

*Crimes Against Humanity – Who Has The Right To Intervene?*

According to The Hague Tribunal, crimes against humanity are ‘...inhumane acts of a very serious nature committed as part of a widespread or systematic attack against a civilian population on political, ethnic or religious grounds.’ Contemporary examples of such crimes include the atrocities in Rwanda, Algeria and the former Yugoslavia. These all constitute gross violations of human rights on a scale evocative of the horrors of the Holocaust and for this reason they demand intervention.

By intervention it is meant the last-resort of armed intervention capable of preventing or minimising the harm that these crimes occasion. However, a right to intervene on humanitarian grounds such as these, is at present heavily contested in international law. Arguments against it include a deference to state sovereignty, the spectre of neo-colonialism and the opportunities it offers for widespread abuse. None of these arguments are convincing, however, when judged against the need to protect and promote universal human rights.

The very suggestion that it is the right of anyone to intervene in these circumstances necessarily challenges traditional obsequience to state sovereignty and denies it its time-honoured place at the apex of the international legal order. It places the dignity of human beings (upon which the United Nations Charter is premised) above the inviolability of states (as enshrined by Article 2 (7) of the same Charter) and consequently requires a paradigm shift in the way international law is perceived. Crimes against humanity know no borders, and frequently occur (as the examples

above testify) within the confines of individual states; rendering them outside the scope of orthodox international law. The territorial integrity of states, though a formidable challenge to preventing crimes against humanity, is not an insurmountable obstacle and while numerous justifications are advanced for its preservation, none of them are of sufficient merit so as to prevail over the protection of human rights.

Consider the allegation that intervention is merely the latest manifestation of First World domination over the Third and must accordingly be rejected. Such claims invariably utilise the language of cultural relativism to decry any attempts to impose universal standards of conduct across the world; as if respect for human dignity were somehow a form of imperialism. Similarly, attempts to portray any and all intervention as a form of neo-colonialism are fundamentally flawed. One reason for this is that they tend to assume that intervention is an entirely Western phenomenon exercised only in relation to the Third World and consequently in effect a form of oppression. Neither of these contentions is valid however.

There is nothing peculiarly western about the rights enshrined in the 1948 Declaration of Human Rights (as the name indicates) and nothing inherently 'Third World' about those responsible for crimes against humanity, as Hitler's final solution graphically illustrated. Intervention to prevent them, therefore, cannot be characterised as a novel form of imperialism. Once it is recognised that crimes against humanity are not the preserve of those living in the 'heart of darkness' and that intervention need not come only from the so-called 'civilised nations' it becomes much harder to argue convincingly against it. Intervention as here advocated does not

constitute the imposition of 'Western Values' on Third World countries, but is the vindication of universal values in every country.

Nonetheless, the problem of political objectives being pursued by various states under the guise of humanitarian intervention is undeniable and the potential for abuse widespread. That this is so does not preclude the possibility of intervention, however, but merely emphasises the importance of finding the correct body or bodies to undertake it. It stands to reason that states should not be permitted to turn any and every conflict as may exist in the world into a cause for military action on their part so it should not be left to individual states or even regional bodies such as NATO, to assume the role of world-wide guardian of human rights. This is because states, whether individually or collectively, seldom if ever, act out of altruism. Allowing them to intervene in this manner would almost certainly result in selective enforcement and its attendant potential for innumerable countries to exist permanently on the brink of war, for fear of what their human rights record may expose them to. Furthermore, it would encourage the 'strategic interests' approach to intervention, meaning that only those caught up in the most media-friendly or politically expedient of conflicts would benefit from outside assistance. This is clearly incompatible with the rationale underpinning the general right of intervention in cases of crimes against humanity, namely that they must be addressed wherever they occur and irrespective of whom is responsible for them.

It follows that the only body even theoretically capable of providing impartial and thus morally legitimate humanitarian intervention, is one divested of national interests and political considerations. In practice, this means the United Nations. For the

United Nations to fulfil such a role, however, requires it to undergo radical reform. At the very least it must be altered so that it truly reflects the composition of its membership. The current situation, in which it is held to ransom by the power struggles of its pre-eminent members (China, Russia, and the United States) and emasculated by an undemocratic veto of the Security Council, cannot be allowed to endure.

A United Nations, independent of the particular interests of its individual members, serving only the welfare of humanity as a whole, is the only way intervention can be both effective and beyond reproach. Essentially, the right to intervene whenever crimes against humanity are committed belongs to us all. That individually we are frequently incapable of exercising this right only intensifies the need to reform the United Nations; the one organisation possessed of the ability to exercise it on our behalf and turn human rights rhetoric into human rights reality.