed by international relations theorists. Whether described as a society or a systemic structure, the sovereign state has been an ontological starting point for the study of world politics. Yet, a number of international

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[13]Th.A. van Baarda, "The Involvement of the Security Council in Maintaining International Humanitarian Law," *Netherlands Quarterly of Human Rights* 12, no.2 (1994): 142.

[14]Fred Halliday, "The Gulf War," 124.

scholars have, since the late 1970s, began to question the future of world politics organized around sovereign states.

An interesting aspect to this sovereignty debate is that both the proponents and the critics of the sovereign state tend to treat sovereignty as an absolute quality which a territorial entity either does or does not possess. In contrast, I deal with sovereignty as a set of multifaceted attributes which are relational rather than absolute. States can possess any combination of de facto internal sovereignty, de facto external sovereignty, and de jure sovereignty. States can in fact be more or less sovereign.

This thesis takes issue with the conclusion that post-Cold War humanitarian intervention undermines sovereignty. In contrast to the assertions by a number of international relations scholars that humanitarian intervention in Iraq and Somalia signals "the end of sovereignty", the case studies of this thesis demonstrate that the international community took explicit action not to challenge the sovereign status of either country. Although there does exist tension between the norm of non-intervention and humanitarian intervention in Iraq and Somalia, there is no evidence that these operations disregarded existing sovereign powers. In fact, when these two cases are examined closely, it becomes evident that for both the UN and the US, the sovereignty of Iraq and Somalia was never challenged.

Neither Operation Provide Comfort nor Operation Restore Hope undermined the sovereignty of either Iraq or Somalia.

In order to show that the sovereignty of Iraq and Somalia was always respected - and in the case of Somalia maintained - a detailed case study will be provided for each operation. However, before these two cases are examined, two theoretical questions must be answered. First, what is new about humanitarian intervention in Iraq and Somalia? Clearly the term humanitarian intervention has been used to describe both unilateral and collective operations prior to the end of the Cold War. Therefore, a brief chronology of the evolution of humanitarian intervention, in both practice and theory, will be provided. Second, what is meant by the term sovereignty? In order to conclude that humanitarian intervention does not undermine sovereignty, the meanings of sovereignty must first be understood. In particular, an explanation of what constitutes a sovereign state will be provided.

Finally, this examination will provide a number of insights into the future of both humanitarian intervention and sovereignty. When considered in conjunction, Iraq and Somalia demonstrate both the advantages and drawbacks of humanitarian intervention. Iraq provides a case where the international community successfully provided humanitarian assistance by limiting its military operation to securing

clearly demarcated areas in order to safely deliver and distribute relief supplies. In contrast, Somalia demonstrates how humanitarian intervention, when not limited solely to the securing of clearly demarcated areas in order to deliver and distribute relief supplies, can expand into the complex enterprise of nation-building.

In regards to the future of sovereignty, or more precisely the future of the sovereign state, it will become apparent that recent humanitarian intervention by the international community does not signal the end of sovereignty. In contrast, the humanitarian intervention within Iraq and Somalia indicates that international order is still predicated on the existence, and preservation, of sovereign states. Although the meaning of sovereignty has become increasingly broadened, and thus can now be considered a relational concept rather than an absolute concept, it is still a base foundation for world politics.

Chapter 1
Sovereignty and Humanitarian Intervention

Humanitarian intervention, defined as intervention intended to protect against severe human rights abuses, is not unique to the post-Cold War period. As Steve Simon writes, "The doctrine of unilateral humanitarian intervention has been contemplated, discussed, and debated for over 600 years."[15] For as long as notions of human rights have existed, the term humanitarian intervention has been used in order to justify political actions. The theoretical existence of human rights, conceptualized as entitlements which any person may claim because of being human, create the political possibility of intervention justified by humanitarian concerns.

As with the meaning of human rights, the meaning of humanitarian intervention has not remained an international constant. Indeed, in both theory and practice, humanitarian intervention has meant many different things to a spectrum of individuals ranging from international relations scholars to policy-makers. Since humanitarian intervention is a reflection of beliefs about the constitution of human

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[15]Steve G. Simon, "The Contemporary Legality of Unilateral Humanitarian Intervention," *California Western International Law Journal* 24 (1993): 117.

rights, it is useful to briefly examine what is meant by human rights.

The political realization of human rights can be categorized into three groups.[16] The first group of human rights are those which protect personal liberties. This first category, which is associated with the Western liberal tradition identified with political theorists such as Thomas Hobbes, John Locke, and John Stuart Mill, is interested in ensuring the protection of civil and political rights against a potentially intrusive and oppressive state. The second category of human rights refers to those that seek to protect and ensure economic and social entitlements. In particular, this second category refers to the existence of a reasonable standard of living which includes required elements such as adequate housing or food and water. Finally, the third category of human rights, which tends to be almost exclusively international in scope, refers to collective human rights such as the right to self-determination.

Given this broad theoretical spectrum of human rights,

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[16]See Robert O. Matthews and Cranford Pratt, "Introduction: Concepts and Instruments," in *Human Rights in Canadian Foreign Policy* ed. Robert O. Matthews and Cranford Pratt (Montreal: McGill-Queen's University Press, 1988): 4-6.

one is still left unsure of the precise meaning of human rights in practice. For instance, how have social and economic entitlements been defined within the many different political traditions found throughout the world? Clearly the expectations for economic entitlements are much different in Canada than Somalia. However, since the focus of this thesis is on humanitarian intervention, and not human rights, a somewhat theological debate about the existence of universal human rights and cultural relativism would be misplaced.[17] Instead, I will follow the lead of Jack Donnelly who writes that "for the purposes of international relations the 1948 Universal Declaration of Human Rights and the 1966 International Human Rights Covenants provide an authoritative list of internationally recognized human rights."[18]

Military operations have been justified as humanitarian intervention well before World War II. For instance, Hilaire McCoubrey has traced the existence of international

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[17]For more information see Rhoda Howard, "Cultural Absolutism and The Nostalgia for Community," *Human Rights Quarterly* 15, no.2 (May 1993): 315-338.

[18]Jack Donnelly, "Human Rights, Humanitarian Crisis, and Humanitarian Intervention," *International Journal* XLVIII, no.4 (Autumn 1993): 611-612.

humanitarian law to 313 AD.[19] More specifically, since the nineteenth century military operations intended to rescue or protect nationals in another country have been justified as humanitarian intervention. This was illustrated in 1867 when a British force of 250 ships was sent from India to Ethiopia in order to rescue two emissaries.[20] This operation was, in Simon's view, a case of unilateral humanitarian intervention. However, despite the existence of examples of humanitarian intervention such as this, the development of a codified international human rights ethos did not occur until after World War II. Indeed, a qualitative and quantitative change occurred in the treatment of human rights issues after WWII.[21]

Examining the role of the UN Security Council in the evolution of international humanitarian law, van Baarda discerns four developmental phases since the end of World

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[19]Hilaire McCoubrey, *International Humanitarian Law: The Regulation of Armed Conflicts* (Aldershot: Dartmouth Publishing Company 1990): 7.

[20]Simon, "Legality of Unilateral Humanitarian Intervention," 120.

[21]Kathryn Sikkink, "The Power of Principled Ideas: Human Rights Policies in the United States and Western Europe," in *Ideas & Foreign Policy: Beliefs, Institutions, and Political Change* ed. Judith Goldstein, and Robert Keohane (London: Cornell University Press 1993): 152-53.

War II.[22] The first took place from the end of World War II until the late 1960s. Although a number of international human rights documents were written during this period, the international community did not become explicitly involved in humanitarian operations. The second phase, during the 1970s, is a period of reluctant involvement perceived through the creation of UN Security Council Resolutions and an increase of humanitarian operations which were limited in scope. The third phase, between 1980 and 1990, witnessed a moderate increase in humanitarian operations and the establishment of 24 new UN Security Council Resolutions which affected international human rights and humanitarian intervention. Finally, since 1990 there has been a rapid expansion of both the size and scope of humanitarian intervention.

The first developmental phase of post-World War II humanitarian intervention began with the signing of the UN Charter in 1945. The UN Charter clearly identified human rights as a legitimate international issue. In the words of the Charter, the UN was determined "to affirm faith in fundamental human rights" and "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or

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[22]van Baarda, "Maintaining International Humanitarian Law."

religion."[23] However, despite the importance of identifying
human rights as a legitimate issue for international
relations, the UN Charter's vague and ambiguous wording did
not provide sufficient mechanisms to preserve universal
respect for human rights without violating Article 2(7)
which states that "Nothing contained in the present Charter
shall authorize the United Nations to intervene in matters
which are essentially within the domestic jurisdiction of
any state."[24]

As Nicholas writes, "Behind this plenitude of language
there stood no very clearly defined philosophy of
international action such as would explain how an
international agency whose members were sovereign states was
going to be able to protect the rights of individuals
dwelling within the boundaries of those same sovereign
states."[25] The UN Charter only calls for encouragement and
the respect of human rights. Even the Economic and Social
Council, which was the only UN body given authority to
advance human rights, was limited to making "recommendations

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[23]United Nations Charter, introduction and Article 2(3)
respectively. Also see Article 55(c) which restates that the UN
shall promote "universal respect for, and observance of, human
rights".

[24]United Nations Charter, Article 2(7).

[25]H.G. Nicholas, *The United Nations as a Political Institution*,
4th ed, (London: Oxford University Press 1959): 31.

for the purpose of promoting respect for, and observance of, human rights" and setting up commissions "for the promotion of human rights"[26]. As Nicholas argues, "The human rights clauses of the charter, like so many other clauses, looked backward in a `never again' spirit and drew their inspiration more from a revulsion at the past than from any very clear programme from the future."[27] Thus, the UN Charter clearly identified human rights as a legitimate international concern, but provided no means to promote, ensure, and protect universal human rights.

The other important UN human rights documents written during this first phase provided the international community with a similar dilemma. For instance, although the 1948 UN Universal Declaration of Human Rights provides an exhaustive list of universal human rights, ranging from the "right to life" to the "right to recognition everywhere as a person before the law,"[28] it does not identify the means to safeguard these rights. Similarly, the 1966 International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both of which recognized the right of self-determination, do not

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[26]United Nations Charter, Articles 62(2) and 68.

[27]Nicholas, *The United Nations,* 31.

[28]United Nations Universal Declaration of Human Rights, Article 3 and Article 6.

provide the legal means to protect international human rights.[29] Thus, although the international community recognized human rights as a legitimate international concern in theory, during this first phase there existed no international humanitarian intervention in practice.[30]

The second developmental phase, which occurred during the 1970s, witnessed an increase of international interactions which were considered, by some, to be humanitarian intervention. For instance, in 1971 India claimed that it used force during the separation of East Pakistan from West Pakistan in order to relieve the mistreatment of the inhabitants of East Pakistan. Thus, India claimed that its involvement was a form of humanitarian intervention. However, India was accused by a number of states of unnecessarily interfering in the internal affairs of Pakistan. In fact, most of those who participated in the General Assembly debate on the issue

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[29] The fact that these two covenants were drafted in 1954, but not approved until 1966, indicates the reluctance to identify human rights, particularly the right to self-determination, as a legitimate international concern. Moreover, this reluctance to recognize human rights in international law is an demonstrates the desire not to legitimize intervention in order to promote the rights outlined in the Covenants.

[30] The only operation which could be considered humanitarian during this first period is the Congo crisis which began in 1960. However, despite the deployment of Belgian troops to protect nationals abroad, it was widely accepted that the operation was motivated by enlightened self-interest and not concern for human rights.

agreed "that the situation in East Pakistan `was an internal
one to be settled by the Pakistan government, with no
external interference' and expressed support for the
principles of territorial integrity and non-interference in
the affairs of a member state."[31]

However, despite the overwhelming international
agreement that India's involvement in the separation of East
Pakistan and West Pakistan was not motivated by humanitarian
concerns and according to international law illegal, the
conflict within Pakistan did lead to UN Security Council
Resolution 307. Resolution 307 demanded that the conflicting
parties respect the Geneva Conventions which safeguard the
wounded, prisoners of war, and non-combatants, as well as
identifying the need for an international relief operation
to assist the return of refugees to their homes.[32] Thus,
the UN Security Council formally codified the need for an
international humanitarian relief operation for a conflict
which the General Assembly deemed an internal affair beyond
the scope of the UN.

A similar case is the international condemnation of
Vietnam for its assistance in overthrowing the Pol Pot

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[31]Michael   Akehurst,   "Humanitarian   Intervention,"   in
Intervention in World Politics ed. Hedley Bull (Oxford: Clarendon
Press 1984): 97.

[32]van Baarda, "Maintaning International Humanitarian Law," 138-
139.

Regime in Cambodia during 1979. "Several states mentioned

the Pol Pot regime's appalling violations of human rights,

but nevertheless said that those violations did not entitle

Vietnam to overthrow that regime."[33] Clearly the

international community at this time did not accept

unilateral intervention even if that intervention prevented

severe abuses of human rights. As stated in the 1970

Declaration on Principles of International Law concerning

Friendly Relations and Co-operation Among States in

Accordance with the Charter of the United Nations, the

General Assembly confirmed that it is:

> Convinced that the strict observance by States of
> the obligation not to intervene in the affairs of
> any other State is an essential condition to
> ensure that nations live together in peace with
> one another, since the practice of any form of
> intervention not only violates the spirit and the
> letter of the Charter, but also leads to the
> creation of situations which threaten
> international peace and security.[34]

Thus, the reaction of the international community to the

actions of India and Vietnam, in 1971 and 1979 respectively,

reconfirmed the widespread acceptance of the international

norm of non-intervention as exemplified by the Friendly

Relations and Co-operation Among States Declaration.

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[33]Akehurst, "Humanitarian Intervention," 97.

[34]United Nations Declaration on Principles of international Law concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations (1970) Preamble.

Another form of humanitarian intervention which occurred during this second phase was the use of force in order to protect nationals abroad. As noted above, states have often used intervention to protect or rescue their nationals, and such intervention occurred a number of times during the 1970s. For instance, in 1975 the United States used force in order to free the United States merchant vessel Mayageuz which was earlier captured by Cambodia. Although Cambodia, China, and Thailand denounced the use of force by the United States, accusing the operation as an act of piracy, the United states claimed that it had the right to protect and rescue nationals under international law.

Similarly, in 1976 Israel used force in order to rescue hostages from an Air France airplane which was hijacked by Palestinian terrorists.[35] The terrorists forced the plane to land at the Entebbe airport in Kampala, Uganda. Some of the passengers were released, but all Jewish passengers, most of whom were Israeli, were held hostage. Subsequently an Israeli elite force landed at Entebbe, stormed the airplane, killed all the terrorists, saved the hostages, and then immediately returned to Israel. Although the United States and Great Britain supported Israel's claim that it had the right to rescue nationals under international law, a

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[35]Simon, "Legality of Unilateral Humanitarian Intervention," 145.

number of countries - including Uganda, China, Somalia, Pakistan, the Soviet Union, Panama, India, and Cuba - denounced Israel's actions as an act of aggression against Uganda.[36] Thus, it is evident that although some countries asserted the legality of humanitarian intervention in order to protect or rescue nationals abroad, these operations did not go uncontested by all the members of the international community.

In fact, all the operations which could be classified as humanitarian during this second phase were contested by a number of states. This brings to light the existence of two very different views on humanitarian intervention. The first claims that "Any humanitarian intervention, however limited, constitutes a temporary violation of the target state's political independence and territorial integrity if it is carried out against that state's wishes."[37] This first approach is consistent with traditional interpretations of UN Charter Articles 2(4) and 2(7), and reaffirms the sanctity of the norm of non-intervention.

In contrast, a second approach asserts that "the legal community has widely accepted that the Charter does not prohibit humanitarian intervention by use of force strictly

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[36]Akehurst, "Humanitarian Intervention," 101-102.

[37]Akehurst, "Humanitarian Intervention," 105.

limited to what is necessary to save lives."[38] This school
of thought maintains that there are benign forms of
intervention, namely those whose mandate is exclusively
humanitarian, and thus, does not undermine existing
sovereign authority or disturb existing balances of power.
This second approach argues that humanitarian intervention
is consistent with the spirit of the Charter.

The tension between these two interpretations of the
legitimacy of intervention continued throughout the third
developmental phase which took place during the 1980s. This
period saw an increase of involvement in operations
considered, by some, to be humanitarian. In particular, the
United States became involved in an increasing number of
interventionist operations. For instance, in 1980 the United
States sent troops into Iran in an unsuccessful attempt to
rescue American diplomats who were being held captive.
President Carter justified the operation as a "humanitarian
mission" mandated "to safeguard American lives, to protect
American's national interest, and to reduce the tensions in
the world."[39] Another example is the 1985 interception of
an Egyptian airliner suspected of carrying the terrorist

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[38]Louis Henkin, "Use of Force: Law and U.S. Policy," in *Right
V. Might: International Law and the Use of Force* ed. Louis Henkin
et al. (New York: Council on Foreign Relations Press 1989): 41.

[39]As quoted by Akehurst, "Humanitarian Intervention," 102.

responsible for murdering Leon Klinghoffer on the cruise

liner *Achille Lauro*.[40]

Other examples of US interventions which had

humanitarian aspects include the deployment of 8000 troops

to protect 1000 Americans in Grenada in 1983[41] and the

mining of Nicaraguan harbours in 1984.[42] Moreover, in 1988

the UN General Assembly approved Resolution 43/131 "which

formally recognized the rights of civilians to international

aid and the role of nongovernmental organizations in natural

and man-made disasters."[43] However, as with the 1970s, all

of these 1980s operations were contested as illegal by

members of the international community. States claimed that

the US was not intervening solely for the promotion and

protection of human rights, but in order to forward American

interests and enlarge the American sphere of influence.

Thus, any operations which could be considered humanitarian

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[40]See Jeane J. Kirkpatrick and Allan Gerson, "The Reagan Doctrine, human Rights, and International Law," in *Right V. Might: International Law and the Use of Force* ed. Louis Henkin et al. (New York: Council on Foreign Relations Press 1989): 19-20.

[41]Simon, "Legality of Unilateral Humanitarian Intervention," 145-146.

[42]Kirkpatrick and Gerson, "The Reagan Doctrine," 19-20.

[43]Thomas G. Weiss and Jarat Chopra, "Sovereignty under Siege: From Intervention to Humanitarian Space," in *Beyond Westphalia? State Sovereignty and International Intervention* ed. Gene M. Lyons and Michael Mastanduno (Baltimore: The Johns Hopkins University Press 1995): 95.

during this third phase were still subject to suspicion and criticism of the rationale for, and legality of, the intervention.

The fourth phase, which began in 1990, has witnessed a transformation of the nature of humanitarian intervention. Not only has the size and scope of operations increased, but also the international norms and rules regarding humanitarian intervention. In fact, despite the incremental evolution of international human rights, and thus humanitarian intervention, since 1945, the metamorphosis of humanitarian intervention during the 1990s has been so extreme that it is, in many ways, a new type of mandate for military operations.[44] It is these new aspects of humanitarian intervention which have led some academics to conclude that sovereignty is being eroded.

The first change is that humanitarian operations since the end of the Cold War have been collective, not unilateral. In contrast with the Cold War, during which almost all humanitarian operations were unilateral, post-Cold War operations have consisted of military personnel contributed by more than one country and have tended to be justified under the auspices of the UN. For instance, by the time that the protection force began to withdraw from

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[44]Mandelbaum, "Reluctance to Intervene."

northern Iraq in July 1991, military personnel had been

contributed by thirteen nations including the United States,

Britain, France, Italy, Spain, Turkey, Belgium, and the

Netherlands.[45] This shift from unilateral to collective

intervention has had a great impact on the political

perception of humanitarian intervention.[46]

First, collective intervention is perceived by the

majority of the international community as more legitimate

than unilateral intervention. During the 1970s and the

1980s, all unilateral humanitarian interventions were

accused of being illegal. In cases such as Vietnam's

intervention in Cambodia in 1979, members of the

international community denounced the intervention as being

motivated by self-interest, not an interest in protecting

human rights. Unilateral intervention has historically been

interpreted by outside states as an attempt to increase

power and influence, and thus, a destabilizing endeavour

which could upset an existing balance of power.

In contrast, collective intervention "is by definition

intervention that has been authorized by some international

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[45]*New York Times*, July 13 1991, sec. L3.

[46]The following differences between unilateral and collective
intervention are best described by Evan Luard, "Collective
Intervention," in *Intervention in World Politics* ed. Hedley Bull
(Oxford: Clarendon Press 1984): 157-179.

body having widespread legitimacy."[47] Collective intervention tends to be viewed as a necessary and appropriate use of force since it is sanctioned by an interstate organization. This widespread support of collective intervention was exemplified by the voting results for UN Resolution 688, which set a precedent by identifying the consequences of Iraqi repression of the Kurds as a threat to international peace and security. Only Cuba, Yemen, and Zimbabwe voted against the Resolution, and China and India abstained.[48] The widespread support for such a potentially divisive Resolution indicates the perceived legitimacy of collective humanitarian intervention.

The second difference between collective intervention and unilateral intervention, which is closely related to the international legitimacy of the intervention, is the perceived objectives of each operation. The problem with unilateral intervention is that it is most often intended to persuade or coerce another state in order to further the intervening states own interests.[49] In contradistinction,

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[47]Luard, "Collective Intervention," 157.

[48]Weiss and Chopra, "Sovereignty under Siege," 89.

[49]See Stanley Hoffmann, "The Problem of Intervention," in *Intervention in World Politics* ed. Hedley Bull (Oxford: Clarendon Press 1984): 7-28.

collective intervention after the Cold War has been viewed as a means to the promotion and protection of the common security of the international community. "Collective intervention is undertaken for collective purposes" which might include "such aims as stabilization, the restoration of peace, the maintenance of the status quo, [and] the exclusion of great power rivalries."[50] Thus, the perceived objectives which humanitarian intervention is intended to achieve are different for unilateral operations and collective operations.

The final difference between collective and unilateral intervention is the means available to achieve the desired ends. Collective intervention, which is almost always arranged under the auspices of an international institution, is limited by the international bureaucracy. Especially when military forces are involved, the decision-making process and subsequent implementation of those decisions is much more efficient within a national bureaucracy than an inter-governmental institution. This challenge which international institutions face is exemplified by the desire of a number of UN member-states to develop a UN rapid reaction capability in order to increase the "reliability, quality,

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[50]Luard, "Collective Intervention," 158.

effectiveness, and cost-effectiveness" of UN operations.[51]

However, the bureaucratic restrictions embedded within the structure of international institutions, ranging from the existence of veto-power to limited logistic capabilities, contributes to the legitimacy of collective operations. Due to organizational limitations, international institutions tend to be much slower to react than individual states. By the time that collective operations are under way, the international community has had the opportunity to discuss and assess the situation, clearly establish the purpose of the intervention, and attain international support for the operation. Although in humanitarian crises these bureaucratic delays may contribute to the deaths of many innocent people, they result in greater international support for the operation.

A second change which post-Cold War humanitarian intervention has demonstrated is that the international community now accepts the legitimacy of collective humanitarian operations in the absence of an explicit request for assistance. The operations in northern Iraq and Somalia both occurred without permission from the sovereign governments. In fact, the Iraqi representative to the UN,

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[51]See Government of Canada, "Towards a Rapid Reaction Capability for the United Nations," *Report of the Government of Canada* (1995).

Abdul Amir al-Anbari, protested that the allied presence in northern Iraq was "blatant interference" in Iraq's internal affairs.[52] However, despite protests from Iraq, the UN maintained that the international community had a right to intervene in northern Iraq because of the international consequences of human rights abuses by the Iraqi government.

Traditionally, the UN has been extremely hesitant to intervene without an explicit invitation. However, the UN has demonstrated that it is willing to broaden the definition of threat to international security, under Chapter VII of the UN Charter, in order to legitimize humanitarian intervention without an official request. This shift towards a more interventionist UN is best traced through the development of peacekeeping.

By the end of 1992, United Nations operations in intra-state conflicts such as Somalia and the Balkans compelled both scholars and policy-makers to re-evaluate the ambitious nature of peacekeeping. Within the framework provided by *An Agenda for Peace*, member nations are now required to maintain a defence structure capable of preventative diplomacy, preventative deployment, peacemaking, peace enforcement, peace-keeping, peace building, and humanitarian missions. Moreover, adherence to the principles of

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[52]*New York Times*, April 6 1991, sec. L5.

traditional peacekeeping, such as the requirements of local consent and minimum force, are no longer viewed as sacrosanct.

The ambitious nature of this second-generation peacekeeping demonstrates the increasing desire to proactively ensure international peace and security through UN involvement. Moreover, post-Cold War peacekeeping and humanitarian intervention indicate two important internationally accepted beliefs about international relations. First, the international community accepts that collective intervention under the auspices of the UN is legitimate. Second, intra-state conflict threatens the international community's common security. These two beliefs logically lead to the increased interventionism of the UN since 1990.

Thus, humanitarian intervention since the end of the Cold War demonstrates two new aspects to international relations. First, in contrast to relations between 1945-1990, humanitarian intervention since 1991 has been collective, not unilateral. As such, these post-Cold War operations possess an aura of legitimacy, and have different goals and use alternative means to achieve desired objectives than unilateral interventions. Second, the international community has accepted that the consequences of intra-state conflict threatens international peace and

security. Consequently, humanitarian intervention in the affairs of a state which does not request assistance has become legitimate under Chapter VII of the UN Charter.

It is changes such as these which have led Lyons and Mastanduno to ask if the international system is moving "beyond Westphalia."[53] Is the organization of the international system associated with the Treaty of Westphalia, particularly the foundation of sovereign authority, being replaced by a new form of political organization? When the operations which supposedly mark the end of sovereignty are examined, it becomes evident that the answer to this question is no. Sovereignty is still the fundamental organizing principle of international relations. However, before one can adequately assess the continuation of sovereignty into the twenty-first century, the meanings ascribed to the concept, in both theory and practice, must first be examined and understood.

Sovereignty Defined:

Weiss and Chopra describe sovereignty as "a shibboleth whose debate proves divisive."[54] Using the word

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[53]Gene M. Lyons and Michael Mastanduno, *Beyond Westphalia? State Sovereignty and International Intervention* (Baltimore: The Johns Hopkins University Press 1995.)

[54]Weiss and Chopra, "Sovereignty under Siege," 87.

shibboleth,[55] which refers to "a custom, phrase, or use of language that acts as a test of belonging to, or as a stumbling block to becoming a member of, a particular social class, profession, etc.,"[56] subtly indicates two important aspects of the concept of sovereignty. First, the word shibboleth, with its Old Testament origins, suggests that the concept of sovereignty is by nature theological. Much like the belief in a God, sovereignty requires a leap of faith. Sovereignty cannot be physically located or scientifically studied because it is a set of beliefs, ideas, norms, and tacit institutions which, when assumed to exist, provide an organizational structure for the international system.

Second, by using the term shibboleth Weiss and Chopra highlight the consequences of an international system organized around the assumed existence of sovereign authority. The inter-state community is much like a club which demands that members meet a certain set of requirements in order to become a member. There exist a set

[55]The word shibboleth has been used to describe sovereignty by other writers. For instance, Alan James, *Sovereign Statehood: The Basis of International Society* (London: Allen & Unwin 1986) quotes P.A. Reynolds, *The Times*, February 1971, who in describing sovereignty wrote: "let not the issue be fuddled by shibboleths and phantasms," p.3.

[56]Collins English Dictionary, 3rd ed., (Glasgow: Harper Collins Publishers, 1991): 1426.

of conditions, which are in many ways nothing more then customs and traditions that have evolved since the seventeenth century, required for a territorial entity to constitute a state. Thus, much like the Gileadites used the shibboleth to identify Ephraimites,[57] sovereignty is used to identify members of the international community of states.

The concept of sovereignty has become central to the study of international relations. One cannot examine the relations between states, or in fact any relations which are affected by the authority of a state, without assuming the presence of international sovereign authority. Our present-day conception of the state implicitly assumes the existence of sovereign authority. However, the meaning of sovereignty, and thus the definition of what constitutes a sovereign state, is not static. In fact, the meaning(s) of sovereignty have changed and evolved since the Middle Ages.[58]

Although sovereign-like arrangements of political power can be traced back to the early Greeks,[59] the term sovereignty was first used in Jean Bodin's *Six livres de la*

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[57]Judges 12:1-7.

[58]For a detailed account of the evolution of sovereignty see Jens Bartelson, *A Genealogy of Sovereignty* (Cambridge: Cambridge University Press 1995).

[59]F.H. Hinsley, *Sovereignty* (Cambridge: Cambridge University Press 1986): 27-45.

république of 1576. Inspired by the religious wars,
particularly in France, Bodin was concerned with maintaining
the stability and order of the political community.[60]
According to Bodin, the existence of a legally recognized
sovereign power which is the primary source of law, but is
not subject to that law, is a necessary condition for the
achievement of social harmony. Thus, as Bodin writes, "it is
the distinguishing mark of the sovereign that he cannot in
any way be subject to the laws of another, for it is he who
makes law for the subjects, abrogates law already made, and
amends obsolete law."[61]

Bodin's theory of sovereignty provided a theoretical
justification for the absolute power of the monarchy. Bodin
assumed that the best political community is characterized
by the existence of a sovereign monarch who rules
legitimately. Hinsley relates Bodin's conception of
sovereignty by writing that:

> the sovereign power resided in a king but in which
> the royal wielder of sovereignty would give proper
> recognition in the common good to the rights of
> his subjects and to the customary rules and basic
> laws of the body politics, in which accordingly
> there would be accepted limits on the royal power,
> and in which accordingly the sovereignty would be

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[60]Jean Bodin, *Six Books of the Commonwealth*, (1576), trans. M.J. Tooley (Oxford: Basil Blackwell.) In particular, see Book I Chapter VIII and X.

[61]Bodin, *Six Books of the Commonwealth* (Book I Chapter VIII) 28.

exercised through institutions which knitted the government and the community together.[62]

Thus, for Bodin, sovereignty was to be embodied within the existence of a monarch whose legitimate rule would ensure order within the political community. Particularly by the seventeenth century, the existence of sovereignty became implicit within the divine right of Kings. It was accepted that the King possessed sovereign power. Society was subordinate to the law of the King, and the King was responsible only to God. As Morgenthau writes, "He [the King] was above the law, *legibus solutus*."[63]

Nearly 75 years later after Bodin wrote about sovereignty, the 1648 Treaty of Westphalia, which marked the end of the Thirty Years War, established a system of geographically and politically distinct entities (states), each characterized by centralized sovereign authority. Europe was divided into clearly demarcated territorial states, each led by a sovereign who possessed absolute power. Moreover, this original organization of the international society of states established the initial international norms, rules and decision-making procedures associated with sovereignty. Thus, by the seventeenth

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[62]Hinsley, *Sovereignty*, 124.

[63]Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace*, 4th ed., (New York: Alfred A. Knopf 1966): 300.

century sovereigns acknowledged the norm of non-intervention, the rule of the equality of states, and the rights of states to domestic jurisdiction.[64] Indeed, there existed no authority higher then the King in each state, and no authority higher then the state within the international realm.

Since the creation of the international community of states in the seventeenth century, international relations has been radically transformed. For instance, sovereignty is no longer associated solely with a king, the number of legally recognized states has proliferated, and the requirements for sovereign statehood are much different. Clearly the meaning of sovereignty in 1648 and 1996 is not identical. Over the last 350 years, the meanings, responsibilities, and consequences of sovereignty have been constructed and reconstructed a number of times. As Rosenau writes:

> However the concept of sovereignty may be approached, the task is bound to be difficult. Its uses can be traced back to Aristotle, but its formulation in subsequent eras has varied widely. And many of the formulations have been marked by ambiguity, contradiction, and the lack of a consensual perspective.[65]

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[64]Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press 1977): 36-37.

[65]James N. Rosenau, "Sovereignty in a Turbulent World" in *Beyond Westphalia? State Sovereignty and International Intervention* ed. Gene M. Lyons and Michael Mastanduno (Baltimore: The Johns

The concept of sovereignty has become internationally integrated into numerous aspects of modern life. For instance, the term is used to historically describe the divine right of kings beginning in the sixteenth century, to refer to a legal condition developed through international law, to provide a governance structure intended to regulate the international behaviour of states, and to define the community within particular territorial boundaries.

Given the myriad uses of the concept of sovereignty, it is difficult to provide a single monolithic definition. However, the meanings of sovereignty can be clarified by examining its present-day uses in both practice and theory. The meanings of sovereignty will be explained by exploring two questions. First, what constitutes a sovereign state? By looking at the characteristics which all states are required to possess, in practice, in order to become a member of the international community of states, the de facto and de jure meanings of sovereignty will be revealed.[66] Second, how have international relations theorists described and

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Hopkins University Press 1995): 192.

[66]Fowler and Bunck, *Law, Power, and the Sovereign State: The Evolution and Application of the Concept of Sovereignty* (Pennsylvania: The Pennsylvania University Press 1995) use the de jure and de facto separation in order to define sovereignty. However, Bartelson, *Genealogy of Sovereignty* and Alan James *Sovereign Statehood* both describe similar aspects of sovereignty.

interpreted the meanings of sovereignty? It becomes evident
that there are two schools of thought: an absolutist
approach and a relativist approach. The exploration of these
two broad questions will provide an explanatory framework
which can then be used to examine the case-studies of Iraq
and Somalia.

As with the concept of sovereignty, the composition of
the modern state is contentious. Although every sovereign
state does possess empirical attributes such as a
population, territory, and government structure, the
elements which permit a group to achieve the status of
sovereign statehood are intangible. Even the required
empirical attributes are not clearly defined since there are
sovereign states with a variety of populations and size of
territory. Moreover, the type of government does not have an
impact on the existence of sovereignty since there are a
variety of different government structures within the
international community of sovereign states. Thus, although
all sovereign states possess a clearly demarcated territory
in which there exists a population and a recognizable
government, the size of the population and territory, and
the type of government does not have an impact on the
attainment of sovereign statehood. Clearly there are
intangible elements which contribute to the realization of
sovereign status.

The first intangible element which sovereign states must possess is de facto autonomy of both its internal and external affairs. As Organski writes:

> Sovereign power is supreme power, and within its territorial jurisdiction, the national government is sovereign, since it controls more power than any other group or individual. The nation is also sovereign in its dealings with other nations, since it recognizes no authority above itself.[67]

Thus, there is both an internal and external element required to attain sovereignty.

The existence of internal sovereignty, which assumes the preeminence of a sovereign power, dates back to monarchical sovereignty of the sixteenth century. For instance, Bodin asserted that the political community ruled by a king must recognize and obey the sovereign power of that king. However, with the emergence of representative government, the internal supremacy of the sovereign, traditionally embodied in the King, was no longer clear-cut. As Hinsley argues, there were changes caused by "the growth of representation of the People in an assembly and the widespread acceptance of the notion that the relations between the community and its Ruler were governed by a contract of rulership in which the original powers of the

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[67]A.F.K. Organski, *World Politics*, 2nd ed., (New York: Alfred A. Knopf 1958): 427.

People had been transferred to the Ruler."[68]

This shift from monarchical sovereignty to popular sovereignty can be traced in many of the writings of seventeenth and eighteenth century political theorists. For instance, in 1651 Thomas Hobbes discussed the possibility of a sovereign institution of the state (commonwealth by institution) instead of monarchical sovereignty.[69] One hundred years later, Jean-Jacques Rousseau dismissed monarchical sovereignty by writing that "sovereignty, being nothing more than the exercise of the general will, can never be alienated; and that the sovereign, which is simply a collective being, cannot be represented by anyone but itself - power may be delegated, but the will cannot be."[70]

However, despite this shift from monarchical to popular sovereignty, it is evident that even in present-day political arrangements, the sovereign power of the state does not always reside in the general will of the people. In fact, as Barry Buzan has documented, at times the apparatus of the state actually threatens the security of the members of the political community, violating their rights, and in

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[68]Hinsley, *Sovereignty,* 131.

[69]Thomas Hobbes, *Leviathan: Parts I and II* (1651; New York: The Liberal Arts Press, 1958): Part II Chapters XVIII and XIX.

[70]Jean-Jacques Rousseau, *The Social Contract,* trans. Maurice Cranston, (1762; London: Penguin Books, 1968): 69.

the process creating massive insecurity.[71] Nevertheless,
the important detail is that in order for a territorial
entity to attain the status of sovereign statehood, that
entity must be the highest authority within the community.
As Bull writes, "internal sovereignty...means supremacy over
all other authorities within that territory and
population."[72]

Yet, particularly during the twentieth century, a
number of international relations scholars suggested that
internal sovereignty requires supremacy and legitimacy. For
instance, Aron wrote that:

> Sovereignty belongs to the authority that is both
> *legitimate* and *supreme*. Thus the search for
> sovereignty is, at the same time or alternately,
> the *search for conditions in which an authority is
> legitimate and of the place, men and institutions
> in which it resides.*[73]

The legitimacy of the state apparatus, and thus the existing
governance of structures, has in many cases come to be a
necessary condition for sovereign statehood. For instance,
the requirement for legitimate internal sovereignty became a
political reality during the decolonization process of the

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[71]Barry Buzan, *People, States, and Fear: The National Security
Problem in International Relations* (Chapel Hill: The University of
North Carolina Press 1983).

[72]Bull, *The Anarchical Society*, p.8.

[73]As quoted by Fowler and Bunck, *Law, Power, and the Sovereign
State*, p.38.

1960s.[74]

Although the necessity for legitimacy is, in most cases, a requirement for internal sovereignty, it is important to recognize that some states have the ability to maintain internal supremacy without legitimate governance structures. For instance, governance structures in a country such as Algeria have historically not possessed the popular legitimacy of a country such as the United States. However, in these cases, sufficient power capabilities and the political will to internationally assert and enforce internal sovereignty substitute for legitimacy.

In addition to internal sovereignty, sovereign states must possess de facto external sovereignty. In contrast to internal sovereignty which requires internal supremacy and (in most cases) legitimate governance structures, external sovereignty connotes the ability to internationally assert independence. In this respect, "Independence signifies the particular aspect of the supreme authority of the individual nation which consists in the exclusion of the authority of any other nation."[75].

The situation of the Kurds in Iraq, Turkey and Iran

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[74]For a good examination of decolonization and sovereignty see Robert Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge University Press 1990).

[75]Morgenthau, *Politics Among Nations*, 302.

illustrates the need for de facto external independence in order to achieve sovereign statehood. Since the partition of the Ottoman Empire after World War I, the Kurdish population has fought for the rights to a sovereign Kurdish state. Arguably, the Kurds possess all the requisites for internal sovereignty: they have an historical claim to a clearly demarcated territory (Kurdistan), and they have developed internal representation structures which constitute both a supreme and legitimate internal authority within the community. However, the Kurds do not have the ability to assert their independence internationally. More specifically, the Kurds do not have the ability to assert their independence on Iraq, Turkey and Iran. Particularly in Iraq, the Kurdish experience provides an example of a group which is unable to achieve de facto external independence and a situation in which a government that is not perceived as legitimate, Iraq, maintains internal sovereignty through the use of force.

In addition to these de facto requirements for sovereign status, there also exists a juridical aspect to sovereignty. In order to become a sovereign state, de jure autonomy must be achieved. De jure autonomy is achieved through recognition by the international community. In order to be a sovereign state, that state must be acknowledged and respected as an equal under international law. Since the

creation of the UN, one way de jure sovereign status has been conferred is through formal recognition by the UN General Assembly. Another means by which a territorial entity may attain de jure sovereignty is through diplomatic recognition. As such, once a state is recognized by the international community, through either the UN framework or the formal mechanism of diplomatic recognition, then that state is considered equal under international law. As James writes "external sovereignty" is "the claim to be politically and juridically independent of any superior."[76]

Thus, the de facto elements of sovereignty can be divided into internal and external requirements. Internal sovereignty requires the existence of a recognizable governance structure which is the highest authority within clearly demarcated territorial boundaries. Moreover, in most cases internal sovereignty is also contingent on the legitimacy of existing governance structures. De facto external sovereignty alludes to the required ability to internationally assert independence; claims of independence are meaningless unless they can be enforced. Finally, sovereign status is also contingent upon de jure autonomy attained through formal recognition by the international community.

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[76]James, *Sovereign Statehood*, p.19.

Although the de facto and de jure elements of sovereign statehood illustrate what constitutes a state, the identification of these requirements does not explain the traits ascribed to sovereign states in theory. For instance, do sovereign states have responsibilities and obligations to the international community? Do sovereign states have responsibilities and obligations to their populations? Do all sovereign states have the same responsibilities and obligations? In order to answer such questions, one must examine the ways in which sovereignty has been described and explained by international relations theorists. In doing this, it becomes apparent that there exist two schools of thought on sovereignty.

Fowler and Bunck describe these two schools of thought as the "chunk" and "basket" theories of sovereignty.[77] The chunk approach assumes that sovereign rights and duties are exactly the same for every sovereign state. As Fowler and Bunck write:

> From this perspective, one might think of
> sovereignty as something like a chunk of stone,
> perhaps a cobblestone. Every state has one of
> these cobblestones, and each is exactly like the

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[77]Michael Ross Fowler and Julie Marie Bunck, "The Chunk and Basket Theories of Sovereignty" in *Community, Diversity, and a New World Order: Essays in Honor of Inis L. Claude, Jr.*, ed. Kenneth W. Thompson (New York: University Press of America, 1994): 137-144. It should be noted that throughout the remander of my thesis, I will encorporate the terms "chunk" and "basket" and that these terms were first use by Fowler and Bunck.

next. The chunk of sovereignty accorded to a state cannot normally be augmented. Neither can it be chipped away.[78]

This conceptualization of sovereignty has been commonly held by international relations theorists, particularly realists, since the end of World War II. This school of thought asserts that sovereignty either exists or does not exist; it is not possible to possess more or less sovereignty. Thus, sovereignty cannot be eroded because it is an absolute condition, not a relative quality.

Alan James exemplifies the chunk approach by writing that sovereignty is a "legal, absolute, and unitary condition."[79] A sovereign state is legal because it is not subordinate to another sovereign power under international law. Once a state achieves de jure sovereignty through the attainment of formal recognition by the international community, the state then becomes the legal expression of the autonomy of a particular territory and the people within that territory. Sovereignty is absolute because it either exists or it does not. As Alan James writes, "Just as men may differ in strength, wealth and influence but are all equally and absolutely men, so sovereign states, big,

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[78]Fowler and Bunck, "The Chunk and Basket Theories," p.138.

[79]James, *Sovereign Statehood,* 39-57.

little, and all, are equally and absolutely sovereign."[80]

Finally, sovereign statehood alludes to a unitary condition.

Through the possession of both de facto internal and de

facto external sovereignty, a sovereign state is assured

that it is the highest authority within its territorial

boundaries and subordinate to no international superior.

Thus, as Fowler and Bunck explain, "under the chunk theory

sovereign status in international law is viewed simply as

granting each state the same sovereign rights and

duties."[81]

In contrast, the basket approach assumes that

sovereignty is not an absolute condition, but rather, a

relative quality. Fowler and Bunck note that adherents to

this second approach see sovereignty:

> not in the absolute terms of a monolithic chunk
> but rather in variable terms, as a basket of
> attributes and corresponding rights and duties.
> While every state has a basket, the contents are
> by no means the same. A great power will have more
> sovereign attributes, and thus be more nearly de
> facto independent, than will a neutral or
> satellite state.[82]

Thus, this second school of thought asserts that sovereignty

is not a condition which either exists or does not exist.

Each state possesses a different degree of sovereignty since

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[80]James, *Sovereign Statehood*, p.49.

[81]Fowler and Bunck, *Law, Power, and the Sovereign State*, p.69.

[82]Fowler and Bunck. *Law, Power, and the Sovereign State*, p.70.

no two states have identical power structures. Each state can maintain and enforce its de facto independence to a different degree.

For instance, Robert Jackson suggests that decolonization during the 1960s led to the emergence of "quasi-states." Jackson suggests that although Third World states (particularly those which achieved statehood through decolonization) possess de jure external autonomy, they do not have the resources to ensure an acceptable quality of life for its citizens, and thus, do not have the ability to maintain de facto internal sovereignty.[83] This approach, which assumes that the provision of a sufficient quality of life is a requirement for internal sovereignty, broadens the meaning of sovereignty from a formal juridical situation to a substantive condition. Thus, as Jackson writes, "What was once considered a *prima facie* ground for denying membership in international society is now regarded as a claim to additional international support and assistance: sovereignty plus."[84]

Conclusion

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[83]Jackson, *Quasi-States,* 26-31, uses the terms "negative sovereignty" and "positive sovereignty" instead of internal sovereignty and external sovereignty.

[84]Jackson, *Quasi-States,* 31.

Jackson's identification of a substantive side to sovereignty is indicative of a shift in the perception of universal human rights since the end of World War II. The international community is increasingly recognizing that individuals possess rights not merely as citizens, but rather, as human beings. This perception became a political reality during the 1990s through UN sanctioned operations. Although the hesitation to become involved in Haiti signalled a reluctance to intervene in all humanitarian situations, the involvement of the international community in Iraq and Somalia does demonstrate the political reality of a substantive aspect to sovereignty.[85]

The significance which these two approaches, the chunk approach and the basket approach, have on the analysis of humanitarian intervention and state sovereignty becomes critical when examining situations, such as Iraq and Somalia, in which the inviolability of territorial integrity is not respected. The first school of thought, the chunk approach, is exemplified by Morgenthau when he writes that the "way in which sovereignty can be lost consists in the loss of what we have called the `impenetrability' of a

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[85]For a good overview of the increase in humanitarian intervention during the 1990s, see Kelly Kate Pease and David P. Forsythe, "Human Rights, Humanitarian Intervention, and World Politics," *Human Rights Quarterly* 15, no.2 (1993): 290-314.

nation's territory."[86] If a state is unable to enforce its will externally, and thus not prevent an outside force from imposing internal restrictions or laws, then that state can no longer be considered a sovereign entity. As such, according to this absolutist approach, Iraq and Somalia would not be considered sovereign entities since an international force imposed certain restrictions within their territorial boundaries.

The basket approach to sovereignty asserts that sovereign statehood is no longer contingent on the ability to protect and enforce territorial integrity. Sovereignty is only absolute in terms of the possession of de jure sovereignty; the territorial entity is either recognized as a sovereign entity by other states or is not recognized as a sovereign entity. However, although de jure autonomy is absolute, the ability to assert de facto independence is relative. Clearly some states have a greater ability to internationally assert and protect their independence than other less powerful states. Thus, according to the basket approach, sovereignty is not contingent only upon territorial integrity, but rather, upon a spectrum of criteria which indicate the sovereign strength of a state. As Fowler and Bunck write, "some states can be more

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[86]Morgenthau, *Politics Among Nations*, p.305.

sovereign than others."[87]

Although traditionally territorial integrity has been synonymous with sovereignty, the political reality of the 1990s indicates a conceptual shift. Prior to UN operations in northern Iraq, the international community condemned all intervention as a breach of UN Charter Article 2(7). The UN explicitly banned interference within the domestic affairs of a member-nation. However, by identifying the repression of civilians as a "threat to international peace and security", the UN distinguished situations where intervention is legitimate. Yet, humanitarian intervention in Iraq and Somalia did not threaten the sovereign status of either country. In fact, the following case-studies will demonstrate that the sovereign status of Iraq and Somalia was never doubted by the international community. Consequently, these two cases illustrate a conceptual shift by the international community, more specifically the UN, from an absolutist definition to a relational definition of sovereignty.

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[87]Fowler and Bunck, *Law, Power, and the Sovereign State*, p.70.

Chapter 2
Humanitarian Intervention in Iraq

In the aftermath of the Gulf War, collective
humanitarian intervention without the consent of the host
state was eventually justified, and put into practice, by
the UN. UN Security Council Resolution 688 and the
subsequent humanitarian operation in northern Iraq indicated
"the rising consensus, especially in the West, that priority
should be accorded to humanitarian considerations over
institutional principles and structures."[88] Clearly the
operations in northern Iraq set a precedent by linking human
rights abuses, which have traditionally been considered a
"domestic affair," with international peace and security.

Although there is a general consensus that humanitarian
intervention in northern Iraq set an important precedent for
international relations,[89] there is disagreement as to the
meaning and long-term impact of this precedent. This
disagreement about the precedent set in northern Iraq can be
divided into differing opinions about two distinct aspects

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[88]Elizabeth Riddell-Dixon, "The United Nations after the Gulf
War," *International Journal* XLIX, no.2 (Spring 1994): 260.

[89]For instance, see Steven John Stedman, "The New
Interventionists," *Foreign Affairs* 72, no.1 (1993): 6; Fred
Halliday, "The Gulf War 1990-1991 and the study of international
relations," *Review of International Studies* 20 (1994): 118.

of the precedent. First, it has been suggested that the success of the humanitarian operation in northern Iraq will lead to a proliferation of similar operations undertaken by the international community under the auspices of the UN. However, as Riddell-Dixon writes:

> First, there just are not sufficient resources to permit intervention in every case where humanitarian concerns are at stake. Second, there is the problem of motivation: the West had particular reasons for urging the Security Council to take action to protect the Kurds, which may not exist in other cases of gross human misery.[90]

The brief history of humanitarian intervention since the end of Operation Provide Comfort would support Riddell-Dixon's perspective. Indeed, with the exception of Somalia, there has been a reluctance to intervene.[91] As Stedman writes, "while UN Resolution 688 established legal precedent, its practical relevance may be moot."[92]

Second, it has been suggested that the humanitarian operation in northern Iraq "broke new ground in linking humanitarianism with international peace and security and in giving the former priority over respect for state

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[90]Riddell-Dixon, "The United Nations," 263.

[91]Michael Mandelbaum, "The Reluctance to Intervene," *Foreign Policy* no.95 (1994): 3-22.

[92]Stedman, "The New Interventionists," 7.

sovereignty."[93] This perspective suggests that Resolution 688 and the subsequent operation set a precedent which transposed human rights abuses from the domestic realm to the international realm, and in doing so, undermined the sovereignty of Iraq. As Halliday suggests, "Sovereignty has, however, been challenged in another way by this war, namely in the intervention, or safe haven policy, introduced after the war, which is an infringement of Iraq's sovereignty and one that sets precedents for other countries."[94] Thus, according to scholars such as Halliday, in the post-Cold War era the sovereignty of states is no longer sacrosanct when severe human rights abuses exist within that state's territorial boundaries.

In fact, when one examines the actual events of the humanitarian operation in northern Iraq, which took place from the establishment of UN Security Council Resolution 688 on 5 April 1991 to the withdrawal of security forces from northern Iraq in early July 1991, it will become evident that the sovereignty of Iraq was never in question. However, most people uncritically accept that humanitarian intervention necessarily undermines and erodes the sovereign power of the host state, indicating how deeply rooted the

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[93]Riddell-Dixon, "The United Nations," 262.

[94]Halliday, "The Gulf War," 123-124.

chunk approach to sovereignty has become. When one examines the practical reality of the safe havens in northern Iraq, one can conclude that sovereignty now resembles a "basket" more than a "chunk."

The humanitarian actions which occurred between 5 April 1991 and 15 July 1991 must be set in the context of the Gulf War.[95] In particular, the rapid development of UN Security Council Resolutions and the effective implementation of those Resolutions by the international community indicates how the end of the Cold War beneficially affected the ability of the UN to provide the collective security it was originally intended to ensure. It is this renewed ability of the Security Council, no longer constrained by a bipolar stalemate, which fostered a security environment capable of producing the subsequent humanitarian intervention.

On 2 August 1990, the UN General Assembly accepted Resolution 660, condemning Iraq for its military invasion of Kuwait earlier that day. Acting under Articles 39 and 40 of the UN Charter, Resolution 660 demanded "that Iraq withdraw immediately and unconditionally all its forces to the

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[95]For detailed accounts of the Gulf War, see Lawrence Freedman and Efraim Karsh, *The Gulf Conflict 1990-1991: Diplomacy and War in the New World Order* (Princeton: Princeton University Press, 1993); and Ken Matthews, *The Gulf Conflict and International Relations* (London: Routledge, 1993).

positions in which they were located on 1 August 1990."[96]
Three days later, UN Security Council Resolution 661 also
called for the restoration of Kuwait's "sovereignty,
independence and territorial integrity" and imposed
mandatory economic sanctions justified under Chapter VII of
the UN Charter.

On 25 August 1990, the economic sanctions imposed by
Resolution 661 were strengthened by UN Security Council
Resolution 665, which called upon member states to deploy
maritime forces in order to enforce economic sanctions on
Iraq. Under Chapter VII of the UN Charter, the UN Security
Council authorized member states to "halt all inward and
outward maritime shipping in order to inspect and verify
their cargoes and destinations."[97] Thus, in less than one
month, the Security Council provided the mandate for member
states to use military capabilities in order to enforce the
economic sanctions outlined in Resolution 661.

In fact, between 2 August 1990 and 29 November 1990,
the UN Security Council adopted 10 pertinent Resolutions. In
addition to condemning Iraq for violating Kuwait's
territorial integrity and imposing economic sanctions on

[96]United Nations Security Council, *Resolution 660*, 2 August
1990.

[97]United Nations Security Council, *Resolution 665*, 25 August
1990.

Iraq, the UN Security Council denounced Iraq's closure of diplomatic and consular missions in Kuwait (Resolution 664), identified the need for the delivery of humanitarian requirements to both Kuwait and Iraq (Resolution 666), and demanded the release of abducted foreign nationals (Resolution 667). However, between 2 August 1990 and 29 November 1990 all UN Security Council Resolutions were limited to Article 41 of the UN Charter, which means that the mandate justified only "measures not involving the use of armed force."[98]

On 29 November 1990, the UN Security Council established Resolution 678 which demanded that Iraq comply with all UN demands, including the withdrawal from Kuwait, by 15 January 1991. Resolution 678 authorized member states, if Iraq did not comply by 15 January 1991, "to use all necessary means to uphold and implement Resolution 660 (1990) and all subsequent relevant Resolutions and to restore international peace and security in the area."[99] Thus, Resolution 678 was a threat by the UN to use military force under Article 42 of the Charter if Iraq did not comply with the conditions outlined by the ten pertinent UN Security Council Resolutions.

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[98]United Nations, *Charter*, Article 41.

[99]United Nations Security Council, *Resolution 678*, 29 November 1990.

On 16 January 1991, after Iraq did not comply with the demands of relevant Resolutions between 660 and 677, the allied forces embarked on what Freedman and Karsh call a "war by appointment."[100] The war, which although primarily fought through strategic air strikes, used allied air, naval, and ground forces, was over in a short period of time. A cease-fire was announced on 27 February 1991, and the war was formally ended when Iraqi representatives agreed to all the conditions outlined in UN Security Council Resolution 686 on 2 March 1991. Thus, under Resolution 686, Iraq agreed to "accept liability under international law for any loss, damage, or injury arising in regard to Kuwait, to immediately release all prisoners of war and detained nationals, to return all seized Kuwaiti property, and to provide information and assistance in identifying all mines, booby traps and other explosives in Kuwait."[101]

Although there was, at this time, no formal discussion of the need for humanitarian intervention in Iraq, one day after Resolution 686, the President of the Security Council declared that Iraq and Kuwait would require humanitarian assistance, particularly infant formula and water purification mechanisms. At this time, the use of military

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[100]Freedman and Karsh, "The Gulf Conflict," 299.

[101]United Nations Security Council, *Resolution 686*, 2 March 1991.

force in order to ensure the delivery and distribution of humanitarian aid (humanitarian intervention) was not discussed. On 3 March 1991 the Security Council called upon the UN to "act promptly on requests submitted to it for humanitarian assistance."[102] In doing so, the UN acknowledged the need for humanitarian support in the aftermath of the Gulf War.

On 3 April 1991, the UN Security Council adopted Resolution 687, which expanded the terms of Resolution 686. Specifically, Resolution 687 provided the mandate for "the immediate deployment of a UN observer unit to monitor a demilitarized zone between Iraq and Kuwait, reaffirmed Iraq's responsibility to cooperate with the International Committee of the Red Cross's search for Kuwaiti and third country nationals still unaccounted for, and determined that Iraq must unconditionally accept the destruction, removal, or rendering harmless of all chemical weapons, biological weapons, and ballistic missiles with a range greater than 150 kilometres."[103] Two days later, 5 April 1991, the UN established the United Nations Iraq-Kuwait Observation Mission (UNIKOM), which began to monitor a demilitarized

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[102]United Nations, *Note by the President of the Security Council*, 3 March 1991.

[103]United Nations Security Council, *Resolution 687*, 3 April 1991.

zone that extended 5 km into Kuwait and 10 km into Iraq.

Thus, prior to humanitarian intervention by members of the

international community in northern Iraq, there was an

international military presence in southern Iraq. The UN had

already legitized the presence of military personnel in Iraq

without an invitation by the government in Baghdad.

Although the international community did not become

involved in the humanitarian protection of Iraqi Kurds until

early April, conflict between the Iraqi government and both

Kurds in the north and Shiite Muslims in the south began

almost immediately after the Gulf War. Both the Shiites and

the Kurds saw the weakness of the post-war Iraqi military as

an opportunity to rebel against the existing government.

Immediately following the Gulf War, the Iraqi government was

required to use military force in order to repress

insurrection on two separate fronts.

Because the Iraqi government was forced to deploy

forces to both northern and southern Iraq in order to quell

the rebellions, the Kurds were initially successful in

achieving control of the Kurdish region of Iraq. For

instance, on 14 March 1991 the Radio Voice of Revolutionary

Iraq claimed that 70 percent of the Basra province was out

of Iraqi government control.[104] Moreover, the Kurdish

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[104]*New York Times*, 15 March 1991, sec. L8.

rebels also seized control of Zakho, a city on the Turkish border, and thus controlled much of the Dohuk province. However, these initial military successes by the Kurds were a result of the Iraqi government's preoccupation with repressing the Shiites in the South.

At this time there already was international disagreement over the Iraqi government's use of violence to suppress the uprisings. For instance, on 15 March 1991 the Bush administration denounced the Iraqi government's use of helicopter gunships to battle the Shiites and Kurds.[105] Specifically, the Bush administration contended that the use of helicopter gunships violated the conditions set by UN Security Council Resolution 686, which called for the immediate cessation of "missile attacks and flights of combat aircrafts."[106] However, by contrast, French President François Mitterrand said that "Iraq did not have a `free hand' to wage war to restore order, but that the revolt was an internal matter for Baghdad."[107] This shows that there was little agreement about whether the international community had the right to intervene in the counter-insurrection measures taken by the Iraqi military.

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[105]*New York Times*, 16 March 1991, sec. A12.

[106]United Nations Security Council, *Resolution 686*, 2 March 1991.

[107]*New York Times*, 16 March 1991, sec. A12.

Although the international community initially chose
not to intervene in Iraq, the US troops monitoring the Iraq-
Kuwait border continued to report atrocities described by
Shiite refugees seeking protection in Kuwait. For instance,
on 28 March 1991, Shiite refugees at a US Army-run camp
claimed that members of the resistance were hung from
electric poles, bodies were dragged behind tanks, women and
children were run over by tanks, and doctors who treated the
wounded were executed.[108] Moreover, a doctor at the US Army
refugee camp treated refugees for unusual burns which
appeared to be caused by chemical warfare. This suggests
that the member states, particularly the US, were made aware
of the human rights abuses occurring within Iraq.

Although American officials expressed concern over the
reported atrocities, on 1 April 1991 the Bush adminstration
reconfirmed its policy of not intervening in the Iraqi
rebellion. It announced that 20,000 US troops would be
withdrawn from southern Iraq by the middle of April. US
officials stated that "Iraq's military has been so
devastated by the Persian Gulf war that there is no longer a
need for the big American deployment in the region."[109]
Thus, just five days before the adoption of UN Security

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[108]*New York Times*, 28 March 1991, sec. A1, sec. A18.

[109]*New York Times*, 1 April 1991, sec. A1.

Council Resolution 688, which condemned Iraq for its treatment of the Kurds, the allied forces made it clear that they had no interest in intervening on behalf of either the Shiites or the Kurds.

By 1 April 1991, the Iraqi military had almost completely crushed the Shiite resistance in the south and was retaking northern cities from Kurdish rebels after shifting military personnel from the south to the north. US officials on the border of Iraq and Kuwait estimated that 55,000 refugees had already fled from southern Iraq.[110] In the north, hundreds of thousands of Kurds began to retreat from northern cities to the snowbound northern mountains. Even those Kurds who were not forced to leave their cities by Iraqi troops retreated to the mountains because they feared the Iraqi government's retribution.

The dilemma which the Kurds faced was that the bordering countries of Iran and Turkey were apprehensive about opening their frontiers because the existing Kurdish populations posed a considerable political problem for the governments in Ankara and Tehran. As Cowell writes:

> none of the nations sees an interest in political gains for the Kurds that would spill over to Kurds elsewhere. Turkey, in particular, is fearful that Kurdish gains in Iraq might inspire further unrest

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[110]*New York Times*, 2 April 1991, sec. A1.

amongst its own eight million Kurds.[111]

Thus, the Kurds who fled their homes in northern Iraq for the safety of the mountains could not return home out of fear of Iraqi repression, but were not allowed to enter into Turkey or Iran.[112] The regional character of the Kurdish predicament exacerbated the humanitarian crisis.

On the day that the final draft of the cease-fire agreement, UN Security Council Resolution 687, was established, a number of countries voiced their concerns about the Iraqi treatment of the Kurds. Both France and Turkey requested that the UN intervene in order to curtail Iraq's repression of the Kurdish and Shiite populations. Daniel Bernard, a spokesman for the French Foreign Ministry, argued that "It is essential that the just claims of the Kurdish community, which wishes to express its identity within the Iraqi state be fully recognized."[113] However, the UN Security Council made it clear that the plight of the Kurds and Shiites (Resolution 688) and the attainment of a formal cease-fire agreement (Resolution 687) were two separate issues.

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[111]Alan Cowell, "Kurds Fall Back from Iraq Forces" special to the *New York Times*, 2 April 1991, sec. A8.

[112]It should be noted that not all the Kurds were refused entry into Iran and Turkey. However, the numbers allowed to enter each country were limited and controlled.

[113]*New York Times*, 3 April 1991, sec. A9.

The separation of the Kurdish dilemma and post-Gulf War agreements was clearly made by the UN on 5 April 1991 with the establishment of UN Security Council Resolution 688, which dealt explicitly with Iraqi repression of the Kurdish population. Unlike other UN Security Council Resolutions concerning the Gulf War, Resolution 688 did not recall the fourteen previous Resolutions. In not recalling previous UN Security Council Resolutions, the UN made a clear division between the Gulf War and the repression of Kurds in Iraq.

Despite this separation of issues by the UN, Iraq's representative to the UN, Abdul Amir al-Anbari, condemned Resolution 688, calling it "blatant interference in his country's internal affairs."[114] However, the majority of the member nations voted in favour of the Resolution. Only Cuba, Yemen, and Zimbabwe opposed the resolution; China and India abstained. Although five days earlier both the US and France had been opposed to any intervention on behalf of the Iraqi Kurds, they now voted in favour of Resolution 688.

Despite the reluctance of member states, particularly the US, to become involved in the Iraqi civil war. Resolution 688 clearly identified the massive flow of refugees that had been caused by Iraqi repression as a threat to international peace and security. Resolution 688

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[114]*New York Times*, 6 April 1991, secc. L5.

stated that the UN Security Council was:

> Gravely concerned by the repression of the Iraqi
> population in many parts of Iraq, including most
> recently in Kurdish populated areas which led to a
> massive flow of refugees towards and across
> international frontiers and to cross border
> incursions, which threatens international peace
> and security in the region.[115]

The wording of Resolution 688 makes clear that the UN

Security Council chose to interpret Iraq's repression of the

Kurds, a situation which traditionally would be considered a

"domestic affair," as an international security issue.

Resolution 688 goes on to outline a number of demands

on Iraq. In Resolution 688, the Security Council:

> Demands that Iraq, as a contribution to removing
> the threat to international peace and security in
> the region, immediately end this repression and
> expresses the hope in the same context that an
> open dialogue will take place to ensure that the
> human and political rights of all Iraqi citizens
> are respected.
>
> Insists that Iraq allow immediate access by
> international humanitarian organizations to all
> those in need of assistance in all parts of Iraq
> and to make available all necessary facilities for
> their operations.
>
> Appeals to all Member States and to all
> humanitarian organizations to contribute to these
> humanitarian relief efforts.[116]

The UN Security Council not only recognized Iraq's treatment

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[115]United Nations Security Council, *Resolution 688*, 5 April
1991.

[116]United Nations Security Council, *Resolution 688*, 5 April
1991.

of its citizens as a threat to international peace and security, but also called for Iraq to immediately cease military repression and allow humanitarian organizations to operate within Iraq. Moreover, the final appeal for member states to assist and contribute to the humanitarian operation would, eventually, be pointed to by the allied forces as an invitation for subsequent humanitarian intervention.

The call for humanitarian action in Iraq placed the Bush administration in an awkward position. For the previous month, the US had maintained the position that it would not interfere in Iraq's internal rebellions because it was a domestic affair. As Bush stated on 3 April 1991, "the United States and these other countries with us did not go there to settle all the internal affairs of Iraq."[117] However, immediately prior to the establishment of Resolution 688 Bush faced opposition from both Democrats and conservative Republicans who called the Bush policy a "betrayal of American principles."[118] As William Quandt, a Middle East specialist at the Brookings Institute, said on 3 April 1991, "we have shifted from a rhetorical stance that Saddam is Hitler to one that says what happens inside Iraq doesn't

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[117]*New York Times*, 4 April 1991, sec. A1.

[118]A.M. Rosenthal, "Why the Betrayal?", OP-ED for the *New York Times*, 2 April 1991, sec. A19.

really matter to us."[119] The Bush administration became caught between two fundamental principles of American foreign policy: the territorial integrity of sovereign states on one hand and the human rights of individuals on the other.

The Bush administration quickly changed its policy of non-intervention. Since Turkey and Iran were both hesitant to accept Kurdish refugees, the Kurdish retreat from the cities to the mountains led to a humanitarian crisis. By 3 April 1991 an estimated 200,000 Kurds had amassed on the Turkish border, but Turkey refused them entry.[120] By 5 April 1991, the UN estimated that the number of Kurds had increased to 500,000. Faced with such a large number of displaced peoples in a mountainous region with no food or sevices, which led to starvation, hyperthermia, and disease, the international community was faced with a humanitarian dilemma.

Particularly in the US and Europe where the media covered the Iraqi repression in detail, the general public called for humanitarian assistance. On 5 April 1991, now justified by Resolution 688, the Bush administration ordered the airdrop of supplies such as blankets and food to the

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[119]*New York Times*, 4 April 1991, sec. A10.

[120]*New York Times*, 4 April 1991, sec. A11.

Kurds now living in the northern mountains of Iraq.
Moreover, the US also released $10 million to a relief fund
for the Kurds. In a White House statement, Bush justified
this change from the previous policy of non-intervention in
these words:

> The human tragedy unfolding in and around Iraq
> demands immediate action on a massive scale. At
> stake are not only the lives of hundreds of
> thousands of innocent men, women, and children,
> but also the peace and security of the gulf.[121]

It is important to note that the shift in policy was
rationalized by classifying, as the UN did in Resolution
688, the Kurdish situation as a "threat to international
peace and security."

Just three days after Resolution 688, the US Secretary
of State, James Baker, visited Kurdish civilians on the
Iraqi side of the Turkey-Iraq border and began negotiations
with Turkish officials to assist in the humanitarian aid for
the Kurds. After meeting with both Kurdish and Turkish
representatives, Baker reiterated Bush's call for
international action: "It is up to the international
community as a whole to do something about this tragic
crime."[122] Moreover, once the Americans solidified their
commitment to assisting the Kurds, members of the European

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[121]*New York Times*, 6 April 1991, sec. L5.

[122]*New York Times*, 9 April 1991, sec. A12.

Community also became involved. In fact, it was leaders from the European Community who initially called for the creation of safe havens.

On 8 April 1991, British Prime Minister John Major put forward a proposal to the EC that the European countries call upon the UN to create protected Kurdish "enclaves" within Iraq. John Major originally used the word enclave instead of safe haven. However, concern by the British Foreign Office that the word enclave "implied a breach of Iraq's sovereignty led to the proposed safety zones subsequently down-graded to `safe havens'."[123] The care taken to ensure that the safe havens were not interpreted as a violation of Iraq's sovereignty was reaffirmed by Major when he said that the proposed safe havens would not constitute internal interference, but rather, would be a form of "protection of population from persecution."[124] Clearly Major represented the deliberate intent of both the Europeans and Americans to make certain that the safe havens would not be interpreted as an attack on the sovereign status of Iraq.

As the Europeans debated the legality of implementing

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[123]Lawrence Freedman and David Boren, "`Safe havens' for Kurds in post-war Iraq," in *To Loose the Bands of Wickedness: International Intervention in Defence of Human Rights*, ed. Nigel S. Rodley (London: Brassey's, 1992): 57.

[124]*New York Times*, 9 April 1991, sec. A12.

safe havens, the numbers of Kurdish refugees continued to
increase rapidly. On 9 April 1991, the UN High Commissioner
for Refugees estimated that 750,000 Iraqi Kurds had already
crossed into Iran and another 280,000 into Turkey.[125]
Moreover, approximately 300,000 Kurds had collected on the
Iraqi side of the Turkish border. The Kurds on the Iraqi
side of the Turkish border required the most humanitarian
assistance, and despite continued attempts by the US to air-
drop supplies, many Kurds were dying from malnutrition and
exposure to the cold temperatures. The logistic challenges
created by the mountainous terrain made it almost impossible
to reach the majority of the Kurds by truck and very
difficult by helicopter. The deliver of humanitarian aid to
the Kurds within the northern mountains was limited.

Although the Americans continued to air-drop food,
water, and blankets to the Kurdish refugees, the creation of
safe havens was delayed by debate at the United Nations. On
8 April 1991, Iraq rejected the UN safe haven proposal,
arguing that the operation was a "conspiracy to intrude on
Iraqi sovereignty."[126]. Iraq's concern for maintaining the
principle of non-intervention was supported by both the
Soviet Union and China. However, as the British

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[125]*New York Times*, 10 April 1991, sec. A1.

[126]*New York Times*, 10 April 1991, sec. A12.

representative to the UN, Sir David Hannay, explained, "We are seeking to establish zones in northern Iraq where the Kurds would feel safer" and that the zones would be a "purely humanitarian concept, not a juridical or political concept."[127] The debate in New York represents the two views of sovereignty which were simultaneously being used by member states. On the one hand, Iraq, the Soviet Union and China were using the term sovereignty as a chunk; on the other, Britain, the US, and France approached sovereignty as a basket.

Despite the reluctance of the UN to create official safe havens in northern Iraq, on 11 April 1991 members of the European Community and the US agreed to create "informal" safe havens in northern Iraq. The informal safe havens would establish secure areas where the Europeans and Americans could distribute aid to the displaced Kurds. More specifically, it was hoped that the safe havens would bring the Kurdish population out of the mountains where it was extremely difficult to deliver the humanitarian aid. Although the Europeans and Americans agreed to enter into Iraqi territory, all parties involved explicitly reconfirmed that the safe havens were not a challenge to the sovereign power of Iraq. For instance, White House spokesman Marlin

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[127]*New York Times*, 10 April 1991, sec. A12.

Fitzwater stated that:

> ...nobody wants to try to establish another
> country within Iraq. Nobody wants a clear
> demarcation that says this is a permanent area or
> new country...we need an area, call it what you
> will, of safety.[128]

Clearly the intention of both the US and European states was

to deliver humanitarian aid within the territorial

boundaries of Iraq in order to alleviate human suffering,

not to undermine the sovereign authority of Iraq. The only

Iraqi authority taken away by the allied presence was Iraq's

right to kill its own citizens.

On 13 April 1991, 8,300 US troops began the

implementation of an American-led plan to feed 700,000 Kurds

a day within Iraq's borders. 1.7 million Kurds were living

in Iraqi territory along the northern border: 1.2 million

along the border with Iran border and another 500,000 along

the border with Turkey. By 16 April 1991, French and British

troops joined the Americans in establishing secure relief

camps within northern Iraq. Thus, the safe havens were

always approached as a collective undertaking, not

unilateral.

By 17 April 1991, just four days after the Americans

began to establish safe havens, the US increased the number

of troops deployed to approximately 10,000 and announced

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[128]*New York Times*, 12 April 1991, sec. A6.

that over the next two weeks the allied force would begin
the construction of refugee camps within two large safety
zones.[129] These two safety zones would, once established,
secure northern cities as far as 60 miles into Iraq.

On 18 April 1991, the Iraqi government again criticized
the American-led safe havens as "a continuation of the
policy of intervention in Iraq's internal affairs."[130]
However, the allied forces in Iraq claimed that their
presence was justified for two reasons. First, the operation
within Iraq was, as Bush stated, "purely humanitarian."[131]
By 18 April 1991, between 500 and 1000 Kurdish refugees were
dying daily,[132] and humanitarian aid was clearly required
by the Kurds. The Americans, British, and French all
confirmed that their purpose in Iraq was limited to
providing a safe environment to distribute humanitarian aid
to the Kurds. Second, Resolution 688 provided a legal basis
for an allied operation in northern Iraq. As a US State
Department spokesperson stated on 19 April 1991, "Resolution
688's condemnation of Iraqi repression of the Kurds, taken
together with the appeal to all member countries, provided a

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[129]*New York Times*, 18 April 1991, sec. A1.

[130]*New York Times*. 18 April 1991, sec. A8.

[131]*New York Times*, 17 April 1991, A1.

[132]*New York Times*, 18 April 1991, sec. A8.

solid case for United States intervention in northern Iraq."[133]. Thus, there existed both moral and juridical justifications for the creation of safe havens.

Iraq continued to denounce the allied presence at the UN. On 23 April 1991, the Iraqi Foreign Minister, Ahmed Hussein Khudayer, wrote a letter to the UN Secretary General which stated that the northern safe havens "constitute a serious, unjustifiable and unfounded attack on the sovereignty and territorial integrity of Iraq[134]. Iraq demanded that the UN take over the construction and maintenance of the safe havens from the US and the Europeans. Moreover, the government in Baghdad demanded that it be involved in the administration of the safe havens. Both the Americans and the British did request that the UN eventually take over the operations of existing refugee camps, but they dismissed the viability of an Iraqi-UN force developing an environment conducive to assisting the Kurds. As John Bolton, the American under secretary of state for international organizations explained:

> We reject the Iraqi assertion that we don't have
> the authority to do this. We think that right now
> only the United States and its coalition partners
> have the logistical capabilities to get these

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[133]*New York Times*, 19 April 1991, sec. A8.

[134]*New York Times*, 24 April 1991, A10.

camps established.[135]

Thus, the US-led coalition within northern Iraq was not only authorized under Resolution 688, but also possessed the greatest ability to effectively implement the humanitarian operation.

The dilemma which the UN faced is self-evident. On one hand, Iraq had a legitimate claim that the UN should be the organizational structure which develops and implements any safe haven project. Even the allied coalition requested that the UN take over the operational management of the safe havens once they were securely established. However, implementing a safe haven operation without the consent of Iraq would, in practice, redefine the meaning of "domestic jurisdiction" outlined in Article 2(7) of the UN Charter.

On the other hand, the nature of the humanitarian crisis demanded a rapid response by the international community. As a senior official working for the UN high commissioner for Refugees explained:

> The combination is unique. What makes this unprecedented is the combination of so many negative factors - huge numbers, .a short time frame, terrible conditions on such an enormous level and having so many of them at the border destitute and exhausted.[136]

The rapid exodus by such large numbers of Iraqi Kurds forced

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[135]*New York Times*, 24 April 1991, sec. A10.

[136]*New York Times*, 22 April 1991, sec. A9.

the international community to react in a quick manner. By

the time that the Kurds began to migrate from the mountains

to the allied safety zones, it was estimated that two

million Kurds were displaced. On 27 April 1991, the UN said

that approximately 1.2 million Iraqi Kurds had entered into

Iran, 416,000 into Turkey, and 400,000 were still waiting on

the Iraqi side of the border with Turkey.[137] Moreover, the

UN also estimated that 2,000 Kurds were dying every day.

Thus, the UN was faced with a humanitarian crisis, caused by

the repression of citizens by their own government, which

developed at an extraordinarily fast rate.

Once the allied forces entered Iraq without the

explicit consent of the UN, negotiations quickly began on

how the allied refugee camps would be taken over by the UN.

On 18 April 1991 Iraqi representatives signed a UN agreement

which authorized the UN to take over operations of the safe

havens. However, by 30 April 1991, the UN Security Council

was still debating the means by which the take-over would

occur. The US, France, and Britain all proposed that the UN

Security Council create a UN police force which would

replace the allied forces. However, China and the Soviet

Union were extremely hesitant to endorse a Resolution which

could be interpreted as providing the mandate for armed

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[137]*New York Times*, 27 April 1991, sec. A4.

intervention in Iraq's affairs without an explicit invitation. Thus, although Iraq agreed that the UN should take over the operation of safe havens, the UN Security Council was in disagreement over the juridical ramifications of the agreement. Specifically, because Iraq had not requested the safe havens initially imposed by the allied coalition, China and the Soviet Union were concerned that uninvited intervention would be legitimized by a UN police force in northern Iraq.

By 3 May 1991, the allied forces had doubled the initial estimated size of the safety zone, which now encompassed 1500 square miles within Iraq,[138] and the Americans again called upon the UN to take control of the operations. However, the UN was hindered by Iraq's continued rejection of a UN police force. For instance, on May 10 1991 Iraq argued that a military presence was not required to deliver humanitarian aid.[139]

Faced with Iraq's objections, the UN and the US-led coalition moved incrementally. The UN began to take over administrative control of the safe havens on 14 May 1991, beginning with all non-military aspects of the operation. Although this first step did not allow the allied forces to

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[138]*New York Times*, 3 May 1991, sec. A1.

[139]*New York Times*, 10 May 1991, sec. A10.

begin withdrawing their troops from northern Iraq, the administrative change did have symbolic importance. As the chief UN representative at the camp stated, the shift of camp-management would be "a confidence-building exercise that I hope will ultimately bring people home."[140]

The UN was aided by two breakthroughs during late May and early June. First, Iraq agreed to a UN security-force pact which permitted the UN to deploy 400 to 500 lightly armed security personnel to guard the existing safe havens.[141] Although the presence of a limited UN security force did not mean that the allied forces would withdraw their troops, this was an important step in facilitating a complete transfer of authority over the safe havens to the UN. Second, by early June the Iraqi government reported that they were close to reaching a peace agreement with the Kurds. In fact, on 23 June 1991, an Iraqi-Kurd agreement, which provided the Kurds autonomy in all matters except national security and police, and planned for democratic elections within six months, was signed.

The Iraqi-Kurd agreement provided the allied coalition with the foundation to withdraw troops from northern Iraq and for the UN to maintain the aid distribution camps with a

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[140]*New York Times*, 14 May 1991, sec. A10.

[141]*New York Times*, 24 May 1991, sec. A8.

small military contingent. Referring to the military coalition within northern Iraq, Kurdish leader Massoud Barzani said that, "Once there is peace and an agreement, I don't think there is a necessity for them to remain."[142] Thus, the UN was not forced to establish a UN Security Council Resolution in order to provide the mandate required to justify a UN military force capable to taking over operations of the safe havens from the allied coalition. Since the Iraqi government and the Kurds came to an agreement, the limited UN police force permitted by Iraq was sufficient to continue providing required aid.

By 10 July 1991, the allied coalition had withdrawn almost all their military personnel from northern Iraq, with only 3,300 troops remaining. This was a significant reduction since the humanitarian operation had, at one time, seen approximately 22,000 troops in northern Iraq.[143] Moreover, by the middle of July, all non-UN military personnel were withdrawn from northern Iraq. However, in order to provide reassurance to the Kurdish population, the US, France, Britain, Belgium, Turkey, Italy, Spain, and the Netherlands established a rapid deployment force stationed within Turkey in case Iraq again began to repress the Kurds

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[142]*New York Times*, 24 June 1991, sec. A6.

[143]*New York Times*, 13 July 1991, sec. L3.

again.[144]

Almost immediately after the international coalition left northern Iraq, on 21 July 1991, the Kurds and Iraqi government began fighting again.[145] However, the conflict was limited and did not cause the majority of Kurds to fear for their safety; the conflict between the Iraqi government and Kurdish rebels did not threaten to cause another Kurdish migration. As a result the international community did not consider deploying the rapid reaction force. As White House spokesman Marlin Fitzwater stated on 21 July 1991: "We're keeping an eye on it, but it's Iraqi territory."[146]

Clearly the international community recognized that intervening in a domestic conflict and intervening in order to provide humanitarian assistance to civilians affected by a domestic conflict, particularly when those requiring humanitarian assistance who threaten international peace and security, are two separate issues. Intervening on behalf of one party during a civil conflict would be a breach of the sovereign authority of a nation state since that intervention could lead to a change of government. This would be a blatant form of internal interference. However,

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[144]*New York Times*, 11 July 1991, sec. A4.

[145]*New York Times*, 21 July 1991, sec. A1, sec. A8.

[146]*New York Times*, 21 July 1991, sec. A9.

in the case of Operation Provide Comfort, the allied
military presence was limited to securing areas in order to
disperse required aid effectively. In the latter case, the
sovereign authority of the existing state was not challenged
because there was no attempt to change the existing
territorial boundaries nor facilitate a change of
government. When collective intervention is limited to
providing humanitarian assistance, the existing sovereign is
not threatened.

As the British Foreign Secretary, Douglas Hurd, stated
on 12 April 1991, "the division between internal and
external policies of a nation is not absolute."[147] The
international community, in practice, no longer treats the
sovereignty of a territorial entity as an absolute property.
Clearly the humanitarian intervention by the US-led
coalition indicates that under certain conditions, sovereign
states can no longer argue that territorial integrity in
inviolable. The transgression of a sovereign states'
territorial boundary does not indicate that the state does
not possess sovereign power. Iraq was in no position to
assert its de facto sovereignty; it could not force the US-
led coalition to withdraw from northern Iraq and maintain
Iraq's territorial integrity. But by the same token,

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[147]Freedman and Boren, "`Safe havens' for Kurds," 81-82.

throughout this period the de jure sovereignty of Iraq was never in question. In fact, the US-led force continually reconfirmed that in no way was their presence a challenge to the existing territorial boundaries and existing political authority of Iraq. Consequently, collective humanitarian intervention does not signal the end of sovereignty. Instead, collective humanitarian intervention confirms the variable, not absolute, nature of sovereignty since the end of the Cold War.

Chapter III
Humanitarian Intervention in Somalia

Collective humanitarian intervention in Somalia,

between January 1992 and May 1993, illustrates that the

success of Operation Provide Comfort in Iraq prompted the

international community to accept the legitimacy of

collective humanitarian intervention. Although there are a

number of differences between the operations in Iraq and

Somalia, they both provide examples of intervention within

the territorial boundaries of a sovereign state in order to

ensure the delivery and distribution of humanitarian aid. As

the Austrian representative noted when the UN Security

Council approved the creation of the American-led Unified

Task Force (UNITAF) for Somalia on 3 December 1992, the

Security Council is "building on the precedent established

in Resolution 688, which addressed the humanitarian crisis

in Iraq."[148] When examined in conjunction, the UN Operation

in Somalia (UNOSOM I) and UNITAF provide an example of post-

Cold War collective humanitarian intervention. Moreover, an

examination of UNOSOM I and UNITAF will demonstrate that

humanitarian intervention does not undermine or detract from

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[148]Ruth Gordon, "United Nations Intervention in Internal
Conflicts: Iraq, Somalia, and Beyond," *Michigan Journal of
International Law* 15 (Winter 1994): 554.

the sovereignty of the host state. In fact, particularly under the expanded mandate of UNOSOM II, which took over from UNITAF on 4 May 1993, the UN attempted to develop and strengthen Somali institutions, and in doing so, worked towards enhancing the de facto internal sovereignty of Somalia.

Before providing a case study of humanitarian intervention in Somalia, it is useful to examine the differences between the operations in Iraq and Somalia. In doing so, it becomes evident that although the mandates provided by Resolution 688 in Iraq and Resolution 794 in Somalia are similar, the political conditions in each country were very different. The causes of the humanitarian crises, and thus the obstacles which the multilateral forces had to overcome in order to ensure the delivery and distribution of humanitarian aid, were not identical.

Although one could broadly argue that the humanitarian crises in Iraq and Somalia were caused by war, the causes and nature of the wars in each country were very different. In the case of Iraq, the humanitarian crisis was caused by insurrection in the aftermath of an inter-state war. The Shiites and Kurds believed that since the Iraqi military had been weakened by its military efforts during the Gulf War,

they could successfully rebel against the national
government. In Iraq there was a clearly identifiable
national government which was being militarily challenged by
two ethnic groups. Thus, although the international presence
in northern Iraq indicates that Baghdad did not have the
ability to assert de facto external sovereignty, the Iraqi
government's ability to quell both the Shiite and Kurdish
insurrections demonstrates the existence of de facto
internal sovereignty.

In contrast, by 23 January 1992, when the UN initially
became involved in Somalia, there was no identifiable Somali
government.[149] In the words of a US State Department
official, although the US "recognized Somalia as a country,"
it does "not see a functioning government in Somalia."[150]
After Somali President Siad Barre fled Mogadishu in January
1991, the national government of Somalia quickly collapsed.
Control of the country dispersed to clan militias which
informally divided Somalia into twelve separate zones.
Moreover, by November 1991 the armies of General Mohamed
Farah Aideed and Ali Mahdi Mohamed, both members of the most
powerful clan-based organization, the United Somali Congress
(USC), had entered into conflict with one another,

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[149]Jeffrey Clark, "Debacle in Somalia," *Foreign Affairs* 72,
no.1 (1993): 109-112.

[150]*New York Times*, 29 November 1991, sec. A12.

generating a full-scale civil war in Somalia.

Thus, unlike Iraq, where civil disruption against an existing sovereign government led to massive population migration, the humanitarian crisis in Somalia was caused by a civil war which emerged after a complete collapse of sovereign government. Moreover, although Somalia still possessed de jure sovereignty, there did not exist Somali institutions which could maintain either de facto internal or de facto external sovereignty. Instead, the clans each maintained control over limited geographical space within the existing borders of Somalia.

This absence of sovereign authority challenged many of the traditional foundations of UN involvement. First, even though the Somali representative to the UN formally requested that the UN Security Council "consider the situation in Somalia,"[151] "there was no governmental authority, whether constitutional or insurgent, to consent."[152] Given the complete breakdown of sovereign authority, the question arises: did the Somali representative, who was appointed by a government which no longer existed, have the jurisdiction to provide the UN with

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[151]United Nations Security Council, *Resolution 733*, 23 January 1992.

[152]Gordon, "United Nations Intervention in Internal Conflicts," 550.

a request, and subsequent consent, for UN intervention in Somalia? The legitimacy of UN involvement in Somalia was, from its initial phases, tenuous at best.

Nevertheless, the absence of sovereign authority within Somalia challenged the legitimacy of the intervention on a much more fundamental level. Once UN personnel were deployed, the rudimentary UN requirement to maintain a posture of impartiality was extremely difficult. Although UN forces initially attempted to preserve a position of neutrality between the clans, they did not respect clan objections to specific UN actions. For instance, once the decision to disarm local factions was made by the UN Security Council,[153] objections by clan leaders such as General Aideed were openly disregarded. Thus, as Farer writes, "UN Forces were going in without the consent of local factions and with a mandate under Chapter VII of the Charter to use whatever means proved necessary to maintain an environment in which the Somalis could restore their state."[154] In doing so, the UN inevitably used military force in order to accomplish actions which were deemed, by some clan leaders, as partisan. Consequently, the UN was not

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[153]United Nations Security Council, *Resolution 794*, 3 December 1922.

[154]Tom J. Farer, "Intervention in Unnatural Humanitarian Emergencies: Lessons of the First Phase," *Human Rights Quarterly* 18, no.1 (1996): 5.

able to maintain a strict posture of impartiality within Somalia.

A second difference between the humanitarian intervention in Iraq and Somalia is the speed at which the international community reacted and implemented the humanitarian operations. As Clark writes, "Speedy humanitarian intervention in Iraq's internal affairs to protect Kurdish populations contrasts greatly with slow international action in Somalia."[155] The international community was very quick to respond to the humanitarian crisis in Iraq, and once involved maintained a mandate of "feed and leave." The humanitarian intervention in Iraq only lasted four months. In contrast, Somalia was in turmoil for almost a year before the international community became involved, and the humanitarian operations (UNOSOM I and UNITAF) lasted just over fifteen months. Moreover, the expanded mandate of UNOSOM II, which moved well beyond humanitarian intervention into the realm of institution-building[156], lasted just under three years. Thus, the UN was involved in the affairs of Somalia from January 1992

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[155]Clark, "Debacle in Somalia," 121.

[156]It should be noted that much of the liturature uses the term "nation-building" in this context. However, UNISOM II tried to develop and implement national institutions, not a nation. The term "institution-building" more acurately describes the UN's attempts to generate Somali governance structures.

until March 1995.

The temporal differences between the UN operations in Iraq and Somalia distinguish two important aspects of humanitarian intervention. First, since humanitarian operations require military transport, logistical capabilities, and relatively large troop deployments, they are expensive. Second, humanitarian intervention, as it was practiced in Somalia, can be dangerous for military personnel. Because of this, the international community, particularly the US, has been extremely selective in choosing the countries which "require" humanitarian intervention. The major powers of the world have demonstrated a reluctance to intervene in situations which threaten the well-being of military personnel.

Although there are a number of factors which contributed to the decisions to intervene in both Iraq and Somalia, two aspects were very influential. First, the media played a large role in creating domestic pressure for international action. As Mandelbaum writes, "The United States was drawn into each place to alleviate the suffering of civilians, suffering that television brought into America's living rooms."[157] Second, both Iraq and Somalia were initially considered "do-able" operations. It was

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[157]Michael Mandelbaum, "The Reluctance to Intervene," *Foreign Policy* no.95 (Summer 1994): 4.

believed by the participating members of the international community that both humanitarian operations could take place over a short period of time without significant set-backs. Thus, the decision to intervene in order to alleviate human suffering is greatly influenced by domestic pressure fuelled by the media and by the assessment that the humanitarian crisis can be successfully overcome in a short period of time.

The second aspect of humanitarian intervention, which the temporal differences between operations in Iraq and Somalia distinguish, is that military forces intended to ensure the delivery and distribution of humanitarian aid can easily become bogged down by the political situation which initially caused the humanitarian crisis. As Clarke and Herbst observe, "there is no such thing as a humanitarian surgical strike."[158] Although Iraq exemplified that humanitarian intervention, limited to the maintenance of a secure environment in order to dispense humanitarian aid can be achieved over a short period of time, Somalia illustrates how humanitarian intervention can easily expand into the complex enterprise of institution-building.

The final difference between the collective

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[158]Walter Clarke and Jeffrey Herbst "Somalia and the Future of Humanitarian Intervention," *Foreign Affairs* 75, no.2 (March/April 1996): 82.

humanitarian operations in Iraq and Somalia is the evolution of the mission mandate. Although the wording of Resolution 688 is somewhat ambivalent, once the allied countries decided to create safe havens in northern Iraq, their directives did not change. Humanitarian intervention in northern Iraq was limited to securing designated areas in order to distribute humanitarian aid. In the words of President Bush, the military intervention in northern Iraq was "purely humanitarian."[159] In contrast, the operations in Somalia were guided by a rolling mandate. International endeavours, under the auspices of the UN, shifted from humanitarian assistance to humanitarian intervention to institution-building. Consequently, the operations in Somalia were not as focussed as the operation in Iraq.

There are two reasons why these differences in the causes of the humanitarian crises, the time-frames of the operations, and the development of the mandates are important to recognize. First, the differences provide insight into both the benefits and disadvantages of humanitarian intervention. Once an examination of Somalia is complete, these differences will afford a number of lessons for future humanitarian intervention by the international community. Second, in examining the differences of the

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[159]*New York Times*, 17 April 1991, sec. A1.

operations in Iraq and Somalia, the similarities are more readily apparent.

Humanitarian Intervention in Somalia

As early as 31 December 1990, when the fighting between the Somali government and the USC intensified, the international community became aware of the civil disarray of Somalia. The USC was a rebel group, comprised of members of the Hawiye tribe, which maintained control of the area surrounding Mogadishu, the capital of Somalia. In addition, the Somali National Movement (SNM), comprised of the Isaaq tribe, dominated northern Somalia, and the Somali Patriotic Movement (SPM), comprised of the Ogadenis tribe, controlled southern Somalia. Thus, although Somalia did have a national government controlled by President Mohammed Siad Barre, there existed three powerful clans which continually challenged that government's internal power.

By 27 January 1991, President Barre had fled Somalia, signalling the collapse of the Somali government. In a radio broadcast, the USC stated that:

> The Government and the responsibility of the Somali people were taken over by the USC movement. We are addressing you from Radio Mogadishu, the voice of the Somali people.[160]

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[160]*New York Times*, 28 January 1991, sec. A3.

The USC immediately claimed both victory over the former
government and the position of new leadership. However, the
other two clan-based movements, the SNM and SPM, both
challenged the legitimacy of the USC as the new government.
Despite a statement issued by all three clans on 3 January
1991, which pledged to "unite a form of transitional
government and re-establish democratic institutions,"[161]
the clans now came into conflict about how Somalia should be
governed.

After 29 January 1991, when the USC appointed Ali Mahdi
Mohamed as the interim president of Somalia, fighting broke
out between the clans, each fighting for control of Somalia.
By 10 February 1991, the USC estimated that 4000 Somalis,
mostly civilians, had died as a result of the armed conflict
between the clans.[162] By the fall of 1991, the difficulties
of delivering humanitarian assistance to areas affected by
the continued fighting and a nation-wide drought led to a
rapid increase of the Somali death toll. For instance, on 15
October 1991, the UN estimated that in a country of 7
million, 4.5 million Somalis were at "serious risk of
starvation" and that "unless the security situation improves

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[161]*New York Times*, 4 January 1991, sec. A5.

[162]*New York Times*, 11 February 1991, sec. A10.

it will be impossible to distribute food."[163]

The conflict within Somalia became exacerbated on 17 November 1991 when the military leader of the USC, General Mohamed Farah Aideed, challenged the presidency of Ali Mahdi Mohamed. Although both Aideed and Mohamed were both members of the USC, and thus belonged to the Hawiyes clan, they were also members of warring sub-clans. Aideed was a member of the Habar Gedir clan, which is historically resented by president Mohamed's sub-clan, the Abgals. By the middle of November 1991, armed conflict had broken out between the USC and other clans, particularly the SNM and the SPM, as well as armed conflict between rival factions within the USC.

This in-fighting caused the war to escalate dramatically, and by 5 January 1992 the UN estimated that 20,000 Somalis, mostly noncombatants, had been killed within a span of six weeks.[164] By 11 January 1992 international pressure for the UN to become involved in Somalia began to grow. UN officials called for the creation of safe havens, asserting that "the anarchic situation makes it difficult for the UN to mount an effective humanitarian relief effort unless its workers get the kind of military protection they

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[163]*New York Times*, 16 October 1991, sec. A11.

[164]*New York Times*, 6 January 1992, sec. A2.

had during the Kurdish crisis in northern Iraq."[165]

However, UN involvement in Somalia was contentious because the conflict was clearly an internal war. The explicit prohibition of interference in a member-state's internal affairs, as stated in Article 2(7) of the UN Charter, provided a juridical barrier to the UN Secretary General and Security Council. The only way that the UN could legitimately deploy a UN mission was if either the warring factions agreed to the UN presence, or if the internal conflict threatened the international peace and security of the region, for example, by jeopardizing the stability of neighbouring countries such as Ethiopia or Kenya.

On 23 January 1992, the UN Security Council adopted Resolution 733, formally establishing that "the continuation of this situation [in Somalia] constitutes, as stated in the report of the Secretary-General, a threat to international peace and security."[166] In doing so, the UN Security Council began the immediate initiation of dispute settlement mechanisms under Chapter VI and Chapter VII of the Charter. The first of these mechanisms invoked was the immediate implementation of "a general and complete embargo on all

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[165]*New York Times*, 12 January 1992, sec. L8.

[166]United Nations Security Council, *Resolution 733*, 23 January 1992.

deliveries of weapons and military equipment to

Somalia."[167]

Less then one week after the adoption of Resolution

733, on 3 March 1992, the warring clans signed a cease-fire

agreement which included the creation of a UN monitoring

mission aimed at stabilizing the cease-fire. However,

despite the signed agreement, by March 1992 many of the

factions were still disrupting the delivery and distribution

of humanitarian assistance. For instance, on 6 March 1992 a

ship with 640 tonnes of food was forced to return to Kenya

after it was fired upon at a Somali port.[168] As a result of

incidents such as this, the UN Security Council adopted

Resolution 746, which:

> Requests the Secretary-General to pursue his
> humanitarian efforts in Somalia and to use all the
> resources at his disposal, including those of the
> relevant United Nations agencies, to address
> urgently the critical needs of the affected
> population in Somalia.[169]

Moreover, the UN Security Council also called upon a UN

technical team to develop a "high priority plan to establish

mechanisms to ensure the unimpeded delivery of humanitarian

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[167]United Nations Security Council, *Resolution 733.*

[168]*New York Times*, 7 March 1992, sec. A4.

[169]United Nations Security Council, *Resolution 764*, 17 March
1992.

assistance."[170] Thus, by 17 March 1992, the UN had clearly

identified the need for improved humanitarian action in

Somalia.

One month later, on 24 April 1992, the UN Security

Council established a United Nations Operation in Somalia

(UNOSOM) in order to "facilitate an immediate and effective

cessation of hostilities and the maintenance of a cease-fire

agreement throughout the country in order to ... provide

urgent humanitarian assistance."[171] However, the limited

capabilities of the initial deployment of UNOSOM, which was

composed of only 50 military observers, was not successful

in promoting a secure environment for the delivery and

deployment of humanitarian assistance. As a result, on 27

July 1992 the UN Security Council adopted Resolution 767,

which reconfirmed the need for a more effective UN

humanitarian operation by approving the use of 500 more

military observers. In Resolution 767, the UN Security

Council requested that the Secretary-General:

> make full use of all available means and
> arrangements, including the mounting of an urgent
> airlift operation, with a view to facilitating the
> efforts of the UN, its specialized agencies and
> humanitarian organizations in accelerating the
> provision of humanitarian assistance to the
> affected population in Somalia threatened by mass

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[170]United Nations Security Council, *Resolution 746.*

[171]United Nations Security Council, *Resolution 751,* 24 April
1992.

starvation.[172]

Within six months, the UN Security Council had shifted from requesting that the Secretary-General "increase humanitarian assistance"[173] to requesting that the Secretary General use "all available means and arrangements"[174] in order to ensure effective delivery and distribution of humanitarian relief. This was the first step in expanding from a humanitarian assistance operation to humanitarian intervention.

General Aideed protested the UN decision to deploy more security personnel, arguing that the UN had sided with President Mohamed. On July 17 1992, Aideed had accused the UN of delivering money and uniforms to president Mohamed's troops in northern Mogadishu. However, the UN denied knowledge of the delivery, claiming that the money and uniforms had been delivered by a plane which had been previously chartered by the UN and still bore UN markings.[175] Moreover, General Aideed feared that "a large UN presence would amount to an occupying force recognizing

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[172]United Nations Security Council, *Resolution 767*, 27 July 1992.

[173]United Nations Security Council, *Resolution 733*.

[174]United Nations Security Council, *Resolution 767*.

[175]*New York Times*, July 19 1992, sec. A1.

Mr. Ali Mahdi Mohamed's claim to be president."[176] Thus,
from the initial creation of UNISOM, General Aideed
repudiated the legitimacy of UN military personnel in
Somalia.

By the end of August 1992, the World Food Programme
(WFP) and the International Committee of the Red Cross
(ICRC) had delivered more than 116,000 tonnes of food to
Somalia. Also, the ICRC had already established plans to
deliver another 70,000 tonnes of food between September 1992
and January 1993, and the WFP was ready to deliver another
30,000 tonnes immediately.[177] Clearly the international
community was providing much assistance for the estimated
4.5 million Somalis who faced the immediate threat of
starvation.

However, by 2 December 1992, the UN estimated "that 80%
of UN food which has moved through Mogadishu has disappeared
through theft, ambushes and extortion."[178] As the Secretary
General described it in August 1992:

> The United Nations and its partners are ready and
> have the capacity to provide substantially
> increased assistance but they have been prevented
> from doing so by the lawlessness and lack of
> security which prevail throughout Somalia, often

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[176]*New York Times*, 30 August 1992, sec. A12.

[177]United Nations, "The Situation in Somalia," *Report of the
Secretary General*, 25 August 1992.

[178]*New York Times*, 2 December 1992, sec. A1, sec. A18.

> including Mogadishu itself. Heavily armed gangs
> overrun delivery and distribution points and loot
> supplies directly from docked ships as well as
> from airports and airstrips.[179]

The complete breakdown of authority in Somalia created a situation in which local thugs were capable of hijacking humanitarian supplies intended for local populations. Although the required humanitarian supplies were being delivered to the airstrips and shipping ports of Somalia, the UN was not able to secure the supplies during the internal delivery, storage and distribution phases. There was no problem in getting necessary humanitarian supplies through international relief agencies. Instead, the problem lay in the inability to protect the humanitarian supplies once they were delivered to Somalia.

The first step which the UN took in order to overcome the logistical challenges of safely delivering, storing, and distributing humanitarian aid throughout Somalia was to create four operational zones. Although the official mandate for the operational zones was provided by UN Security Council Resolution 775,[180] the UN Secretary General called for the operational zones in his 25 August 1992 Report. The UN Secretary General recommended that "UNOSOM establish four

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[179]United Nations, *Report of the Secretary General*, 25 August 1992: 4.

[180]United Nations Security Council, *Resolution 775*, 28 August 1992.

operational zones, which would enable the Organization to establish a presence in all parts of Somalia and adopt an innovative and comprehensive approach dealing with the humanitarian relief and recovery programmes, the cessation of hostilities and security, the peace process and national reconciliation, in a consolidated framework."[181] Although the use of force was not justified by the Security Council until December 1992, by August 1992 the establishment of "secure zones", similar to the "safe havens" in northern Iraq, was already underway.

By late November 1992, it was evident that the force structure of UNOSOM was not capable of providing a secure environment, and thus was not able to effectively deliver and distribute the humanitarian relief supplies being donated by the international community. As a result, on 29 November the UN Secretary General wrote a letter to the UN Security Council supporting an offer by the United States to establish a short-term military operation intended to create a secure environment in Somalia.[182] Subsequently, by adopting Resolution 794, the UN Security Council legitimated both the creation of the US-led operation and the use of

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[181]United Nations, *Report of the Secretary General*, 25 August 1992: 11.

[182]United Nations, *Letter to the Security Council by the Secretary-General*, 29 November 1992.

force under Chapter VII of the Charter. Resolution 794

codified that the UN Security Council:

> 8. Welcomes the offer by a Member State (the US)
> described in the Secretary-General's letter to the
> Council of 29 November concerning the
> establishment of an operation to create [such] a
> secure environment.
>
> 10. Acting under Chapter VII of the Charter of the
> United Nations, authorizes the Secretary-General
> and Member States cooperating to implement the
> offer referred to in paragraph 8 above to use all
> necessary means to establish as soon as possible a
> secure environment for humanitarian relief
> operations in Somalia.[183]

Resolution 794 provided the mandate for a US-led operation,

UNITAF[184], to use military force in order to provide a

secure environment which would be conducive for the safe

delivery, storage, and distribution of international

humanitarian relief.

The US-led operations in both northern Iraq and Somalia

shared two similarities. First, both were a form of

collective humanitarian action. In northern Iraq, 12

countries other than the US contributed approximately 9,800

troops, the majority coming from France, Britain, and

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[183]United Nations Security Council, *Resolution 794*, 3 December 1992.

[184]It is important to note that although the acronym UNITAF sounds like a UN operation, UNITAF was completely under US control. UNITAF was not a UN mission, but rather, an international coalition working under the auspices of the UN.

Belgium.[185] Similarly, in Somalia 34 countries other than

the US were initially expected to contribute 15,000-20,000

troops to UNITAF.[186] Moreover, France, Britain, and Belgium

were involved with UNITAF from its very inception. Thus,

both humanitarian operations were led by the US, were

collective not unilateral, and involved considerable troop

contributions by France, Britain, and Belgium.

Second, as in northern Iraq, the international

community was careful to maintain respect for the

sovereignty of Somalia. For instance, UN Security Council

Resolution 794 recognized "that the people of Somalia bear

the ultimate responsibility for national reconciliation and

the reconstruction of their own country."[187] Despite the

fact that Resolution 794 identified the absence of internal

order and stability - conditions which should be fostered by

the de facto internal sovereignty of a national government -

as a threat to international peace and security, the UN

still maintained respect for the existing sovereign

attributes. In the case of Somalia, this was simply respect

for de jure sovereignty. As Clarke and Herbst write,

"although it was obvious when the American troops hit the

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[185]*New York Times*, 13 July 1991, sec. L3.

[186]*New York Times*, 16 December 1992, sec. A11.

[187]United Nations Security Council, *Resolution 794*: 2.

Somali beaches that the country was essentially being taken

over, no one seriously considered trusteeship or any similar

legal approach; the fiction that Somalia was still a

sovereign state was perpetuated."[188]   In practice,

UNITAF began when 1800 US troops landed in Somalia on 6

December 1992. The commencement of UNITAF indicated a shift

in the UN's role in Somalia. The initial mandate for UNOSOM,

outlined in Resolution 733, was to assist with the

establishment and maintenance of a cease fire and to

distribute humanitarian assistance. However, UNOSOM was

unable to fulfil the desired ends, and thus, the UN

Secretary General and Security Council established UNITAF.

The mandate for UNITAF, outlined in Resolution 794, provided

Member States the authority to use all necessary means to

attain a secure environment for humanitarian operations. The

UN was no longer <u>assisting</u> the Somali factions with the

establishment of a stable and secure political environment

and providing humanitarian assistance, but rather, had the

mandate to <u>create</u> internal security in order to safely

deliver and distribute humanitarian aid. In doing so, the UN

shifted from humanitarian assistance to humanitarian

intervention. Unlike UNOSOM, which was limited to

distributing humanitarian assistance and promoting peace-

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[188]Clarke and Herbst, "Somalia and the Future of Humanitarian
Intervention," 81.

talks, UNITAF used military force to create and ensure a secure environment for the distribution of relief supplies.

According to the UN Secretary General, Boutros Boutros-Ghali, UNITAF "would be consistent with the recent enlargement of the Organization's role in the maintenance of international peace and security and would strengthen its long term evolution as an effective system of collective security."[189] The roles of UNITAF were almost identical to the actions of the US-led coalition in northern Iraq. In similar language used to describe American involvement in Iraq, US President Bush explained that:

> Our mission in Somalia is humanitarian, but we will not tolerate armed gangs ripping off their own people, condemning them to death by starvation. General Hoar and his troops will have the authority to take whatever military action is necessary to safeguard the lives of our troops and the lives of Somalia's people...the outlaw elements in Somalia must understand this is serious business.[190]

The main difference between Iraq and Somalia is that a number of actions which took place in northern Iraq only had the tacit consent of the UN, but UNITAF was provided with an explicit mandate for similar endeavours. For instance, as the US-led coalition secured Iraqi cities while enlarging the safety zones, allied troops confiscated any unauthorized

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[189]*New York Times*, 1 December 1992, sec. A10.

[190]As quoted in Clarke and Herbst, "Somalia and the Future of Humanitarian Intervention," 74-75.

weapons.[191] Similarly, at the request of the UN Secretary
General, UNITAF undertook the responsibility of bringing
heavy weapons under the control of the international
community and disarming the gangs which threatened
humanitarian operations.[192] Indeed, in providing the
mandate for UNITAF, the UN officially authorized actions
similar to those which had already taken place in northern
Iraq without explicit UN approval.

The mandate for UNITAF was two-fold. First and
foremost, UNITAF was intended to establish a secure
environment which would permit the safe delivery, storage,
and distribution of humanitarian aid. In this regard, it was
intended that UNITAF would disarm the factions (in
particular gain control of heavy weapons), protect
humanitarian assistance distribution centres and convoys,
and institute a de-mining programme. The expansion of the
meaning "secure environment" to include disarmament
indicated the beginning of a shift by the UN from a
monitoring mission intended to deliver humanitarian
assistance to a peace-making mission intended to stop the
civil war in Somalia. As UN Secretary General Boutros-Ghali
explained:

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[191]*New York Times*, 10 May 1991, sec. A10.

[192]United Nations, *Report of the Secretary-General*, 19 December
1992: 11.

> The mistake we made in the past was to try to
> promote peace negotiations while the factions were
> still armed and fighting. We will not repeat the
> same mistake, disarmament is essential for lasting
> peace and it will take time.[193]

Thus, Boutros-Ghali identified a connection between the

creation of a secure environment by disarming, and disarming

in order to foster a sustainable peace-agreement.

This link between a secure environment and a

sustainable peace agreement indicates the second task of

UNITAF. In conjunction with the UN, UNITAF was to encourage

informal meetings between warring clans in order to "prepare

a framework that will enable the Somali people themselves to

develop ideas and suggest arrangements for the formation of

a government in accordance with their own traditions and

values."[194] Thus, the two tasks for UNITAF were based on a

somewhat circular assumption: "Without improved security the

political process cannot prosper. But there is little

prospect of a sustainable improvement in security unless the

political process does prosper."[195]

By 3 March 1993, approximately 37,000 coalition troops

were under the control of UNITAF in southern and central

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[193]*New York Times*, 6 December 1992, sec. A1.

[194]United Nations, *Report of the Secretary-General*, 19 December 1992: 7.

[195]United Nations, *Report of the Secretary General*, 19 December 1992: 20.

Somalia.[196] UNITAF maintained secure zones which

encompassed approximately 40 percent of Somalia, and the

UNITAF Commander declared that the conditions within these

zones were "stable or relatively stable."[197] The deployment

of UNITAF troops had greatly increased the flow of

humanitarian assistance. The level of malnutrition and death

from starvation fell dramatically, reduced from December

1992 when the ICRC estimated that 4.5 million were going

hungry and 1 million had already died.[198] Moreover,

although in March 1993 there were still 300,000 Somali

refugees, and a large number of internally displaced people,

Somalis had begun to return to their homes in the secure

zones. Thus, UNITAF had succeeded in accelerating the safe

delivery and distribution of humanitarian assistance and in

providing a secure environment for Somalis to return to

their homes.

Furthermore, UNITAF also succeeded in assuming control

of much of the heavy weapons of the clans and in disarming

the local gangs in the established secure zones. Thus,

although approximately 60 percent of Somalia was still

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[196]United Nations, *Report of the Secretary-General*, 3 March 1993: 4.

[197]United Nations, *Report of the Secretary-General*, 3 March 1993: 4.

[198]Jonathan Stevenson, "Hope Restored in Somalia?" *Foreign Policy* No.91 (Summer 1993): 138-139.

relatively anarchic, the 40 percent under control of UNITAF was stable. UNITAF had accomplished its original directive, which was "narrowly defined as providing a secure environment for the delivery of relief supplies, as well as disarming the warring factions."[199] Consequently, beginning in March 1993, UNITAF and the UN began serious negotiations on how to transfer the authority of UNITAF to a UN command. From its initial creation, UNITAF was intended to be a short term operation. The US command structure considered UNITAF as a "secure and leave" operation.[200] Once the established safety zones were secured the US expected the UN to resume the responsibilities of UNITAF.

In his 3 March 1993 report, the UN Secretary General called upon the Security Council to expand the mandate of a new UN operation, UNOSOM II, which was due to take over from UNITAF in early May 1993. The Secretary General wrote that:

> The efforts being undertaken by the United Nations in Somalia are directed towards one central goal: to assist the people of Somalia to create and maintain order and new institutions for their own people. The absence of a central government in Somalia is one of the main reasons for the now more robust role of the Organization in the country.[201]

The more "robust role" eventually transformed the

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[199]*New York Times*, 2 May 1993, sec. A16.

[200]*New York Times*, 1 December 1992, sec. A10.

[201]United Nations, *Report of the Secretary-General*, 3 March 1993: 20.

humanitarian intervention of UNITAF into the institution-building of UNOSOM II. The UN Secretary General requested that the Security Council provide UNOSOM II with a much larger force than UNOSOM I and a mandate which would include authorization to act under Chapter VII of the Charter. The Secretary General intended UNOSOM II to have a similar force structure and mandate to that of UNITAF.

An important difference between UNITAF and UNOSOM II was the size of the operational zones. In contrast to UNITAF which provided security throughout approximately 40 percent of Somalia, UNOSOM II was intended to secure the whole country. The UN Secretary General provided the following military tasks which would be undertake by UNOSOM II:

(a) to monitor that all factions continue to respect the cessation of hostilities and other agreements to which they have agreed...

(b) to prevent any resumption of violence and, if necessary, take appropriate action against any faction which violates or threatens to violate the cessation of hostilities;

(c) to maintain control of the heavy weapons of the organized factions...

(d) to seize small arms of all unauthorized armed elements...

(e) to secure or maintain security at all ports, airports and lines of communications required for delivery of humanitarian assistance;

(f) to protect, as required, personnel, installations and equipment of the UN and its agencies, the ICRC as well as the NGOs and to take such forceful action as may be required to

> neutralize armed elements which attack, or
> threaten to attack, such facilities and personnel,
> pending the establishment of a new Somali police
> force which can assume this responsibility;
>
> (g) to continue the programme for demining...
>
> (h) to assist in the repatriation of refugees and
> displaced persons within Somalia.[202]

UNOSOM II was not limited only to actions intended to secure
clearly demarcated areas in order to safely deliver and
distribute humanitarian assistance. In contrast to UNITAF,
UNOSOM II was also intended to militarily enforce cease-fire
agreements and to assist in the establishment of national
institutions such as a Somali police force.

On 25 March 1993, the UN Security Council adopted
Resolution 814 which expanded both the force structure and
operational mandate for UNOSOM II in accordance with the
recommendations outlined by the Secretary General's 3 March
1993 report. In doing so, the UN Security Council
commissioned UNOSOM II with a much broader range of
responsibilities than those outlined in Resolution 794 for
UNITAF. In particular, Resolution 814 called on UNOSOM II to
"promote and advance political reconciliation through broad
participation by all sectors of Somali society, and the re-
establishment of national and regional institutions and

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[202]United Nations, *Report of the Secretary-General*, 3 March
1993: 27-28.

civil administration in the entire country."[203] Clearly the mandate of UNISOM II was not limited to providing a secure environment in order to deliver and distribute humanitarian assistance. Instead, UNISOM II was intended to facilitate the creation and maintenance of institutional structures.

By the time that UNOSOM II assumed the operational responsibilities from UNITAF on 4 May 1993, it was apparent that the UN's involvement was no longer limited to humanitarian assistance. As UN Secretary General Boutros-Ghali stated, "the mission here in Somalia is expected to encompass the entire country and even move beyond relief assistance into reconstruction."[204] Similarly, the American envoy to Somalia, Robert Oakley, termed UNOSOM II as "total pacification and nation-building."[205] The role of the international community in Somalia had expanded from providing a secure environment for the delivery and distribution of humanitarian aid (humanitarian intervention) to constructing a political order through the establishment of governance structures (institution-building).

The differentiation of humanitarian intervention from nation-building is crucial when examining Somalia. As

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[203]United Nations Security Council, *Resolution 814*, 25 March 1993.

[204]*New York Times*, 2 May 1993, sec. A16.

[205]As quoted by Mandelbaum, "Reluctance to Intervene," 4-5.

Richard Haas writes:

> Nation-building is thus a far more ambitious
> enterprise than humanitarian intervention, which
> is limited in both means and ends. Nation-building
> requires replacing the existing political
> authority or creating one.[206]

Institution-building moves beyond the limited scope of
humanitarian intervention since it offers political
solutions as well as assistance. However, by intervening in
the political affairs of the host-state, it becomes
extremely difficult for institution-building operations to
maintain impartiality.

As Richard Betts suggests, intervention since the end
of the Cold War has taken place under "delusions of
impartiality."[207] This is particularly true for UNISOM II's
attempts to construct political institutions. Once the
operational responsibility was transferred from UNITAF to
UNISOM II, and thus the transfer from humanitarian
intervention to institution-building, large segments of
Somalia began to consider the presence of the UN as a
threat. As Stevenson writes, "The Somalis' initial
enchantment with the US troops cooled; they came to see
Americans, like the UN, more as colonizers than as

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[206]Richard N. Haas, "Military Force: A User's Guide," *Foreign Policy* No.96 (Fall 1994): 27.

[207]Richard K. Betts, "Delusions of Impartiality," *Foreign Affairs* 73, no.6 (November/December 1994): 20-33.

saviours."[208]

In retrospect, UNITAF was a success and UNOSOM II was a failure. In five months, UNITAF dramatically increased the ability of the international community to safely deliver and distribute humanitarian assistance. Similar to the operation in northern Iraq, this was accomplished by using military personnel to ensure a secure environment in established safety zones. Moreover, UNITAF was also able to bring much of the existing heavy weapons under international control and initiate a mine-clearing operation. In short, UNITAF accomplished its initial goals which were limited in both scope and duration.

By contrast, UNISOM II crossed the line between assistance and interference, and in doing so, faced aggressive resistance by large segments of the Somali population.[209] The negative consequences of this shift became apparent on 5 June 1993 when Pakistani forces, operating under UNOSOM II command, were attacked by a Somali faction which was believed by the UN to be associated with General Aideed. Twenty-five Pakistani soldiers were killed,

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[208]Stevenson, "Hope Restored in Somalia?" 140.

[209]The experience in Somalia has affected subsequent operations which border between humanitarian intervention and nation-building. For instance, US military personnel are now reluctant to "cross the Mogadishu line" - Clarke and Herbst, "Somalia and the Future of Humanitarian Intervention," 70.

ten went missing, and fifty-four were injured along with another three soldiers from the US. This unprovoked attack, which was condemned in UN Security Council Resolution 837,[210] demonstrates the aggressive disdain which many Somalis had towards the UN's continued involvement. Yet the attack on the Pakistani soldiers had, in many ways, been forthcoming since August 1992 when General Aideed initially rejected the deployment of a large military contingent by the UN. This attack was indicative of the view, held by almost all of the Somali factions, that the UN was meddling where it did not belong.

Similar attacks by Somali factions on UN personnel and journalists occurred on 12 July 1993, 8 August 1993, 5 September 1993, 9 September 1993, 15 September 1993, and 3 October 1993.[211] The most serious of these incidents was the 3 October 1993 attack, in which eighteen US Rangers were killed and seventy-five were wounded. Particularly humiliating was the manner in which the bodies of the US soldiers were treated by the Somalis, symbolically demonstrating that the UN had become an unwanted participant in the Somali civil war.

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[210]United Nations Security Council, *Resolution 837*, 6 June 1993.

[211]For detailed account of each incident, see United Nations, *Report of the Secretary General*, 16 November 1993: 16-17.

By November 1994, when the UN Security Council decided to terminate the mandate of UNISOM II at the end of March 1995, it was evident that the mission had failed. The UN Security Council recognized:

> that the lack of progress in the Somali peace process and in national reconciliation, in particular the lack of sufficient cooperation from the Somali parties over security issues, has fundamentally undermined the UN objectives in Somalia and, in these circumstances, the continuation of UNISOM II beyond March 1995 cannot be justified.[212]

In retrospect, the failure of UNISOM II was inevitable from the moment that it was provided with its expanded operational mandate by the Security Council.

As Farer writes, "neither the UN nor, by implication, any other actor should ever mix coercive activities with mediation and other soft measures for building and maintaining peace."[213] UNITAF succeeded because it limited its operations to the use of military capabilities in order to secure an environment for the delivery and distribution of humanitarian assistance. Despite the difficulty to maintain an impartial position, UNITAF avoided participation in the political affairs of Somalia. By contrast, the failure of UNISOM II was a result of its simultaneous

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[212]United Nations Security Council, *Resolution 954*, 4 November 1994.

[213]Farer, "Intervention in Unilateral Humanitarian Emergencies," 3.

involvement in both the political and humanitarian aspects of Somalia. Once UNISOM II shifted from humanitarian intervention to institution-building, the Somali factions no longer considered the UN presence non-partisan.

This view of the UN as an unwanted participant was exemplified by a press release of the Somali National Alliance released on 11 April 1995, after UNOSOM II had left Somalia:

> Substantial progress has been made in Somalia as far as peace and reconciliation is concerned since the final departure of the UN Operation in Somalia (UNISOM) and the Somalis have not missed them. Peace and security have returned to the capital, and the wanton killings and banditry have ended.
>
> The Somali people need neither the UN nor any other foreigners to mediate between them in the reconciliation process; they are capable of sorting out their political differences and achieving their political reconciliation and will not accept any further interference in their own political affairs.[214]

This statement indicates how the UN undermined its own legitimacy by becoming a participant in the political reconciliation of Somalia.

Conclusion

This chapter was intended to provide insight into the nature of humanitarian intervention and state sovereignty since the end of the Cold War. The operations in Somalia

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[214]Somali National Alliance, *Press Release*, 11 April 1995.

illustrate that collective humanitarian intervention in Iraq was not an anomaly. The actions of the UN have shown that under certain conditions, the territorial integrity of a sovereign state is not inviolable. The actions of the international community in Somalia, under the auspices of the UN, have demonstrated how sovereignty is now thought of as a basket rather than a chunk.

The operations in Somalia clearly illustrate how de jure sovereignty and de facto sovereignty are not necessarily absolute attributes. The sovereign status of Somalia - de jure sovereignty - was never challenged by those intervening in Somalia. Yet the absence of de facto internal and de facto external sovereignty was openly acknowledged. Since sovereignty is a set of attributes, one territorial entity may possess more or less sovereignty than another territorial entity. In the case of Somalia, although de jure sovereignty was maintained, de facto sovereignty did not exist.

Moreover, Somalia illustrates both the desirable and undesirable outcomes of humanitarian intervention. The success of UNITAF demonstrates the positive result of humanitarian intervention which is strictly limited to securing clearly demarcated areas in order to deliver and distribute humanitarian aid. A position of impartiality can be maintained and the intervening force is able to save the

lives of many civilians. On the other hand, the failure of UNISOM II shows the negative consequences of humanitarian intervention which expands into institution-building. Once the intervening force becomes involved in the political affairs of the host state, then that intervening force can no longer maintain a "feed and leave" policy; the intervening force loses its ability to maintain impartiality. As a consequence, institution-building forces are met with resistance by the warring factions, which inevitably leads to a failure of the mission.

Chapter 4
Conclusion

It was stated at the outset that this thesis was an examination into the nature of sovereignty and humanitarian intervention since the end of the Cold War. This inquiry has tried to understand how the use of military force to secure safety zones in order to safely deliver and distribute required humanitarian relief has affected commonly held beliefs about sovereign statehood. I began by posing three questions:

> (i) What does sovereignty mean to international relations in the 1990s?
> (ii) How has recent humanitarian intervention in Iraq and Somalia affected the sovereignty of the host state?
> (iii) What lessons can be drawn from these recent cases in regards to both the future of humanitarian intervention and the future of sovereignty?

In this chapter, I will review the arguments advanced in this thesis and provide answers to the questions posed at the outset.

Belief vs. Knowledge: the Meanings of Sovereignty

Too often, it seems that the rudimentary lessons of basic epistemology are forsaken by scholars in search of truth. This is all too true in regards to the concept of

sovereignty, which has almost always been treated as a foundational concept by international relations theorists. The existence and meaning of sovereignty is generally assumed as an ontological starting point, defined in an a-historical manner which provides a reductionist definition.[215] This thesis has attempted to critically re-define the meaning of sovereignty so it is an accurate reflection of present-day world politics.

The recent emergence of post-modernism in international relations has contributed to the field by de-centering the foundations of accepted meanings. Although the rubric of post-modernism is diverse - including post-structuralism, semiotics, deconstruction, new criticism, genealogy, and inter-textualism[216] - it shares a common aspiration to be critical of "the rituals of international relations theory."[217] In the case of sovereignty, postmodern works

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[215]For further explanation of this assertion, see John Gerald Ruggie, "Continuity and Transformation in the World Polity: Toward a Neorealist Synthesis," in *Neorealism and its Critics*, ed. Robert O. Keohane (New York: Columbia University Press, 1986): 131-157. In contrast to those who assume that sovereignty is a static concept, Ruggie shows the historical transformations of the concept of sovereignty.

[216]see Pauline Marie Rosenau, *Post-Modernism and the Social Sciences: Insights, Inroads, and Intrusions* (Princeton: Princeton University Press, 1992).

[217]R.B.J. Walker, "Security, Sovereignty and the Challenge of World Politics," prepared for ed. Michael Klare and Daniel Thomas, *World Security at Century's End* (New York: St. Martins Press, 1990/91): 19.

such as Jens Bartelson's *A Genealogy of Sovereignty* or

Cynthia Weber's *Simulating Sovereignty* have raised a number

of questions about the concept.[218] Bartelson reminds the

avid student not to accept the underlying assumptions of

grand theory uncritically. He writes that the question of

sovereignty could be:

> brushed aside as irrelevant to modern political
> science. One could argue that the discipline has
> outgrown the need to wrestle with general
> concepts, and should devote itself exclusively to
> their concrete instantiations [valid inference of
> an instance from a universally qualified
> statement] in empirical reality.[219]

However, in doing this political scientists would become

trapped within a dialogue which uses sovereignty as a

defining property. It should be recognized that since

sovereignty is a prerequisite for statehood and much of the

field of international relations is concerned with the

inter-actions of states, the meaning of sovereignty is

worthy of theoretical inquiry.

Yet, post-modernism in international relations takes

this assertion to a dangerous extreme. Although I concur

that the discipline has not outgrown the need to wrestle

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[218]Jens Bartelson, *A Genealogy of Sovereignty* (Cambridge: Cambridge University Press, 1995); Cynthia Weber, *Simulating Sovereignty: Intervention, the State and Symbolic Exchange* (Cambridge: Cambridge University Press).

[219]Bartelson, *A Genealogy of Sovereignty*, 1.

with general concepts, one must be careful that the theory does not become too removed from the political reality of international relations. If a theory no longer resembles the environment it is supposed to explain, then that theory has limited utility. This is the fault of post-modernism in international relations: there is so much emphasis placed on deconstructing inter-textual relations that it eventually removes all practical utility that a concept such as sovereignty can offer to world politics. As Bauman writes, the "postmodern mind seems to condemn everything, propose nothing."[220]

Bartelson's work exemplifies this negative consequence of the post-modern approach. Although he provides an excellent history of the development of the concept of sovereignty, his genealogy of the sovereignty discourse becomes disconnected from the political realities of sovereignty. The enchantment of symbols and signs can easily lead to a theoretical understanding of international relations which simply does not correspond with the actual affairs of world politics. Although post-modernism in international relations has contributed to the field by interrogating sovereignty, and thus has created a dialogue on the meaning of the concept, the utility of the post-

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[220]Zygmunt Bauman, *Intimations of Postmodernity* (New York: Routledge, 1992): xi.

modernist focus on language and representation is limited.

In contrast, this thesis has attempted to define sovereignty so that it is an accurate reflection of present-day world politics. The theoretical assertions about sovereignty in Chapter One are illustrated in the case studies of Iraq and Somalia in Chapters Two and Three. Sovereignty is not an absolute condition; rather, it must be understood as having relational properties. Iraq and Somalia provide examples of weak - even non-existent - de facto internal sovereignty and de facto external sovereignty. Even de jure sovereignty, which in both Iraq and Somalia was never put in question, is not necessarily absolute. For instance, although most of the international community quickly recognized Macedonia as a sovereign entity, Greece initially refused to confer sovereign recognition to the new state; the de jure sovereignty of Macedonia was not universal, and thus, not absolute[221]. Given this relational nature of sovereignty, one can conclude that sovereignty now resembles a basket of attributes rather than a monolithic chunk.

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[221]This does not mean that if one state refuses to confer sovereign recognititon that sovereign status cannot be attained. Sovereignty is not an all or nothing possession (absolute quality). Thus, even if sovereign recognition is not granted by all members of the international arena, a state may still be considered sovereign by the majority: e.g. Macedonia.

Whither the Sovereign State?

Stedman was, in a sense, correct when he wrote that the "precepts of this new interventionism chafe at traditional notions of sovereignty."[222] Humanitarian intervention in Iraq and Somalia does contest the sovereignty of both countries if sovereignty, as it has been traditionally defined, is assumed to be an absolute condition. If the sovereignty of a territorial entity is an absolute condition contingent upon Cold War creeds such as "territorial inviolability" and "non-interference," then Iraq and Somalia were not sovereign states during the early 1990s. Clearly this is not the case: although the territorial frontiers of both Iraq and Somalia were breached by humanitarian operations, both countries were always treated by members of the international community as sovereign states. The de jure sovereignty of both Iraq and Somalia was respected and upheld by the UN and the US-led coalitions throughout the humanitarian operations.

Given this contradiction between the requirements of the traditional meaning of sovereignty and the events in Iraq and Somalia, it is evident that the concept of sovereignty is not static. The concept of absolute sovereignty is not an accurate reflection of world politics.

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[222]Stephen John Stedman, "The New Interventionists," *Foreign Affairs* 72, no.1 (1993): 1.

In contrast, humanitarian intervention in Iraq and Somalia reflects the relational, not absolute, nature of sovereignty. Sovereignty is more like a basket than a chunk. Rather than describing sovereignty as something which a state either does or does not possess, a functional definition identifies de facto internal sovereignty, de facto external sovereignty, and de jure sovereignty. Each state possesses a different combination of these three pillars of sovereignty, and as such, can be more or less sovereign.

Humanitarian intervention in Iraq and Somalia demonstrates that the basket approach to sovereignty ia a more accurate reflection of the realities of world politics. The international community continually reiterated that Iraq was a sovereign state and that the humanitarian intervention did not violate Iraq's sovereignty because it was limited to securing clearly demarcated areas in order to distribute humanitarian relief. The international community's assessment of Iraqi sovereignty was based on de jure sovereignty. In contrast, the Iraqi claim that the humanitarian intervention was "a conspiracy to intrude on Iraqi sovereignty"[223] indicates that the Iraqi officials' evaluation of sovereignty was based on territorial

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[223]*New York Times*, 10 April 1991, sec. A12.

integrity, and thus, de facto external sovereignty. According to Iraqi officials, the transgression of Iraqi borders is an infringement of Iraqi sovereignty. The employment of these different meanings of sovereignty by the international coalition and Iraq demonstrates the way in which the international sovereignty regime now resembles a basket.

Although Iraq protested that the humanitarian intervention was an infringement of its sovereignty, the government in Baghdad was unable to assert its sovereign authority. Iraq did not have the ability to maintain its de facto external sovereignty through the use of force. Moreover, the international community's view of Iraq's sovereign attributes was affected by the fact that Iraq had just lost the Gulf War. As Fowler and Bunck write, "Basket theorists, of course, would take the UN treatment of Iraq as evidence that a defeated country often lacks the complement of sovereign rights enjoyed by the victors."[224] Iraq demonstrates that, in practice, sovereignty is both a status conferred by international recognition (de jure sovereignty) and a set of attributes and abilities which are not identical for every state (de facto sovereignty). In the

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[224]Michael Ross Fowler and Julie Marie Bunck, *Law, Power, and the Sovereign State: The Evolution and Application of the Concept of Sovereignty* (Pennsylvania: Pennsylvania University Press, 1996): 105.

case of Iraq, although de jure sovereignty was always maintained, the safe havens revealed Iraq's lack of de facto external sovereignty.

The case study of Somalia demonstrated two important aspects of sovereignty in the 1990s. First, the humanitarian operations in Somalia were a reflection of the commonly held belief that the international community does have a responsibility to assist individuals facing a humanitarian crisis. This confirms that Iraq was not an international anomaly. Much like the Kurds in northern Iraq, many Somali civilians were facing death by starvation and malnutrition as a result of civil conflict. Thus, the international community created a humanitarian intervention operation, UNITAF, in order to secure clearly demarcated areas so that humanitarian supplies could be safely delivered and distributed. The requirements of individuals as human beings were presumed to be more important than the territorial integrity of Somalia.

Second, the humanitarian intervention Somalia provides more evidence of the relational nature of sovereignty. In Somalia, there was no national government capable of exercising either de facto internal sovereignty or de facto external sovereignty. Although the international community preserved the de jure sovereignty of Somalia, its sovereign existence was somewhat of a fiction. Somali sovereignty was

a reflection of the external recognition of Somali borders
by the international community, not a reflection of internal
authority.

According to traditional absolutist definitions of
sovereignty, Somalia would not be considered a sovereign
state after the collapse of its institutional structures.
When Alan James writes that sovereignty is a "legal,
absolute, and unitary condition,"[225] he exemplifies how the
traditional definition of sovereignty is no longer an
accurate reflection of world politics. Although Somalia was
still a sovereign entity under international law, and thus a
legal entity, there did not exist a unitary authority which
was not subordinate to either an internal or an external
superior. Somalia did not possess an internal authority
capable of de facto sovereignty. Its sovereign statehood was
upheld solely on de jure sovereignty. This preservation of
Somali statehood by the international community indicates
how sovereignty can now be described as a basket of
attributes, not a monolithic chunk.

Recognizing that sovereignty cannot be conceptualized
as an absolute condition which confers identical rights to
every sovereign state, it becomes evident that humanitarian
intervention does not undermine the sovereignty of the host

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[225]Alan James, *Sovereign Statehood: The Basis of International
Society* (London, Allen & Unwin, 1986): 39-57.

state. The humanitarian intervention did not affect the sovereign attributes of either Iraq or Somalia. The US-led coalitions and the UN did not take the de facto sovereignty of the host-state away, but rather, the de facto sovereignty was either weak (in the case of Iraq) or completely nonexistent (in the case of Somalia) prior to the intervention. The humanitarian operations could proceed without an explicit invitation by the host state because of the inability of that host state to assert its de facto external sovereignty. The humanitarian intervention did not affect the sovereignty of either Iraq or Somalia, but rather, the sovereign attributes of Iraq and Somalia facilitated the intervention.

Once it is accepted that the rigid signifiers of sovereignty which were so important during the Cold War - such as the inviolability of territorial boundaries without explicit permission - no longer mark the presence or absence of sovereignty, then it becomes unmistakably apparent that humanitarian intervention does not signal the end of sovereignty. In contrast to those scholars who concluded that humanitarian intervention disregarded the sovereignty of the host state, it is evident that the international community acted in accordance with the attributes of sovereignty which were possessed by the host-state in practice, not just in theory. Since Iraq and Somalia were

unable to assert their de facto external sovereignty, the international community was able to intervene within their territorial boundaries while publicly maintaining the existence of de jure sovereignty.

Humanitarian Intervention: a Future Endeavour?

Having explored the impact of humanitarian intervention on sovereignty since the end of the Cold War, it seems appropriate to conclude with a brief outlook for the near future. Through the case studies of Iraq and Somalia I have highlighted a number of the realities that, when put together, disclose the lessons which can be drawn from these recent cases in regards to both the future of humanitarian intervention and the future of sovereignty. In doing so, I hope to expound on some general expectations, not concrete predictions.

The experiences of humanitarian intervention in Iraq and Somalia will have three important consequences for future endeavours. First, these two cases demonstrate that humanitarian intervention is now a legitimate option for the UN. Under certain circumstances, it is acceptable for a collective force to transgress the territorial borders of a sovereign state, without permission from the host state, in order to facilitate the safe delivery and distribution of humanitarian relief by securing areas through the use of

military force. This does not indicate that humanitarian

intervention will become a common international endeavour,

but rather, a legitimate option for international collective

action.

Second, powerful states which are required for large-

scale undertakings such as humanitarian intervention have

demonstrated a reluctance to intervene. Particularly in the

US, the memory of UNISOM II has caused the popular

acceptance of using military personnel within civil

conflicts to diminish. For evidence of this, one simply has

to look at US involvement - or lack of involvement - in

Rwanda or presently in Liberia. As Clarke and Herbst write,

"future tolerance of disorder was previewed in Rwanda in

April 1994, when the world, paralyzed by the Somalia

debacle, did nothing as the Hutu government slaughtered

upward of half a million Tutsis."[226]

Yet this does not necessarily mean that Somalia was the

last humanitarian operation. Kohut and Toth suggest that the

American public "will be clearly disposed to act in two

situations: if it feels America's vital interests are at

stake and if American military force can provide

humanitarian assistance without becoming engaged in a

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[226]Walter Clarke and Jeffrey Herbst, "Somalia and the Future of Humanitarian Intervention," *Foreign Affairs* 75, no.2 (March/April 1996): 82.

protracted conflict."[227] This is an important point because if the US decides to become involved within a humanitarian operation, many middle powers will also contribute capabilities. Although the Somali experience has prompted the international community, specifically the US, to provide humanitarian intervention only in "secure and leave" operations, this selectivity does not indicate that there will be no humanitarian intervention in the near future. Instead, this illustrates that humanitarian intervention will most likely take place only in situations which facilitate a short-term operation.

Third, and closely related to the reluctance to intervene, is that humanitarian intervention can easily become expanded into political intervention, particularly institution-building. Most likely humanitarian intervention will be limited, as in Iraq, to securing clearly demarcated areas in order to safely deliver and distribute humanitarian relief. Future humanitarian intervention, especially if the US is involved, can be expected to consciously avoid rolling mandates, such as in Somalia, which incrementally involve the humanitarian operation in the political aspects of the conflict. Future humanitarian endeavours will most likely ensure that the operation does not "cross the Mogadishu

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[227]Andrew Kohut and Robert C. Toth, "Arms and the People," *Foreign Affairs* 73, no.6 (November/December 1994): 47

line."

In regards to the future of sovereignty, it seems
apparent that it is not in danger of extinction. The
practical reality of sovereignty demonstrates that it is a
basket of attributes which is still respected by the
international community. In Iraq, the de jure sovereignty
and de facto internal sovereignty were respected by the
intervening coalition. In Somalia, the de jure sovereignty
was respected by the international community. Humanitarian
intervention does not detract sovereign attributes, but
rather, is a reflection of existing sovereign attributes. If
Iraq or Somalia had possessed the capabilities to assert
their de facto external sovereignty, the international
community would not have intervened. As for those who have
proclaimed that humanitarian intervention in the early 1990s
signalled the death of sovereignty, it is apparent that
sovereignty is not in decline. Indeed, sovereign states -
each of which possesses a different combination of de jure
sovereignty, de facto internal sovereignty, and de facto
external sovereignty - will continue to be an integral
component of international relations into the twenty-first
century.

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