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PRIME MINISTER

SEMINAR ON POSSIBLE CONFLICT OF PRINCIPLES IN FOREIGN POLICY
1 OCTOBER

Although the seminar is still a week away, you may like to glance over the papers this weekend.

The proposed programme is as follows:-

Card timetable

1630 - 1845 - general discussion between all participants.

1900 - 2030 - continuing over working dinner.

2045 - non-official participants leave

2100 - 2200 - consider policy implications with officials.

The list of participants is attached as reference A; the basic discussion document circulated to all participants as reference B; and Douglas Hurd's letter as reference C.

law
morality
history

None of the academic participants have been asked to prepare papers. You will want, therefore, to open with a general statement setting out the main areas of discussion - viz the legal considerations, the moral arguments, the lessons of practical experience - and then take them one by one. For each area you might yourself pose a number of questions for discussion, and then invite those with particular expertise to set the ball rolling. I attach some Chairman's notes on these lines. I suggest allowing 45 minutes for each of the main themes, with dinner being used for more general discussion and conclusions. After dinner, with officials only, you would try to apply the test of the conclusions against the particular case of Nicaragua.

If this is on the lines which you find useful, I will do a similar note for the NATO Strategy seminar.

EDP

21 September 1984

RAMADT

SEMINAR ON POSSIBLE CONFLICT OF PRINCIPLES
IN FOREIGN POLICY: 1 OCTOBER AT CHEQUERS

The list of participants and the timetable are in the inside cover.

The folder contains:

- A. Chairman's Notes.
- B. The paper: Is Intervention Ever Justified? circulated to all participants.
- C. Professor Rosalyn Higgins' note.
- D. Douglas Hurd's letter. *See file.*
- E. Percy Cradock's note.

SEMINAR ON POSSIBLE CONFLICT OF PRINCIPLES IN FOREIGN POLICY

1 OCTOBER: CHAIRMAN'S NOTES

1. Welcome you all to Chequers. Most distinguished group: a formidable accumulation of wisdom, legal expertise and practical experience in world affairs.

2. Purpose of the seminar is to allow more reflective discussion than we normally have time for when confronted with the need for urgent decisions. Opportunity to analyse the intellectual basis for statements, principles, positions or policies which we are inclined to take as read - yet when tested against events often turn out to be inadequate. No constraints on what we say. But hope we can all abide by what are called Chatham House Rules, that is nothing should be attributed either to the occasion or to any of the participants by name.

3. You have all received a background paper which has been prepared for this discussion. It's title - Is Intervention Ever Justified? - sums up crisply the dilemma which will be at the heart of our debate. But let me tell you in a little more detail why I want a really good discussion on this. We in Britain and most other Western countries stand for the upholding of international law and respect for national sovereignty. We therefore believe it to be wrong, except in the most extreme circumstances, to violate the borders of another state or to intervene in its internal affairs. But others are not so scrupulous. They interfere blatantly in the internal affairs of sovereign states, they work from within to impose regimes against the will of the peoples concerned, they openly violate national borders. How should we respond to this? Should we stand firm on the principles in which we believe while others ravage them? What if the consequence of doing so is to allow the massive violation of another people's human

∩ other overriding principles

rights? Are there circumstances in which these practices entitle us - and by us I don't just mean the United Kingdom but other Western democratic nations - to intervene? If so, in what circumstances and what justifications can we use?

4. I don't want it to become a discussion of particular cases, though of course it is perfectly legitimate to quote them in support of an argument. It will not surprise anyone, I am sure, that it was the experience of Grenada which moved me to want to discuss this problem, and the dilemma is one which arises particularly in the case of small states. They are the ones most vulnerable both to external intervention and to internal subversion.

5. I think it will be helpful if we divide our discussion into some broad areas, following the general outline of the paper circulated. That means that we should start with the legal considerations, go on to look at the moral arguments, then examine the lessons of historical experience. We have about 45 minutes for each, which means plenty of self-discipline, leaving us to draw general conclusions over dinner.

International Law

6. Here I will ask Professor Bowett, Dr. Lauterpacht and Sir Ian Sinclair to speak early on. Before they do, I will just remind you that the paper which you have identifies five broad categories of exception to the general prohibition on intervention in international law. It can be justified:

- at the invitation of the "receiving" state;
- on the authority of the Security Council or of a regional organisation;
- in exercise of the right of individual or collective self defence;

- with the intention of protecting a state's citizens abroad;
- on humanitarian grounds.

6. Questions we might look at are: are these the only exceptions? Or are there other, legally acceptable grounds for breaching the principle of non-intervention? Are there ways in which we can strengthen the structure of international law against intervention? Should we consider introducing the notion of reciprocity and outlaw pirate states who do not themselves act in accordance with international law from the protection of it? Or, a final and more provocative question, is it more realistic to regard intervention as a matter of policy with the legal aspects secondary and often just a fig leaf?

Moral arguments

7. The second aspect we need to look at is the moral one. I am not quite sure who I should pick on here but Professor Kadoorie, Professor Bull and Mr. Calvo-coressi might like particularly to comment. Once again the paper which has been circulated is a veritable mine of quotes and precedents leading to a very simple conclusion: everyone agrees that non-intervention is a Good Thing but there is no consensus about the circumstances which justify a breach of that principle. Should we conclude that the only guiding principle is the utilitarian one of demonstrating that the world is a better place as a result of an intervention than it was before? Or, put another way, that the penalties of non-intervention would be greater than the disadvantages of intervention? How far is it possible to rely on justifications based on the need to maintain or restore international order? Or contain international communism? Is success in the end the only justification of intervention that really matters?

*Kadoorie
Bull
Dr. Calvo-coressi*

Historical experience

8. The third area we should look at is that of historical experience. And here I look to historians and practitioners, in particular Tony Parsons, Hugh Thomas and Colonel Alford. There is no shortage of historical examples drawn from our own experience - Oman, Kuwait, Indonesia, Malaya, Tanganyika, Kenya, Anguilla, Suez - or drawn from American / Soviet / and French intervention. Are there any general lessons to be learned from these examples, in terms of credible justifications? Can one construct a profile, from historical experience, of situations which are most widely regarded as justifying intervention? What are the elements most commonly present?

Conclusions

9. I hope that none of you will go away thinking that I have invited you here to help me find a justification for some action which I am planning, or construct an alibi for supporting some-one else. That is not at all the purpose. But we have seen that situations can arise, as in Grenada, which pose very difficult choices. It is inevitable that there will be more. I will not attempt to sum up our discussion: I am more interested in hearing your conclusions. But some points which seem to me to emerge are:

{ to be devised in the light of the discussion }

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IS INTERVENTION EVER JUSTIFIED?

- I Introduction
- II Intervention in International Law
- III Intervention: Moral Approaches
- IV Soviet Doctrine and Practice
- V US Doctrine and Practice
- VI Conclusion: When Is Intervention Justified?
 - Annex I: Definitions
 - Annex II: UN Texts
 - Annex III: Regional Texts
 - Annex IV: Recent French Practice
 - Annex V: Letter and Leading Article in The Times
 - Annex VI: Select Bibliography

Prof. Bowett
Handwritten
Su. Ian Switani
Prof. Kadosue
Bull
M. Calvo-Corressi

Historical
Lyons
Parsons
Tony
High Names
Global Affairs

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I Introduction

I.1 "Non-intervention in the internal affairs of states" has become one of the catch phrases of international diplomatic language in the postwar world. Recent events have reminded us that an absolute prohibition on intervention is an inadequate tool for dealing with the range of assaults on sovereignty faced by states today, and that there may be circumstances in which it is necessary to intervene to defend that sovereignty. In a letter to The Times last autumn, Lord Home suggested that "international law is immature and defective in this important area of relations between nations"¹. A leading article in The Times the same day called for a "strategic initiative" to "develop a coherent and multilateral approach to further rescues" of the type carried out by the United States in Grenada.¹

I.2 This paper explores the legal and moral issues associated with intervention. It describes some of the ways and circumstances in which intervention has been justified, with special reference to Soviet and American doctrine and practice in, respectively, Eastern Europe and Latin America. Annex IV briefly describes French practice since 1961. The paper does not, however, address the United Kingdom's recent experience of intervention. This is partly because it has been so limited, but mainly because the paper's principal aim is to analyse the wider problem as a basis for discussion. A proper review of British policy on intervention would require a separate, and more highly classified, paper.

I.3 For the purposes of this paper, intervention will usually be taken to mean dictatorial interference in affairs normally within the domestic jurisdiction of a state. Although this broad definition allows for intervention by means other than armed force (such as economic coercion or propaganda), armed force or the threat thereof is involved in most of the cases considered in the paper. Annex I examines the problem of defining intervention in more detail.

I.4 The paper begins (Section II) by looking at the legal position. Section III gives a short account of how a selection of political philosophers have set out to justify intervention. The two following Sections (IV and V) explore Soviet and American experiences of intervention. A final Section (VI) draws certain conclusions about the circumstances in which intervention may be justifiable.

Intervention in International Law

"All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations".

Article 2(4) of the UN Charter

"Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII".

Article 2(7) of the UN Charter

II.1 All contemporary international lawyers agree that intervention is, as a general rule, forbidden by international law. Since 1758, when Vattel set out the duty of non-intervention as a restatement of the right to independence from the negative side, this principle has been seen as the corollary of every state's right to sovereignty, territorial integrity and political independence. Articles 2(4) and (7) of the UN Charter, quoted above, make this clear. The Charters of the OAS, the OAU and the Arab League all embody the principle of non-intervention.

II.2 The prohibition on intervention implicit in the UN Charter has been made explicit in numerous drafts put before, and several Resolutions approved by, the General Assembly, which, although not binding, may be considered to reflect customary international law. Of these, the most important are the 1965 Declaration on The Inadmissibility of Intervention in the Domestic Affairs of States¹ (adopted with 109 in favour, none against, and only the UK abstaining²); the 1970 Declaration on Principles of International Law concerning Friendly Relations ... among States (adopted without vote); and the 1981 Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States (adopted with 120 in favour, 22 (including the UK, EC and US) against³, and 6 abstentions). All three Declarations affirm that no state has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other

¹ See Annex II for excerpts from all 3 Declarations.

² Several countries, including the UK, expressed reservations on the grounds that the Declaration was "vague and imprecise in language, and more political and legal in content, based more on concepts of international politics than on rigorous juridical analysis" (UN Year Book 1965).

³ Britain and other countries voted against the 1981 Declaration not because they objected to the principles underlying the Resolution, but because they found objectionable certain subsidiary and semi-legal provisions on, for example, the exchange of information and permanent sovereignty over natural resources.

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te. Consequently, armed intervention and all other forms of interference are condemned; no state may use economic, political or any other measures to coerce another state in order to obtain from it the subordination of the exercise of its sovereign rights or advantages of any kind.

II.3 The Helsinki Final Act⁴ is one of a number of regional arrangements specifically to forbid intervention in the internal affairs of participating states. Principle VI of that Act (on Non-Intervention in Internal Affairs) includes an undertaking by states to refrain from "political, economic or other coercion ... to subordinate to their own interest the exercise by another participating State of the rights [of] sovereignty". An early precedent for such an undertaking was the inclusion of "non-interference in internal affairs" as one of the pancha sila, or five principles, set out in the preamble to China-India Treaty of 1954. These principles came to form the basic creed of the Non-Aligned Movement.

II.4 In all these international arrangements, intervention is regarded as including political and economic measures. However, in international law intervention is usually defined as forcible or dictatorial interference by a state in the affairs of another state, calculated to deprive that state of control of the matter in question⁵. States perform many acts which affect other states but which are solely within their own sovereign rights or are not dictatorial, and therefore do not violate the sovereign rights of other states.

II.5 The exceptions to the general prohibition on intervention are strictly limited in international law, and may be said to fall into five broad categories.

(a) Intervention under a treaty with, or at the invitation of, another state

II.6 If one state requests assistance from another, then clearly that intervention cannot be dictatorial and therefore unlawful. In 1976 the Security Council recalled, in a preamble to a Resolution, that it is "the inherent and lawful right of every State, in the exercise of its sovereignty, to request assistance from any other State or group of States"⁶. Examples of such lawful intervention at the request of states might be British aid to Muscat and Oman in 1957 at the request of the Sultan; the US/Belgian action to rescue the hostages in Stanleyville in 1964; or the military action taken by the German Government with the consent of the Somali authorities to free a hi-jacked aircraft at Mogadishu Airport in 1977.

⁴ See Annex III

⁵ See Annex I for further discussion of the definition of intervention.

⁶ SCR 387, condemning South African aggression against Angola.

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II.7 International law does, however, place two major restrictions on the lawfulness of states providing outside assistance to other states. One is that any form of interference or assistance is prohibited (except possibly of a humanitarian kind⁷) when a civil war is taking place and control of the state's territory is divided between warring parties. But it is widely accepted that outside interference in favour of one party to the struggle permits counter-intervention on behalf of the other, as happened in the Spanish Civil War and, more recently, in Angola.

II.8 Some commentators also believe that a second limitation is on other states' acceding to requests from a "colonial power" for assistance in suppressing an armed struggle by peoples of a colony seeking to exercise their right of self-determination. This view is not, however, shared by many international lawyers, and might be problematic for countries such as France or the United Kingdom.

II.9 Intervention under a treaty by which one state consents to intervention in certain circumstances by another is of course only apparent intervention - provided that the intervening state remains within the terms of the treaty.⁸

(b) Intervention with the authority of the Security Council (or, less certainly, the General Assembly); or other collective intervention on behalf of international bodies

II.10 Chapter VII of the UN Charter (Articles 39-51) was drawn up to ensure that the Security Council could "maintain or restore international peace and security" through the use of armed forces, but many of its provisions (for example, Article 42⁹) have never been used. And the failure to conclude military agreements in accordance with Article 43⁹ has rendered that Article unusable. Recommendations have, however, been made under Article 39 suggesting that members make armed forces available, but only in the case of South Korea. Articles 52 and 53⁹ are clear that regional organisations' main role is in the peaceful settlement of disputes, and that any enforcement action must be under the authority of the Security Council.

II.11 The only other, and much more uncertain, form of intervention provided for in the UN system is that under the "Uniting for Peace" Resolution of 1950.⁹ The Charter gives the Security Council responsibility for maintaining or restoring "international peace security", if necessary by despatching military forces (Chapter VII). If, however, the Security Council could not agree, the General Assembly "Uniting for Peace" Resolution was designed by its

⁷ See para II.18 ff below.

⁸ For example, under the 1960 Treaty of Guarantee for Cyprus, each of the guarantor states "reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty" if the Treaty has been breached and common action proves impossible.

⁹ See Annex I

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American sponsors to give the Assembly powers to deal with these issues by, for example, holding an emergency special session of the Assembly to discuss the matter. It is generally accepted today that the Assembly can meet to discuss threats to "international peace and security" if the Council cannot agree (for example, on Afghanistan in 1980). But it is not considered to have the power to despatch military forces to deal with such disputes, except with the consent of the "receiving" state (as, for example, happened with the Congo).

II.12 Some international lawyers also allow other collective action undertaken in the general interest of states or for the collective enforcement of international law. However, this would be difficult to justify in the absence of any of the other grounds for intervention cited in this Section. It should, moreover, be distinguished from limited exceptions such as that in the Inter-American Treaty of Reciprocal Assistance signed at Rio in 1947¹⁰. This provides for collective measures to be taken, after consultation, in the event of aggression against any American State (Article 6). The OAS Charter¹⁰, signed at Bogota the following year, states that measures for the maintenance of peace and security in accordance with existing treaties do not constitute a violation of the articles in the Charter prohibiting intervention.

(c) Intervention in exercise of the right of individual or collective self-defence

II.13 Article 51¹¹ of the UN Charter states in part that "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations". Clearly, however, this does not extend to intervention (or counter-intervention) in circumstances which do not involve an actual or threatened armed attack, still less to what some politicians and writers have described as "preventive" or "pre-emptive" intervention.

II.14 In one of few judicial comments on intervention, the alleged right of intervention in self-defence was undermined by the judgement against the United Kingdom by the International Court of Justice in the celebrated Corfu Channel case of 1949. After two Royal Navy destroyers had been damaged by Albanian mines in the international strait, Britain sought to collect evidence by undertaking a minesweeping operation in Albanian territorial waters. Although the Court found Albania guilty of causing the explosions, it rejected British claims that the intervention was justified on grounds of "safe-guarding evidence necessary for the purposes of justice", action to prevent an international "nuisance" and "self-protection or self-help". The Court regarded "the alleged right of intervention as the manifestation of a policy of force, such as has, in the past, given rise to the most serious abuses and such as cannot, whatever be the present defects in international organisations, find a place in international law".

¹⁰ See Annex III

¹¹ See Annex II

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He states that they are entitled to use force to prevent violations of human rights may make other states reluctant to accept legal obligations concerning human rights".¹⁵ In essence, therefore, the case against making humanitarian intervention an exception to the principle of non-intervention is that its doubtful benefits would be heavily outweighed by its costs in terms of respect for international law.

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II.23 In conclusion, it should be noted that various other exceptions to the rule of non-intervention have from time to time been advanced; but that none of them are now accepted by a significant number of international lawyers. Among these are armed intervention to enforce the provisions of a treaty, to restore the balance of power, to deal with chronic disorder in a neighbouring state, to undertake international police action, or to assist a national liberation movement seeking to assert the right of self-determination. Of these, only the last deserves a fuller mention here. Most Western writers reject such a right on the grounds that such assistance (unless, possibly, it is humanitarian or economic) infringes the sovereignty of the state, at least until the rebels establish belligerent rights by controlling part of the territory. Brownlie¹⁶ gives a good account of the reasons for dismissing the other grounds for intervention.

II.24 This brief account of the extensive legal debate on intervention has concentrated on the treatment of the subject in conventional and contemporary international law. An alternative approach, favoured in earlier times, might be that of writers of the natural law school who would judge any particular case of intervention in the context of the natural rights of man. But such an approach would today be unlikely to command widespread international support, and would in any case raise as many questions as it would answer. This Section has shown how often the "legal" debate about intervention strays into politics and morality, the subject of the next Section.

¹⁵ in Intervention and World Order, ed Bull. See also Donnelly, Humanitarian Intervention etc and Lillich, Humanitarian Intervention and the United Nations

¹⁶ International Law and the Use of Force by States

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public opinion and the attitude of the Powers are in favour of such interventions, and it may perhaps be said that in time the Law of Nations will recognise the rule that interventions in the interests of humanity are admissible provided they are exercised in the form of a collective intervention of the Powers". Lauterpacht's rationale for humanitarian intervention is that "ultimately, peace is more endangered by tyrannical contempt for human rights than by attempts to assert, through intervention, the sanctity of human personality"¹³. A substantial body of opinion and of practice has thus supported the view that when a state commits cruelties against and persecution of its nationals in such a way as to deny their fundamental human rights and to shock the conscience of mankind, intervention in the interest of humanity is legally permissible.

II.21 The state practice to which advocates of the right of humanitarian intervention have appealed provides an uncertain basis on which to rest such a right. Not least this is because history has shown that humanitarian ends are almost always mixed with other less laudable motives for intervening, and because often the "humanitarian" benefits of an intervention are either not claimed by the intervening state or are only put forward as an ex post facto justification of the intervention. In the nineteenth century, interventions by the Western Powers to protect the Christian and other minorities in the Ottoman Empire, such as the Maronites on Mount Lebanon, are those most often said to have been for humanitarian ends. The two most discussed instances of alleged humanitarian intervention since 1945 are the Indian invasion of Bangladesh in 1971 and Tanzania's "humanitarian" invasion of Uganda in 1979. But, although both did result in unquestionable benefits for, respectively, the peoples of East Bengal and Uganda, India and Tanzania were reluctant to use humanitarian ends to justify their invasion of a neighbour's territory. Both preferred to quote the right to self-defence under Article 51. And in each case the self-interest of the invading state was clearly involved.

II.22 In fact, the best case that can be made in support of humanitarian intervention is that it cannot be said to be unambiguously illegal. To make that case, it is necessary to demonstrate, in particular by reference to Article 1(3)¹⁴ of the UN Charter, which includes the promotion and encouragement of respect for human rights as one of the Purposes of the United Nations, that paragraphs 7 and 4 of Article 2 do not apply in cases of flagrant violations of human rights. But the overwhelming majority of contemporary legal opinion comes down against the existence of a right of humanitarian intervention, for three main reasons: first, the UN Charter and the corpus of modern international law do not seem specifically to incorporate such a right; secondly, state practice in the past two centuries, and especially since 1945, at best provides only a handful of genuine cases of humanitarian intervention, and, on most assessments, none at all; and finally, on prudential grounds, that the scope for abusing such a right argues strongly against its creation. As Akehurst argues, "claims by

¹³ International Law and Human Rights, p 32

¹⁴ See Annex II

Protective intervention

II.15 Related to the right of self-defence is a state's alleged right to intervene to protect its citizens or, more controversially, their property abroad. Most writers derive this right from that enshrined in Article 51 of the Charter, and see action to protect nationals abroad as a form of self-defence. Thus the United States claimed that its use of force to rescue United States nationals from Cambodia in 1975, Iran in 1980 and Grenada in 1983 was justified by Article 51. The landing of Israeli commandos at Entebbe Airport in 1977 and of French and Belgian paratroops in Zaire in 1978 were justified on similar grounds.

II.16 An alternative, and less satisfactory, approach is to seek to derive from customary international law a right of intervention to protect nationals. In either case, it is clear that such intervention must be confined to securing the safety of the nationals, and is open to all sorts of abuse. For this and other reasons, many authors doubt whether a right to intervene on behalf of nationals abroad does exist, believing that force may be used in defence of nationals only when they are present on the territory of the state to which they belong. Judges Morozov and Tarazi supported this view in the 1980 ICJ Case concerning United States Diplomatic and Consular Staff in Tehran.

II.17 The alleged right to intervene to protect the property of a state's citizens abroad is no longer considered lawful, although it was used as a justification for the British landings in Egypt in 1956 and for South African intervention in Angola in 1976.

(e) Humanitarian intervention

II.18 The final, and by far the most controversial, category of exceptions to the general prohibition on intervention is that on humanitarian grounds. This should be distinguished from action to protect a state's own nationals abroad discussed in (d) above. The vast literature on this subject in the past and present century has wrestled with the difficulty of reconciling a state's supposedly absolute sovereignty with even more fundamental human rights which may be held to justify intervention on behalf of oppressed nationals of another state. Lauterpacht put his finger on the fundamental contradiction in international law, in the UN Charter and in other documents, between state sovereignty and other states' right to comment on, let alone to intervene to protect, human rights: "in so far as the availability of a remedy is the hallmark of a legal right, they [fundamental human rights] are imperfect legal rights"¹².

II.19 Those who have argued for a right of humanitarian intervention have done so by appealing to the common interest of humanity and to state practice over the past two centuries.

II.20 Oppenheim, in the first edition of his International Law published in 1905, put it thus: "... it cannot be denied that

¹² International Law and Human Rights, p 34

Intervention: Moral Approaches

"No state shall interfere by force in the constitution or government of another state"

Immanuel Kant's fifth preliminary article for eternal peace (1788)

"The recognition of sovereignty is the only way we have of establishing an arena within which freedom can be fought for and (sometimes) won. It is this arena and the activities that go on within it that we want to protect, and we protect them, much as we protect individual integrity, by marking out boundaries that cannot be crossed, rights that cannot be violated. As with individuals, so with sovereign states: there are things that we cannot do to them, even for their own ostensible good."

Michael Walzer, Just and Unjust Wars (1977) p891

"Our opinion of the gods and our knowledge of men lead us to conclude that it is a general and necessary law of nature to rule wherever one can".

The Athenian generals to the rulers of Melos, Thucydides V. 104 (415 BC)

"The average voter is not interested in the technicalities of treaty obligations. He thinks quite properly that Castro is a menace, and he favours the candidate who wants to do something about it - something positive and dramatic and forceful - and not the one who takes the 'statesmanlike' or 'legalistic' view".

Richard M Nixon, Six Crises (1968), p384

III.1 On only one thing are the moralists, philosophers and politicians who have written about intervention agreed: in an ideal world there would be no need for intervention, and thus no call for the awkward accommodations between state sovereignty, individual liberty and the rule of law about which men have argued since classical times. The issue of whether, and, if so, in what circumstances, the principle of non-interference in the affairs of a sovereign state can be breached raises profound questions about the place of ethics in international politics. In large part, the moral debate about intervention has mirrored discussion of the subject by international lawyers, for in both cases the conclusions one reaches depend heavily on the premises from which one starts.

III.2 One of the first - and more original - of modern political philosophers to deal with intervention was Richard Cobden, the Manchester businessman and MP. Perhaps the most cogent statement of

Walzer's position, discussed later in this section, is not as absolutely non-interventionist as this suggests.

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views is a speech he made to the Commons in 1850² attacking the Government's foreign policy. He questioned the wisdom of Britain acting as a guarantor of constitutional government, pointing out that this would involve the Foreign Office in the reform of "every country on the face of the earth". After asserting that Britain had no right to interfere with any other form of government whether it were a republic, despotism or monarchy, he emphasised that a Britain which contravened the principle would have to tolerate breaches by others. Nor did he believe that interference to impose liberalism would work: "[a] people which wants a saviour, which does not possess an earnest and pledge of freedom in its own heart, is not yet ready to be free".³

III.3 The doctrine giving Britain a right to interfere in Continental affairs was never clearly formulated by Cobden's opponents. Indeed Palmerston, criticised for intervening in Turkey in 1839, had replied: "true political wisdom consists not in enunciating a policy in sonorous terms, but in applying to each question as it occurs the rules of common sense and prudence"⁴

III.4 Earlier, however, in a Circular to British Ambassadors in 1821, Castlereagh, while emphasising the rarity of the occasion for exercising the right to intervene, had stated: "It should be clearly understood, that no Government can be more prepared than the British Government is, to uphold the right of any State or States to interfere, where their own immediate security, or essential interest, are seriously endangered by the internal transactions of another State".⁵

III.5 Cobden's belief that states are self-determining political communities, whether or not their citizens are free to choose the state's government, was picked up by John Stuart Mill in a short article⁶ published in the same year (1859) as his treatise On Liberty. In discussing intervention, Mill draws an analogy between the state and the individual, and sees them both as enjoying an absolute right to self-determination and therefore to non-intervention. For Mill, self-determination is a people's right "to become free by their own efforts". Those who have the

² Hansard, 28 June 1850

³ Cobden's letter to a friend in 1858 is also worth noting:

"You rightly interpret my views when you say I am opposed to any armed intervention in the affairs of other countries. I am against any interference by the government of any one country in the affairs of another nation, even if it be confined to moral suasion. Nay, I go further, and disapprove of the formation of a society or organisation of any kind in England for the purpose of interfering in the internal affairs of other countries. I have always declined to sanction anti-slavery organisations formed for the purpose of agitating the slavery question in the United States".

⁴ Quoted in Stapleton, Intervention and Non-Intervention, pp72-74

⁵ Quoted in Webster, The Foreign Policy of Castlereagh, pp322-3

⁶ A Few Words on Non-Intervention

"misfortune" to be ruled by a tyrannical government have never had a chance to develop "the virtues needful for maintaining freedom". And "it is only during an arduous struggle to become free by their own efforts that these virtues have the best chance of springing up".⁷

III.6 Despite this stern doctrine of self-help, intended mainly to prohibit intervention in a civil war, Mill makes two interesting exceptions to the rule of non-intervention. First, he argues that the principle does not apply to relations with or between barbarians, in whose interest it is to be conquered and held in subjection by (civilised) foreigners. Secondly, Mill believes in the right of counter-intervention, arguing as follows:

"The doctrine of non-intervention, to be a legitimate principle of morality, must be accepted by all governments. The despots must consent to be bound by it as well as free States. Unless they do, the profession of it by free countries comes but to this miserable issue, that the wrong side may help the wrong, but the right must not help the right. Intervention to enforce non-intervention is always rightful, always moral, if not always prudent".

Whether Mill would allow a right of counter-intervention in cases where a state had been subverted, but not invaded, from outside is unclear.

III.7 Kant's⁸ fifth preliminary article for eternal peace, quoted at the beginning of this Section, is by no means as absolute as it seems to be. Kant appears to allow intervention when internal dissension splits a state into two parts each constituting a separate state. He also apparently implies that intervention is permissible if it enables a republic to be established or a despotic regime to be crushed. Furthermore, Kant's requirement of a ius cosmopoliticum applying directly to individual citizens of all states seems to permit men to intervene in each other's affairs across state boundaries by having recourse to law beyond the state. Friedrich goes so far as to argue that Kant "would have restricted the idea of non-intervention in such fashion as to enable the world federalism [Kant's second definitive article on international law] to take positive steps to protect people against imperialism and minorities against abuse".⁸

III.8 In the present century most writing on intervention has been legalistic, but Professor Martin Wight, one of Britain's leading postwar writers on international relations, formulated a doctrine of intervention based on the moral interdependence of peoples as follows:

⁷ A curious echo of the Marxist maxim "The liberation of the working class can come only through the workers themselves".

⁸ Quoted in Friedrich, Inevitable Peace, p248

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1. That intervention, in the sense of unwelcome interference by one member of the community of states in the internal affairs of another, is an occasional necessity in international relations, because of the permanent instability of the balance of power and the permanent inequality in the moral development of its members.
2. That it is an unfortunate necessity, because it conflicts with the right of independence; and it should be the exception rather than the rule.
3. That in a moral scale, to maintain the balance of power is a better reason for intervening than to uphold civilised standards, but to uphold civilised standards is a better reason than to maintain existing governments." ⁹

III.9 Two American political philosophers have also recently attempted to construct working theories of non-intervention which permit practical exceptions to the rule. Michael Walzer, Professor of Government at Harvard, does not disguise his contempt for the formulations of international lawyers:

"Legal positivism, which generated major scholarly works in the late nineteenth and early twentieth centuries, has become in the age of the United Nations increasingly uninteresting. The UN Charter was supposed to be the constitution of a new world, but, for reasons that have often been discussed, things have turned out differently. To dwell at length upon the precise meaning of the Charter is today a kind of utopian quibbling. And because the UN sometimes pretends that it already is what it has barely begun to be, its decrees do not command intellectual or moral respect - except among the positivist lawyers whose business it is to interpret them. The lawyers have constructed a paper world, which fails at crucial points to correspond to the world the rest of us still live in". ¹⁰

III.10 Walzer goes on to describe 3 sets of circumstances in which in the "ban on boundary crossings" (as he calls the principle of non-intervention) may be suspended unilaterally by a state. His main justification is that in each of these cases the prohibition on intervention fails to serve the purpose for which it was established, and therefore does not apply. His three categories are:

"- when a particular set of boundaries clearly contains two or more political communities, one of

⁹ Diplomatic Investigations, (1966) ed Butterfield and Wight
¹⁰ Just and Unjust Wars (1977), pp xii-xiii

which is already engaged in a large-scale military struggle for independence; that is, when what is at issue is secession or 'national liberation';

- when the boundaries have already been crossed by the armies of a foreign power, even if the crossing has been called for by one of the parties in a civil war, that is, when what is at issue is counter-intervention; and

- when the violation of human rights within a set of boundaries is so terrible that it makes talk of community or self-determination or 'arduous struggle' seem cynical and irrelevant, that is, in cases of enslavement or massacre.

Walzer's approach is, however, descriptive and not normative. He accepts that international lawyers may not be able to find a place for these exceptions in law, but adds that that is not to deny the need for intervention in such circumstances. He also goes somewhat towards arguing that a state capable of intervening effectively in any of the circumstances set out above may have the right to do so. And he attaches overriding importance to prudential considerations.

III.11 Charles Beitz, Professor of Political Science at Swarthmore College,¹¹ rejects both the realist and the state-person analogy views of the world as empirically inaccurate and theoretically misleading. Instead, he tries to devise a normative theory of international politics derived from a revised principle of state autonomy, based on the justice of a state's institutions. Beitz prohibits interference in the affairs of a just state (which he seems to define only partially), or of one which is likely to become just if left free from external interference. Any form of interference in, or attempts to influence, a state whose political and economic institutions conform to "appropriate principles of justice" is banned.

III.12 If, however, a state is neither just nor likely to become just if left to its own devices, Beitz regards interference as permissible on three conditions:

"First, it must meet certain standards (ie promote justice and be carried out with adequate information and assurances against self-serving actions by the intervening agent). Second, it must not run afoul of other relevant moral restraints on political action. Third, it must not be too costly in terms of the other goals of international politics. Since these conditions might be met or not met in a great variety of ways, it does not seem possible simply to enumerate the kinds of actions forbidden by the non-intervention principle with respect to unjust states."

¹¹ Political Theory and International Relations

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.13 It is interesting to note that both these recent justifications of intervention in certain, limited, circumstances concentrate on the state of affairs within the "receiving" country. They say nothing of the interests of the intervening state or of international society as a justificatory factor - in contrast to the Soviet and US arguments described in Sections IV and V.

III.14 This rapid survey of a small selection from the vast literature on intervention of the last two centuries suggests almost total unanimity on the desirability of the principle of non-intervention, but wide disagreement on the circumstances in which it is permissible to breach that principle.

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IV Soviet Doctrine and Practice

"Intervention: the armed invasion or interference of one or several capitalist states in the internal affairs of another state aimed at the suppression of a revolution, acquisition of special privileges, establishing domination etc".

Soviet Political Dictionary, 1958¹

"The policy of intervention is alien to the USSR and the countries of people's democracy; it contradicts the policy which they carry out of peace, of non-interference in internal affairs of other states and of respect of their sovereignty. In upholding these principles the USSR has more than once come out against intervention carried out by imperialist states. Thus in 1936 the USSR protested against fascist intervention in Spain, in 1950-53 against American intervention in Korea, and in 1956 against Anglo-French-Israeli intervention in Egypt."

Soviet Diplomatic Dictionary, 1960

"It is perfectly clear that defence of the socialist system, and efforts to counteract attempts of bourgeois counter-revolutionary forces, does not require any special, supplementary legal justification; it stems from the very nature of the class struggle and, far from contradicting, fully conforms to a genuinely democratic interpretation of the concept of sovereignty".

Sanakoyev, Proletarian Internationalism¹

IV.1 Non-intervention is a shibboleth of Soviet foreign policy, which Soviet theorists, like their bourgeois counterparts, derive from the principle of state sovereignty. Unlike those counterparts, however, Soviet thinkers seem to hold that the prohibition of intervention is absolute, and admits of no exception. Only if intervention is the exclusive sin of capitalists does it make sense for socialist theory to assert an absolute rule of non-intervention.

IV.2 Ever since the Russian Revolution, Soviet writers and politicians have had to meet the fundamental contradiction in Soviet foreign policy between the principles of international Communism (which demand the spreading of the revolution) and the principles of state sovereignty and self-determination (which demand non-interference, most particularly in the internal affairs of the Soviet Union). The notions of peace and self-determination inherited by the Russian revolutionaries from their French predecessors were at first overridden by the doctrine of worldwide proletarian revolution, in which class had been substituted for nation and there was no place for states. However, the Bolsheviks were soon forced to come to terms with the fact that revolution was

¹ Quoted in Marxism-Leninism and Theory of International Relations, Kubálková and Cruickshank, pp 225-6

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not going to be instantaneous in all countries (and that where it did strike a spark, it was soon extinguished), and so began to moderate their expectations. Lenin's arguments against Trotsky for first consolidating the revolution in Russia, and thus for signing a separate peace with Germany, prevailed, and culminated in the Treaty of Brest-Litovsk in March 1918.

IV.3 After the Second World War, the establishment of Communist regimes in Eastern Europe and the Communist victory in China transformed the problem of relations between parties, with which the Comintern had dealt in the thirties, into one of relations between parties and states with all which the latter implied in terms of sovereignty. Soviet theorists nevertheless maintained that in relations between the Soviet Union and the people's democracies Lenin's principle of national self-determination did not apply because it belonged to the province of the bourgeois revolution. Formally relations between the USSR and her satellites were based on mutual recognition of the principles of sovereignty, equality and non-interference in domestic affairs. But the East Europeans' designation as people's democracies placed them at a stage in the building of Communism inferior to that of the Soviet Union. As the centre of world Communism and the first socialist state, the Soviet Union awarded itself the right to determine the basic form of political and economic structures within Eastern Europe.

IV.4 In disputes with East European régimes, the Russians have always used political propaganda and economic pressure to achieve their wishes before resorting to force. Overt force is only used when the existence of a Communist régime is deemed to be in peril. This was the case in Hungary in 1956. The Soviet justification for military intervention there was that it was at the request of the Hungarian government, and intended to restore order against the forces of reaction supported by the imperialist powers.² Khrushchev stated in October 1957 that the Soviet Union had come to the aid of the "working class and toiling peasantry in Hungary in defeating the counter-revolution and defending the socialist gains of the Hungarian people from encroachments by imperialist reaction when the enemies of socialism attempted to take all these gains away from the working people of Hungary".

IV.5 The events in Czechoslovakia nearly twelve years later showed that, although the Soviet Union had moved a little further towards loosening its control over Eastern Europe, there remained clear limits to diversity. With Hungary, the worry had been that of possible defection from the bloc. With Czechoslovakia the fear was that, despite Czech protestations to the contrary, internal liberalisation would lead to counter-revolution and thus to defection.

IV.6 At first the Soviet Government sought to justify the intervention as a response to a request for assistance from Czechoslovak government and party leaders. But, after that was

² Pravda, 4 November 1956

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discredited by a statement from those leaders that the intervention had occurred without their knowledge, another invitation was manufactured. In fact the justification of the intervention preceded it. In a letter to the Czechoslovak Party Central Committee issued after the meeting in Warsaw of five Warsaw Pact states in July 1968, the Russians claimed that, since "enemy" forces were allegedly diverting Czechoslovakia from the path of socialism and threatening to tear her from the socialist community, developments in Czechoslovakia were the "concern of all Communist and Workers' parties and all states united by their alliance, cooperation and friendship". This was at the heart of what was to become known as the Brezhnev Doctrine.

IV.7 This theme was elaborated in an article which appeared in Pravda on 26 September 1968. The writer set out to rebut allegations that the action to "defend the socialist gains" of the Czech people contradicted the "Marxist-Leninist principle of sovereignty and the right of nations to self-determination". The most outspoken passage in the article argued that:

"There is no doubt that the peoples of the socialist countries and the Communist parties have and must have freedom to determine their country's path of development. However, any decision of theirs must damage neither socialism in their country, nor the fundamental interests of the other socialist countries, nor the worldwide workers' movement, which is waging a struggle for socialism. This means that every Communist party is responsible not only to its own people but also to all the socialist countries and to the entire Communist movement..."

IV.8 Brezhnev himself at the Fifth Polish Party Congress in Warsaw in November of that year warned that there were "common laws governing socialist construction, deviation from which might lead to deviation from socialism as such". A threat to the cause of socialism and the security of the Socialist Commonwealth as a whole became the common concern of all socialist countries. Brezhnev said that military "aid" to Czechoslovakia was an extraordinary step caused by actions by the enemies of socialism, which created a threat to the common interests of the camp of socialism.

IV.9 In reality, the Brezhnev Doctrine contained little that was new. It stemmed from the relationship between the Soviet Union and the East European countries, as well as from Soviet determination not to permit its political dominance to be shaken by the removal of vital limits to the Socialist states' freedom of manoeuvre.

IV.10 Soviet intervention in Afghanistan was at first justified on quite different grounds. Pravda claimed that "the Afghan Government turned to the USSR with a request for immediate help against external aggression"³, and spoke of the sending of a limited

³ 31 December 1979

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military contingent to help repel external armed interference.' The 1978 Soviet-Afghan Treaty of Friendship and Article 51 of the UN Charter were both cited as a legal basis for the intervention. Later in the same article, however, the writer claimed that the Soviet Union could not tolerate the use of Afghanistan as "a bridgehead of imperialist aggression against the Soviet Union". Brezhnev, interviewed in Pravda ⁴ injected an important ideological justification, maintaining that failure to respond to the request for help from the Afghan Government "would have meant leaving Afghanistan to be torn to pieces by imperialism, allowing the aggressive forces to repeat in that country what they had succeeded in doing in ... Chile, where the people's freedom was drowned in blood." He added that "to have acted otherwise would have meant to look on passively as a serious threat to the security of the Soviet State arose on our southern frontier".

IV.11 In the wake of Afghanistan, Soviet spokesmen and writers were disposed to apply more widely the political and ideological justifications for the intervention in Afghanistan. The Head of the Soviet Army and Navy's Chief Political Administration wrote in Pravda, with reference to Angola, Ethiopia and Afghanistan, that "the Leninist understanding of the defence of revolutionary gains reflects the profoundly international character of ensuring the transition of people to socialism and Communism in conditions where international and internal reaction is trying to prevent this historic process by force. The combined might of the countries of the Socialist Commonwealth, embodied in the Warsaw Treaty Organisation, serves as a reliable guarantee of the security of peoples building a new life".⁵ Another article argued, with reference to Cuba, Vietnam, Angola and Afghanistan, that attempts to stop the revolutionary process were regarded by the Soviet people as a direct threat to their own country, and potentially to the revolutionary gains in the USSR. In defending others the Russians were defending themselves. "Such is the logic of the class struggle, such is the dialectic of internationalism".⁶

IV.12 Such ideological rhetoric has yet to be tested in terms of practical commitment. Soviet military assistance to such countries as Angola, Ethiopia and Mozambique remains limited to the supply of military advisers and weaponry (for cash). The extent of future Soviet involvement seems likely to be determined by considerations of self-interest: for example, propinquity; economic costs; world reaction; the risk of confrontation with Western, especially US, forces; and the ability of the Soviet Armed Forces logistically and militarily to sustain an operation in distant parts. While the prospect of such intervention is presented exclusively in terms of practical assistance to preserve "revolutionary" or "socialist" gains, this is not to say that, should opportunities present themselves, the Soviet Union would not act (subject always to the above constraints and judgements). No difficulty would be found in producing an "ideological" justification for any such eventuality.

⁴ 13 January 1980

⁵ 11 April 1980

⁶ Mezhdunarodnaya Zhizn, October 1980

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The standing definition of internationalism lays down:

"The international solidarity of the proletariat strengthens the position of the revolution in each individual country. The international proletariat renders political, moral and material aid to all forms of the liberation struggle of the peoples masses and hinders or renders impossible the intervention of foreign imperialists. This support is not "export of revolution", for it represents not the imposition of revolution from outside but fraternal aid to a people which itself has risen in revolution." 7

IV.13 The Soviet "doctrine of non-intervention", which has been a central plank of Soviet propaganda in the UN and other international fora, is thus seen to be highly adaptable. Although claimed to be absolute, it is in certain circumstances in practice inferior to the competing doctrine of Socialist Internationalism, which implies the unity of socialist states in the class struggle between socialism and capitalism, and obligations of "mutual assistance" including military aid⁸. A clear distinction must be drawn between the Soviet Union's relations with adjacent states inside the Soviet orbit and with those more distant from Soviet borders. In her relations with the latter, the Soviet Union has been more circumspect, but there have been instances of intervention (Angola, Ethiopia) as well as of non-intervention (Grenada, Somalia). National liberation movements benefit from civil or military aid, but this hardly falls into the category of intervention. Thus the extension in Soviet writings of the Brezhnev Doctrine to Third World countries should not be taken at face value.

⁷ Philosophical Encyclopaedia 1962

⁸ See Tunkin, Theory of International Law, pp434-5

V US Doctrine and Practice

"... with the governments [in Latin America] who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States".

President Monroe, Message to Congress,
2 December 1823

"Chronic wrong doing, or an impotence which results in a general loosening of the ties of civilised society, may in America, as elsewhere, ultimately require intervention by some civilised nation".

President Theodore Roosevelt, Message to Congress,
6 December 1904

"[the High Contracting Parties declare] inadmissible the intervention of any one of them, directly or indirectly, for whatever reason, in the internal or external affairs of any other of the Parties"

Declaration of the Inter-American Conference for the
Maintenance of Peace, Buenos Aires, 1936

"no member of the United Nations can claim that mistreatment of its citizens is solely its own business"

President Carter, Address to UNGA,
17 March 1977

"A final lesson of the events in Grenada is that neighbours have a clear, ongoing responsibility to act in ways consistent with each other's legitimate security concerns"

Deputy Secretary of State Dam, Louisville,
Kentucky, 4 November 1983

*cf
Soviet
Union*

V.1 Non-intervention has been one of the fundamental declared principles of US foreign policy at least since Washington's second term as President. The interpretation and application of this principle have, however, varied widely according to circumstance, particularly in the Western hemisphere. Its roots lie deep in the idea of the independence of the United States from the corrupt Old World, expressed in the belief of Thomas Paine and others that "it was the true interest of America to steer clear of European contentions".¹ The doctrine of non-interference in the affairs of other, European, nations reflected not only a desire to protect the independence of a weak United States but also a deeply-held

¹ Quoted in Vincent, op cit, pl04

commitment to the right of nations to choose their own form of government.

V.2 This Section reviews American doctrine and practice on intervention as it has evolved since the early nineteenth century, and pays particular attention to US actions in Latin America since 1945.

V.3 One immediate consequence of the strict application of the principle of non-intervention was the American Government's refusal to take sides in the struggle for independence by the Spanish Colonies in Central and South America during the early years of the nineteenth century. By 1822, however, the United States felt strong enough to recognise - in the face of Spanish protests - five of the new states. The following year President Monroe, in his Annual Message to Congress, warned the European powers not to intervene in the American hemisphere, while pledging that the United States would abstain from similar interference in European affairs. But he was silent on the future course of relations between the United States and the newly independent Latin American states.

V.4 However, as American power grew in the course of the nineteenth century, so did American willingness to intervene to protect US interests in the hemisphere. In 1895 Secretary of State Olney declared that the United States was "practically sovereign" on the American continents. President Roosevelt's Corollary to the Monroe Doctrine made explicit the United States' right to intervene in the affairs of Latin America which had been implicit in US intervention on Cuba's behalf in 1898 in her struggle for independence against Spain. US victory in the Spanish-American War which followed led not only to the acquisition of territory in the Caribbean and the Pacific, but also to renewed interest in an isthmian canal. In achieving this the United States encouraged and financed Panama's successful revolt against Colombia, and justified the intervention as in the "interests of collective civilisation". By 1912, Secretary of State Knox was able to proclaim that:

"the logic of political geography and of strategy, and now our tremendous national interest created by the Panama Canal, make the safety, the peace, and the prosperity of Central America and the zone of the Caribbean of paramount interest to the Government of the United States. Thus the malady of revolutions and financial collapse is most acute precisely in the region where it is most dangerous to us. It is here that we seek to apply a remedy."²

V.5 In the twentieth century, the latter part of the inter-war period saw a tilt in declared American policy back towards greater acceptance of the principle of non-intervention. At the sixth International Conference of American States held at Havana in 1928 the American delegation had refused to accept the unqualified doctrine that "no state has the right to interfere in the

² Quoted in Vincent, op cit pl21

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Internal affairs of another". Between 1918 and 1932 US troops landed in Haiti, the Dominican Republic, Cuba, Panama, Honduras (twice) and Nicaragua. But, by the time of the Montevideo Conference of American States in 1933, the United States was willing to sign the Convention on the Rights and Duties of States, Article 8 of which read: "No state has the right to intervene in the internal or external affairs of another". Similarly, Under-Secretary of State Clark, in a memorandum to Secretary of State Kellogg five years earlier, had been at pains to emphasise that the Monroe Doctrine "is now, and always has been, not an instrument of violence and oppression, but an unbought, freely bestowed and wholly effective guarantee of [the] freedom, independence and integrity [of Latin America] against the imperialistic designs of Europe".

V.6 The culmination of this resurgence of non-interventionism - the obverse of isolationism - was President Roosevelt's "Good Neighbour" Policy, enunciated in an address to the Pan-American Union in April 1933. In this, the President picked up the pledge in his Inaugural Address that he would "dedicate this Nation to the policy of the good neighbour - the neighbour who ... respects the rights of others ... who respects his obligations .. and the sanctity of his agreements in and with a world of neighbours".

V.7 The end of the Second World War was followed by a period in which America's isolationist instincts were challenged by the need to deal with Soviet expansionism in Europe and elsewhere. By the time of Truman's Message to Congress of 23 March 1947 announcing US aid to Greece and Turkey it was clear which principle had won: "I believe that it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures".

V.8 In Latin America this determination to contain the spread of international communism found its first formal expression in the Inter-American Treaty of Reciprocal Assistance signed at Rio in 1947, and in the 1948 OAS Charter³. Both provide for collective action to be taken after consultation in the event of an actual armed attack or of aggression which is not an armed attack (Article 6 of the Rio Treaty and Article 28 of the OAS Charter.) At the Caracas Conference of American States in 1954, Dulles orchestrated the passing of a resolution which read in part: "that the domination or control of the political institutions of any American State by the international communist movement, extending to this hemisphere the political system of an extra-continental power, would constitute a threat to the sovereignty and political independence of the American States, endangering the peace of America".

V.9 This resolution represented the American view that communist subversion in Latin America amounted to an intrusion by a rival power in an area to which it did not belong. Its passage was followed almost immediately by the overthrow of the Arbenz regime in Guatemala.

³ See Annex III

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10 In 1952, a reformist government in Guatemala, headed by the democratically-elected President Jacobo Arbenz, introduced an agrarian reform law. The dominant US company in Guatemala, United Fruit, strongly objected to the terms of compensation offered by the Guatemalans for expropriated lands. The impact of this law, combined with the presence of a number of communists in the Guatemalan Congress, trade union leadership and key positions in the government bureaucracy, led the Eisenhower Administration to denounce Guatemala as a communist beachhead in the Western hemisphere. The US Government subsequently resorted to covert intervention. With the collaboration of Honduras and Nicaragua, the Central Intelligence Agency engineered in June/July 1954 an invasion by Guatemalan exiles. Arbenz was forced to resign and was replaced by a right-wing dictator (Colonel Carlos Castillo Armas), chosen by the CIA.

V.11 At the time of the invasion the Eisenhower Administration asserted that the overthrow of Arbenz had been the work of Guatemalan "patriots", who had risen to topple a government riddled with "communist agitators". The "real issue", which "the Guatemalan Government and communist agents throughout the world (had) persistently attempted to obscure", was "that of communist imperialism". The Arbenz Government was charged with implicitly accepting communists as "an authentic domestic political party and not as part of the worldwide Soviet communist conspiracy"⁴. Nine years later, in a speech to the American Booksellers' Association, Eisenhower explained his government's decision to intervene thus: "There was a time when we had a very desperate situation, or we thought it at least, in Central America, and we had to get rid of a communist government that had taken over".⁵

V.12 In Cuba in 1961 the United States followed the precedent established in Guatemala of unilateral intervention against the communist menace in the American hemisphere. After Castro had come to power in January 1959, relations with the US had steadily deteriorated. The CIA started to provide aid to anti-Castro exiles, and in December 1959 Dulles agreed that thorough consideration be given to Castro's elimination. In January 1960 a Special Group was set up to consider Castro's overthrow. During the next three years several assassination plots against Castro's life were devised.

V.13 The CIA thus came to be closely involved in the abortive Bay of Pigs invasion. Anti-Castroites trained in camps in Florida and in Guatemala and Nicaragua and embarked from the latter two. Kennedy inherited the plan from the previous Administration and allowed it to proceed, but said that no US forces should be involved in the attack. Schlesinger and Fulbright advised against the action. Nixon's advice was to "find a proper legal cover and ... go on".

⁴ US State Department, Intervention of International Communism in the Americas.

⁵ Quoted in Wise and Ross, The Invisible Government p166

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4 Speaking on "The Lessons of Cuba" after the operation, Kennedy made it clear that there were circumstances in which the United States believed that the Inter-American doctrine of collective intervention was not enough:

"Any unilateral American intervention, in the absence of an external attack upon ourselves or an ally, would have been contrary to our traditions and to our international obligations. But let the record show that our restraint is not inexhaustible. Should it ever appear that the Inter-American doctrine of non-interference merely conceals or excuses a policy of non-action - if the nations of this hemisphere should fail to meet their commitments against outside Communist penetration - then I want it clearly understood that this Government will not hesitate in meeting its primary obligations, which are the security of our Nation."⁶

V.15 In the Dominican Republic four years later President Johnson ordered a direct intervention by US forces. The April revolution in 1965 had begun as a routine military revolt aimed at restoring to office the elected President ousted by a coup in 1962. After four days of confusion the leading General, Wessin y Wessin, formed a military junta to suppress the revolt. He failed, and appealed to the US for help. Internal law and order collapsed. On 28 April US forces entered with the avowed objective of protecting American lives. President Johnson gave a second reason on 2 May when he described the insurrection as an initially democratic movement which had fallen under communist control. Outside observers did not share this view.

V.16 The United States consulted the OAS only after the invasion. By one vote the OAS agreed to a peacemaking role, with Brazil and smaller Central American countries sending troops and contributing to mediation. At the United Nations, Lord Caradon reported the views of delegations as follows:

- the landing of US troops was a breach of Article 2 of the UN Charter;
- The OAS, not having been consulted beforehand, was later consulted by the US and used to give a veneer of respectability;
- The OAS itself was in breach of the Charter by agreeing to be used by the US for enforcement action without the prior approval of the Security Council, as required by Article 53 (1) of the Charter;
- The effect of the US and OAS action was to frustrate the Dominican people in their legitimate desire to establish constitutional government.

⁶ Address, 20 April 1961

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7 In the weeks which followed, President Johnson and his advisers put forward justifications for the intervention ranging from protection of the lives of nationals, to the maintenance of order, anti-communism and the safeguarding of democracy. The State Department Legal Adviser was probably closest to the truth, when, in searching for a justification, he admitted: "In the tradition of the common law, we did not pursue some particular legal analysis or code, but instead sought a practical and satisfactory solution to a pressing problem".⁷ He also mentioned the role of "experiment and innovation" in the creation of international law.

V.18 American intervention in support of democracy and to contain communism was during this period not confined to the American hemisphere.

V.19 The Eisenhower Doctrine of 1957 had made clear that the United States was committed to defending the free peoples of the Middle East. The intervention in Lebanon the following year was seen as evidence of that commitment. In 1980, President Carter formulated a Doctrine which extended the commitment even further:

"An attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States. It will be repelled by any means necessary, including military force"⁸

V.20 In Indo-China, the United States had in 1950 started to supply aid to the French forces, thus beginning an involvement in the affairs of the region which was to last 25 years and cost many lives and much American pride. The strategic, moral and legal justifications for the American military intervention in Vietnam have been much debated elsewhere, and are beyond the scope of this paper. Nevertheless it is worth remarking that, as McNamara put it, the problem of how to "cope with communist 'wars of liberation' as we have coped successfully with Communist aggression at other levels" was never finally solved. The United States was never able to satisfy a large part of world and domestic opinion that the scale and methods of US intervention in the Vietnam war could be properly reconciled with the principles of non-intervention and self-determination.

V.21 However, it has been in Latin America that the United States has faced the most persistent challenges to the doctrine of non-intervention over the past three decades. In Chile, the United States' intervention was indirect. In September 1970, Salvador Allende, an avowed Marxist, was elected President at the head of a left-wing coalition government. After failing to prevent Allende's election, the Nixon Administration weakened his position through international economic and financial pressures, as well as through covert "destablising" operations within Chile.⁹ Following

⁷ Address, 9 June 1965

⁸ State of the Union Address, 23 January 1980

⁹ Senate Hearings on Intelligence Activities, 1975

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Legations by the Chilean Congress and Supreme Court that Allende was not respecting the constitution, laws passed by Congress or the "Statute of Guarantees", the Chilean armed forces finally overthrew him in September 1983.

V.22 Kissinger is clear about the justification for US intervention: "President Nixon and his principal advisers were convinced that Allende represented a challenge to the United States and to the stability of the Western Hemisphere. Allende ... was a geo-political challenge. Chile bordered Peru, Argentina and Bolivia, all plagued by radical movements. As a continental country, a militant Chile had a capacity to undermine other nations and support radical insurgency that was far greater than Cuba's ... If Chile had followed the Cuban pattern, communist ideology would in time have been supported by Soviet forces and Soviet arms in the Southern Cone of the South American continent." ¹⁰

V.23 The US intervened in Grenada in October 1983 following the murder of Maurice Bishop and the installation of a Revolutionary Military Government. The reasons given in the first instance were to protect the lives of the 1,000 US citizens on the island, to forestall further chaos and to assist in the restoration of conditions of law and order and of governmental institutions. Subsequently President Reagan said, in a televised speech on 27 October, that US action was justified by Cuba's intention to occupy Grenada as a military base. The US based its action on a request for assistance from the members of the Organisation of East Caribbean States (OECS) in accordance with their Charter, and a purported written request for help to the OECS from Grenada's Governor-General. The OECS Charter requires unanimous agreement, a condition which, in Grenada's absence, was not met.

V.24 In Nicaragua, the situation is again different. US support for counter-revolutionary groups ('Contras') began after the new Sandinista regime rejected President Carter's offers in 1979 of co-operative relations. Some 5,000 former members of the National Guard had fled to Honduras after the revolution and had begun to prepare to invade. Incursions were stepped up in 1981. The same year an estimated 7,000 Cuban and Nicaraguan exiles were reported training in camps in Florida. Secretary of State Haig said that the camps were legal because they were on private property. Extensive CIA funding of 'Contra' activities soon became public knowledge.

V.25 In 1981 the US Administration justified its support for the 'Contras' as a means of putting pressure on the Sandinistas to desist from supplying arms to the insurgents in El Salvador. Responding to Sandinista and Cuban covert support from 1979 of the powerful FMLN leftist insurgent movement in El Salvador, the US intention was to repay in kind and to gain a bargaining counter for use in negotiations. Proponents of this policy justify it by its results, pointing to the concessions made by the Sandinistas (notably in agreeing to hold elections) as a direct result of the

¹⁰ Kissinger, Years of Upheaval

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...asion scare created by the Administration in November 1983. The 'Contras' are seen both as a spearhead of a direct US intervention, and as a potential pretext for one.

V.26 Congressional approval for funding these 'covert' activities was forthcoming until publicity in April 1984 for one of them, the mining of Nicaraguan ports, obliged Congress to mark its disapproval by blocking further funds. Many observers believed that the Administration implicitly acknowledged that their action contravened international law by suspending their voluntary acceptance of the jurisdiction of the International Court of Justice. The Court passed judgement on 10 May 1984 against the US. The Administration is unlikely to press hard for a restoration of funding in the election period. In the context of the Contradora negotiations, the US has made clear its readiness to end support for the 'Contras' and to halt other forms of indirect military pressure if the Sandinistas give reliable guarantees likewise to end attempts to export revolution.

* * *

V.27 In all these instances of American practice since the Second World War, it is clear that the United States' firm commitment to the principle of non-intervention has almost always been subsidiary to the higher imperative of the need to control the spread of communism. In Latin America that imperative is reinforced by the Monroe Doctrine's exclusion of other powers from the hemisphere and by the belief that, in the words of the Kissinger Commission, "the security interests of the United States are importantly engaged ... Preserving US interests in Central America and the Caribbean against the Soviet challenge will be a significant concern for years to come".

V.28 Behind the determination to defend freedom may lie a certain impatience with the constraints imposed by international law on the use of force. This has lead American policy-makers either to use dubious legal justifications for their actions or to appeal to the higher ends of American policy as justifying the use of force. The uncertain foundations for Deputy Secretary of State Dam's speech¹¹ on the legal bases for the US action in Grenada are matched by claims from certain US officials who claim that all US activities in Central America, including the mining of Nicaraguan waters, are within international law and derive from the right of individual and collective self-defence enshrined in the UN and OAS Charters.

V.29 On the other hand, there are those, such as Secretary of State Shultz or Ambassador Kirkpatrick, who point to the nobler and wider aims of US policy as justifying the means employed. In a speech¹¹ to the Trilateral Commission on 3 April 1984, Shultz warned:

"Of course, any use of force involves moral issues. American military power should be resorted to only if the stakes justify it, if other means are not

¹¹ Louisville, Kentucky, 4 November 1983

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available, and then only in a manner appropriate to the objective. But we cannot opt out of every contest. If we do, the world's future will be determined by others - most likely by those who are the most brutal, the most unscrupulous, and the most hostile to our deeply-held principles. The New Republic stated it well a few weeks ago: 'The American people know that force and the threat of force are central to the foreign policy of our adversaries. And they expect their President to be able to deter and defeat such tactics'.

As we hear now in the debate over military aid to Central America, those who shrink from engagement can always find an alibi for inaction. Often it takes the form of close scrutiny of any moral defects in the friend or ally whom we are proposing to assist. Or it is argued that the conflict has deep social and economic origins which we really have to address first before we have a right to do anything else. But rather than remain engaged in order to tackle these problems - as we are trying to do - some people turn these concerns into formulas for abdication. Formulas that would allow the enemies of freedom to decide the outcome. To me, it is highly immoral to let friends who depend on us be subjugated by brute force if we have the capacity to prevent it".

V.30 Speaking 6 days later at Chatham House, Mrs Kirkpatrick put the same point another way:

"We also have serious political and moral grounds for our position:

1) We do not think it is moral to leave small countries and helpless people defenceless against conquest by violent minorities which are armed and trained by remote dictatorships. The amount of Soviet Bloc arms funnelled into El Salvador is staggering. So is the sophistication of the guerilla command and control system, including especially communication systems, that guides the insurgency from outside Managua.

2) We believe our political goal, a more democratic and stable hemisphere, requires building democracies, not the multiplication of dictatorships". 12

¹² Asked in an interview in The Guardian on 20 July about relations between the South African Government and the ANC, Dr Chester Crocker, Assistant Secretary of State for Africa, said: "... The basic point about the ANC and the role of the various voices for change in South Africa is that what has been accomplished in recent months after years of investment is a clear signal that sovereignty is a two-way street - boundaries are two-way things and that if there's to be violence in one direction there is going to be violence in the other direction."

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31 Other recent American pronouncements are regarded by many as showing a similar impatience with legal and moral constraints on intervention in "grey-area situations" short of war, and notably in dealing with the problem of international terrorism:

"Can we as a country - can the community of free nations - stand in a solely defensive posture and absorb the blows dealt by terrorists? I think not. From a practical standpoint a purely passive defence does not provide enough of a deterrent to terrorism and the states that sponsor it. It is time to think long, hard and seriously about more active means of defence - about defence through appropriate preventive and pre-emptive actions against terrorist groups before they strike"¹³

V.32 The frustrations of being a great power obliged to play fair with an unfair opponent were colourfully put by Assistant Secretary Cleveland in 1961.¹⁴ Let his views conclude this Section:

"So long as we think of relations between nations, we are schooling ourselves to deal with the War of Jenkins's Ear ... In the 18th and even the 19th century we could describe a country as either friendly or an enemy ... We had trouble with governments from time to time but the definitions held. How do we describe Cuba, Laos and the Congo today? By our relations with the embodiment of the nation's sovereignty? Of course not. These countries are the marchlands of mutual intervention. We have friends and we have enemies in each. Yet when we seek to aid the one or oppose the other, we too often find ourselves caught in a conceptual traffic jam created by our inherited concepts of international law, while Communist guerrillas rush past us in the fast outside lane ... Perhaps they [international organisations] alone offer breakthrough possibilities in rethinking the old doctrine of non-intervention in the domestic affairs of other nations. This doctrine has been the self-denying ordinance under which the democracies have laboured throughout the 20th century, an unenforced international ... law that disarms the householder but never bothers the burglar".

disarms the householder but never bothers the burglar

¹³ Mr Shultz at the Jonathan Institute Conference on 24 June 1984. In another passage in the same speech he said that the response to terrorism must be within the rule of law.

¹⁴ Address, 7 May 1961

Conclusion: When is Intervention Justified?

"Of all things, at once the most unjustifiable and the most impolitic is an unsuccessful intervention"

Sir William Harcourt¹

VI.1 The search for a morally, legally and politically watertight doctrine reconciling the principle of state sovereignty with intervention in certain circumstances is, especially in the post-war world, a search for the philosopher's stone. It is as difficult as efforts to devise a positive policy on human rights which is both morally consistent and politically realistic. Such considerations have not, however, prevented generations of writers, diplomats and statesmen from making the attempt.

VI.2 As Sir William Harcourt wrote in the 1860s, and many examples both before and after have shown, intervention is a "question rather of policy than of law. It is above and beyond the domain of law, and when wisely and equitably handled by those who have the power to give effect to it, may be the highest policy of justice and humanity". St Thomas Aquinas was making a similar point in setting his criteria for a just war: a just cause, a just intention, a reasonable chance of success; if successful, a better situation than the one which would have prevailed without the use of force; and that the force should be proportionate to the objective.

VI.3 Yet, until the international system for dealing with threats to international peace and security envisaged by the authors of the UN Charter becomes a reality, and collective intervention to enforce international law a serious possibility, intervention will be regarded as what it has always been: the prerogative by which greater powers impose their wishes - whether virtuous or not - on lesser powers.

VI.4 This brief account of certain legal and moral approaches to intervention shows that in the contemporary world the burden of proof lies firmly on those who seek, in law, morality or practice, to make exceptions to the "impeccable" principle of non-intervention in the affairs of sovereign states. In making such exceptions, they will need, if they attach importance to the rule of international law, to establish grounds for breaking the principle of non-intervention which are at once consistent and practical. For the United Kingdom, it will be important that guidelines which permit Western intervention in, say, Nicaragua or Afghanistan cannot be exploited by others in the cases of, for example, Northern Ireland or South Africa.

VI.5 Legally, as American and Soviet justifications have shown, the case for intervention is bound to be at best ambiguous and at worst non-existent. And the dubious benefits of making certain recognised general exceptions to the rule are likely to carry heavy costs in

¹ Letters by 'Historicus' on Some Questions of International Law, 1863

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terms of respect for international law. (This is, of course, of greater importance for those democratic countries whose domestic as well as international policies are predicated on respect for the rule of law).

VI.6 Morally and politically, the argument is more difficult and more subjective, and the ground infinitely more treacherous. Those wishing to prove that a particular intervention is justified will need to do so essentially on utilitarian or practical grounds. They will need to convince their audience, whose own criteria will be of the first importance in establishing any case, that the world is a better place after the intervention than it would have been before it. But, since that is not possible until after an intervention is complete, they will need also to point to the motives of the agent of the intervention, and perhaps to an obligation to intervene on behalf of those seeking liberation from foreign government or particularly shocking oppression. They will need to show that forcible intervention offers the best or only practical means of achieving desirable ends. And it is there, in the realm of subjective moral and political judgement, that the case for and against intervention must rest.

Planning Staff,
Foreign & Commonwealth Office

July 1984

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ANNEX I: DEFINITIONS

"Non-intervention ... c'est un mot métaphysique et politique, qui signifie à peu près la même chose qu' intervention"

Talleyrand, 1832

1. There are two reasons why it is important to define what exactly is meant by intervention.
2. The first is the fluid way in which a wide variety of events in international affairs are loosely described as intervention. We say that the United States intervened in the First (but not the Second) World War; in the dispute between Britain and Argentina over the Falklands; in Iran to try to rescue the hostages in 1980; in Chile to undermine Allende's regime in 1973; and in Vietnam and Grenada. The Soviet Union denounced the offer of Marshall Aid to the countries of Europe in 1947 as intervention, as it condemns as intervention the support given by outside powers to the Mujahideen in Afghanistan.
3. This imprecision points to the second reason why an agreed definition of intervention is important: the word itself implies a value-judgement. As with so many other terms in the legal and moral vocabulary of international relations, "intervention" has acquired strong pejorative overtones. To describe an event in international affairs as intervention is more often than not to condemn it. One man's intervention is another's act of self-defence or friendly assistance.
4. Winfield¹ distinguishes between (i) internal intervention: interference in the domestic affairs of another state; (ii) external intervention: intervention in the relations, usually hostile, of two or more other states; and (iii) punitive intervention: measures such as a peaceful blockade by one state against another to force observance of a treaty or redress a breach of law. But the distinction between internal and external intervention constantly breaks down. For example, Western intervention in the Lebanon in 1958 and in 1982-3 may have been intended both to protect that country from external dangers as well as to give the Lebanese Government a chance to set its domestic affairs in order.
5. Fawcett², on the other hand, uses the agent, not the target, of the intervention as his criterion for distinguishing between (i) intervention by the UN; (ii) collective intervention under a multilateral convention; and (iii) intervention by one or more states acting individually, though sometimes together.

¹ in Lawrence, Principles of International Law, pp119-20

² Law and Power in International Relations, p11

6. Lauterpacht³ defines intervention as "dictatorial interference in the sense of action amounting to a denial of the independence of the state". The two fundamental notions involved here are those of coercion and of intrusion in a state's domestic affairs. This restrictive definition does not take account of the means, agent, purpose, or results of an intervention. But many other definitions do, and the most common further criterion is that of whether force or the threat of armed force is used.

7. Many commentators describe intervention in which force, or the threat thereof, is not used as no more than interference. But, apart from force, there are other means, of which economic coercion and propaganda are two examples, of violating a state's absolute sovereignty over its domestic affairs. To define as intervention only those instances of interference in which armed force is used or threatened thus seems artificially restrictive. Nevertheless, armed force is by far the most common means of intervention, and occurs in most of the cases considered in this paper.

8. As far as defining intervention is concerned, it is also relatively unimportant who undertakes the intervention - a group of states, another state, or any other body -, and what the ultimate purpose and result of that intervention are. Again, however, it should be noted that some definitions of intervention invoke these criteria.

9. For most observers, however, the essence of intervention is the involvement of one state in the internal affairs of another. The main focus of this paper is thus on the first of Winfield's and the third of Fawcett's categories. Paraphrasing Lauterpacht, intervention may therefore be broadly defined for the purposes of this paper as dictatorial interference in affairs normally within the domestic jurisdiction of a state. The phrase "affairs normally within the domestic jurisdiction of a state" echoes Article 2(7) of the UN Charter, and is wider than the more usual "internal" or "domestic affairs".

10. In passing, it is also worth noting that non-intervention may in certain circumstances be held to constitute intervention - the meaning of Talleyrand's remark. Similar thoughts were expressed by Joseph Mazzini ("non-intervention ... means ... intervention on the wrong side; intervention by all who choose, and are strong enough, to put down free movements of peoples against corrupt governments")⁴. At the Caracas Conference of the Organisation of American States in March 1954, John Foster Dulles was asked, during a discussion of the inalienable right of each American state to set up its own form of government, whether non-intervention applied if an American state chose Communism. "The slogan of non-intervention", Dulles answered, "can plausibly be invoked and twisted to give immunity to what is in reality flagrant intervention."

³ International Law and Human Rights, pl67

⁴ Life and Writings of Joseph Mazzini, pp 305-6

UN CHAPTER

CHAPTER I
PURPOSES AND PRINCIPLES

Article 1

The Purposes of the United Nations are:

3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. 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 or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER VII
ACTION WITH RESPECT TO THREATS
TO THE PEACE, BREACHES OF THE
PEACE, AND ACTS OF AGGRESSION

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

CHAPTER VIII
REGIONAL ARRANGEMENTS

Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

31 (XX). Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty

The General Assembly,

Deeply concerned at the gravity of the international situation and the increasing threat to universal peace due to armed intervention and other direct or indirect forms of interference threatening the sovereign personality and the political independence of States,

Considering that the United Nations, in accordance with their aim to eliminate war, threats to the peace and acts of aggression, created an Organization, based on the sovereign equality of States, whose friendly relations would be based on respect for the principle of equal rights and self-determination of peoples and on the obligation of its Members to refrain from the threat or use of force against the territorial integrity or political independence of any State,

Recognizing that, in fulfilment of the principle of self-determination, the General Assembly, in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in resolution 1514 (XV) of 14 December 1960, stated its conviction that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory, and that, by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development.

Recalling that in the Universal Declaration of Human Rights the General Assembly proclaimed that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, without distinction of any kind,

Reaffirming the principle of non-intervention, proclaimed in the charters of the Organization of American States, the League of Arab States and the Organization of African Unity and affirmed at the conferences held at Montevideo, Buenos Aires, Chapultepec and Bogotá, as well as in the decisions of the Asian-African Conference at Bandung, the First Conference of Heads of State or Government of Non-Aligned Countries at Belgrade, in the Programme for Peace and International Co-operation adopted at the end of the Second Conference of Heads of State or Government of Non-Aligned Countries at Cairo, and in the declaration on subversion adopted at Accra by the Heads of State and Government of the African States,

Recognizing that full observance of the principle of the non-intervention of States in the internal and external affairs of other States is essential to the fulfilment of the purposes and principles of the United Nations,

Considering that armed intervention is synonymous with aggression and, as such, is contrary to the basic principles on which peaceful international co-operation between States should be built,

Considering further that direct intervention, subversion and all forms of indirect intervention are contrary to these principles and, consequently, constitute a violation of the Charter of the United Nations,

Mindful that violation of the principle of non-intervention poses a threat to the independence, freedom and normal political, economic, social and cultural development of countries, particularly those which have freed themselves from colonialism, and can pose a serious threat to the maintenance of peace,

Fully aware of the imperative need to create appropriate conditions which would enable all States, and in particular the developing countries, to choose without duress or coercion their own political, economic and social institutions,

In the light of the foregoing considerations, solemnly declares:

1. No State has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are condemned.

2. No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State.

3. The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

4. The strict observance of these obligations 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 letter of the Charter of the United Nations but also leads to the creation of situations which threaten international peace and security.

5. Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

6. All States shall respect the right of self-determination and independence of peoples and nations, to be freely exercised without any foreign pressure, and with absolute respect for human rights and fundamental freedoms. Consequently, all States shall contribute to the complete elimination of racial discrimination and colonialism in all its forms and manifestations.

7. For the purpose of the present Declaration, the term "State" covers both individual States and groups of States.

8. Nothing in this Declaration shall be construed as affecting in any manner the relevant provisions of the Charter of the United Nations relating to the maintenance of international peace and security, in particular those contained in Chapters VI, VII and VIII.

*1408th plenary meeting,
21 December 1965.*

G.A. Res. 2625(XXV)(1970). Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations

The first principle is as follows:

The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations

Every State has the duty to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues.

A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression.

Every State has the duty to refrain from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States.

Every State likewise has the duty to refrain from the threat or use of force to violate international lines of demarcation, such as armistice lines, established by or pursuant to an international agreement to which it is a party or which it is otherwise bound to respect. Nothing in the foregoing shall be construed as prejudicing the positions of the parties concerned with regard to the status and effects of such lines under their special regimes or as affecting their temporary character.

States have a duty to refrain from acts of reprisal involving the use of force.

Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of their right to self-determination and freedom and independence.

Every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State.

Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force.

The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal. Nothing in the foregoing shall be construed as affecting:

(a) Provisions of the Charter or any international agreement prior to the Charter régime and valid under international law; or

(b) The powers of the Security Council under the Charter.

All States shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and

strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States.

All States shall comply in good faith with their obligation under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based on the Charter more effective.

Nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful.

The third principle is as follows:

The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter

No State or group of States has the right to intervene directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law.

No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State.

The use of force to deprive peoples of their national identity constitutes a violation of their inalienable right and of the principle of non-intervention.

Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

Nothing in the foregoing paragraphs shall be construed as affecting the relevant provisions of the Charter relating to the maintenance of international peace and security.

Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States

Date: 9 December 1981
Vote: 120-22-6 (recorded)

Solemnly declares that:

1. No State or group of States has the right to intervene or interfere in any form or for any reason whatsoever in the internal and external affairs of other States.

2. The principle of non-intervention and non-interference in the internal and external affairs of States comprehends the following rights and duties:

I

(a) Sovereignty, political independence, territorial integrity, national unity and security of all States, as well as national identity and cultural heritage of their peoples;

(b) The sovereign and inalienable right of a State freely to determine its own political, economic, cultural and social system, to develop its international relations and to exercise permanent sovereignty over its natural resources, in accordance with the will of its people, without outside intervention, interference, subversion, coercion or threat in any form whatsoever;

(c) The right of States and peoples to have free access to information and to develop fully, without interference, their system of information and mass media and to use their information media in order to promote their political, social, economic and cultural interests and aspirations, based, inter alia, on the relevant articles of the Universal Declaration of Human Rights and the principles of the new international information order;

II

(a) The duty of States to refrain in their international relations from the threat or use of force in any form whatsoever to violate the existing internationally recognized boundaries of another State, to disrupt the political, social or economic order of other States, to overthrow or change the political system of another State or its Government, to cause tension between or among States or to deprive peoples of their national identity and cultural heritage;

(b) The duty of a State to ensure that its territory is not used in any manner which would violate the sovereignty, political independence, territorial integrity and national unity or disrupt the political, economic and social stability of another State; this obligation applies also to States entrusted with responsibility for territories yet to attain self-determination and national independence;

(c) The duty of a State to refrain from armed intervention, subversion, military occupation or any other form of intervention and interference, overt or covert, directed at another State or group of States, or any act of military, political or economic interference in the internal affairs of another State, including acts of reprisal involving the use of force;

(d) The duty of a State to refrain from any forcible action which deprives peoples under colonial domination or foreign occupation of their right to self-determination, freedom and independence;

(e) The duty of a State to refrain from any action or attempt in whatever form or under whatever pretext to destabilize or to undermine the stability of another State or of any of its institutions;

(f) The duty of a State to refrain from the promotion, encouragement or support, direct or indirect, of rebellious or secessionist activities within other States, under any pretext whatsoever, or any action which seeks to disrupt the unity or to undermine or subvert the political order of other States;

(g) The duty of a State to prevent on its territory the training, financing and recruitment of mercenaries, or the sending of such mercenaries into the territory of another State and to deny facilities, including financing, for the equipping and transit of mercenaries;

(h) The duty of a State to refrain from concluding agreements with other States designed to intervene or interfere in the internal and external affairs of third States;

(i) The duty of States to refrain from any measure which would lead to the strengthening of existing military blocs or the creation or strengthening of new military alliances, interlocking arrangements, the deployment of interventionist forces or military bases and other related military installations conceived in the context of great-Power confrontation;

(j) The duty of a State to abstain from any defamatory campaign, vilification or hostile propaganda for the purpose of intervening or interfering in the internal affairs of other States;

(k) The duty of a State, in the conduct of its international relations in the economic, social, technical and trade fields, to refrain from measures which would constitute interference or intervention in the internal or external affairs of another State, thus preventing it from determining freely its political, economic and social development; this includes, *inter alia*, the duty of a State not to use its external economic assistance programme or adopt any multilateral or unilateral economic reprisal or blockade and to prevent the use of transnational and multinational corporations under its jurisdiction and control as instruments of political pressure or coercion against another State, in violation of the Charter of the United Nations;

(l) The duty of a State to refrain from the exploitation and the distortion of human rights issues as a means of interference in the internal affairs of States, of exerting pressure on other States or creating distrust and disorder within and among States or groups of States;

(m) The duty of a State to refrain from using terrorist practices as state policy against another State or against peoples under colonial domination, foreign occupation or racist régimes and to prevent any assistance to or use of or tolerance of terrorist groups, saboteurs or subversive agents against third States;

(n) The duty of a State to refrain from organizing, training, financing and arming political and ethnic groups on their territories or the territories of other States for the purpose of creating subversion, disorder or unrest in other countries;

(o) The duty of a State to refrain from any economic, political or military activity in the territory of another State without its consent;

III

(a) The right of States to participate actively on the basis of equality in solving outstanding international issues, thus contributing to the removal of causes of conflicts and interference;

(b) The right and duty of States fully to support the right to self-determination, freedom and independence of peoples under colonial domination, foreign occupation or racist régimes, as well as the right of these peoples to wage both political and armed struggle to that end, in accordance with the purposes and principles of the Charter of the United Nations;

(c) The right and duty of States to observe, promote and defend all human rights and fundamental freedoms within their own national territories and to work for the elimination of massive and flagrant violations of the rights of nations and peoples, and in particular, for the elimination of apartheid and all forms of racism and racial discrimination;

(d) The right and duty of States to combat, within their constitutional prerogatives, the dissemination of false or distorted news which can be interpreted as interference in the internal affairs of other States or as being harmful to the promotion of peace, co-operation and friendly relations among States and nations;

(e) The right and duty of States not to recognize situations brought about by the threat or use of force or acts undertaken in contravention of the principle of non-intervention and non-interference.

3. The right and duties set out in this Declaration are interrelated and are in accordance with the Charter of the United Nations.

4. Nothing in this Declaration shall prejudice in any manner the right to self-determination, freedom and independence of peoples under colonial domination, foreign occupation or racist régimes, and the right to seek and receive support in accordance with the purposes and principles of the Charter of the United Nations.

5. Nothing in this Declaration shall prejudice in any manner the provisions of the Charter of the United Nations.

6. Nothing in this Declaration shall prejudice action taken by the United Nations under Chapters VI and VII of the Charter of the United Nations.

RECORDED VOTE ON RESOLUTION 36/103:

In favour: [120 countries]

Against: Australia, Austria, Belgium, Canada, Denmark, France, Federal Republic of Germany, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, United Kingdom, United States, Venezuela.

Abstaining: El Salvador, Finland, Greece, Guatemala, Swaziland, Turkey.

Absent: Antigua and Barbuda, Botswana, Dominica, Equatorial Guinea, Gambia, Malawi*, Saint Vincent, Zimbabwe.

General Assembly,

Recognizing that the first two stated Purposes of the United Nations are:

"To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace", and

"To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace",

Reaffirming that it remains the primary duty of all Members of the United Nations, when involved in an international dispute, to seek settlement of such a dispute by peaceful means through the procedures laid down in Chapter VI of the Charter, and recalling the successful achievements of the United Nations in this regard on a number of previous occasions,

Finding that international tension exists on a dangerous scale,

Recalling its resolution 290 (IV) entitled "Essentials of peace", which states that disregard of the Principles of the Charter of the United Nations is primarily responsible for the continuance of international tension, and desiring to contribute further to the objectives of that resolution,

Reaffirming the importance of the exercise by the Security Council of its primary responsibility for the maintenance of international peace and security, and the duty of the permanent members to seek unanimity and to exercise restraint in the use of the veto,

Reaffirming that the initiative in negotiating the agreements for armed forces provided for in Article 43 of the Charter belongs to the Security Council, and desiring to ensure that, pending the conclusion of such agreements, the United Nations has at its disposal means for maintaining international peace and security,

Conscious that failure of the Security Council to discharge its responsibilities on behalf of all the Member States, particularly those responsibilities referred to in the two preceding paragraphs, does not relieve Member States of their obligations or the United Nations of its responsibility under the Charter to maintain international peace and security,

Recognizing in particular that such failure does not deprive the General Assembly of its rights or relieve it of its responsibilities under the Charter in regard to the maintenance of international peace and security,

Recognizing that discharge by the General Assembly of its responsibilities in these respects calls for possibilities of observation which would ascertain the facts and expose aggressors; for the existence of armed forces which could be used collectively; and for the possibility of timely recommendation by the General Assembly to Members of the United Nations for collective action which, to be effective, should be prompt,

1. *Resolves* that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations;

2. *Adopts* for this purpose the amendments to its rules of procedure set forth in the annex to the present resolution;

E

14. *Is fully conscious* that, in adopting the proposals set forth above, enduring peace will not be secured solely by collective security arrangements against breaches of international peace and acts of aggression, but that a genuine and lasting peace depends also upon the observance of all the Principles and Purposes established in the Charter of the United Nations, upon the implementation of the resolutions of the Security Council, the General Assembly and other principal organs of the United Nations intended to achieve the maintenance of international peace and security, and especially upon respect for and observance of human rights and fundamental freedoms for all and on the establishment and maintenance of conditions of economic and social well-being in all countries; and accordingly

15. *Urges* Member States to respect fully, and to intensify, joint action, in co-operation with the United Nations, to develop and stimulate universal respect for and observance of human rights and fundamental freedoms, and to intensify individual and collective efforts to achieve conditions of economic stability and social progress, particularly through the development of under-developed countries and areas.

302nd plenary meeting

3 November 1950

II. Refraining from the threat or use of force

The participating States will refrain in their mutual relations, as well as in their international relations in general, from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations and with the present Declaration. No consideration may be invoked to serve to warrant resort to the threat or use of force in contravention of this principle.

Accordingly, the participating States will refrain from any acts constituting a threat of force or direct or indirect use of force against another participating State. Likewise they will refrain from any manifestation of force for the purpose of inducing another participating State to renounce the full exercise of its sovereign rights. Likewise they will also refrain in their mutual relations from any act of reprisal by force.

No such threat or use of force will be employed as a means of settling disputes, or questions likely to give rise to disputes, between them.

IV. Territorial integrity of States

The participating States will respect the territorial integrity of each of the participating States.

Accordingly, they will refrain from any action inconsistent with the purposes and principles of the Charter of the United Nations against the territorial integrity, political independence or the unity of any participating State, and in particular from any such action constituting a threat or use of force.

The participating States will likewise refrain from making each other's territory the object of military occupation or other direct or indirect measures of force in contravention of international law, or the object of acquisition by means of such measures or the threat of them. No such occupation or acquisition will be recognised as legal.

VI. *Non-intervention in internal affairs*

The participating States will refrain from any intervention, direct or indirect, individual or collective, in the internal or external affairs falling within the domestic jurisdiction of another participating State, regardless of their mutual relations.

They will accordingly refrain from any form of armed intervention or threat of such intervention against another participating State.

They will likewise in all circumstances refrain from any other act of military, or of political, economic or other coercion designed to subordinate to their own interest the exercise by another participating State of the rights inherent in its sovereignty and thus to secure advantages of any kind.

Accordingly, they will, *inter alia*, refrain from direct or indirect assistance to terrorist activities, or to subversive or other activities directed towards the violent overthrow of the régime of another participating State.

VII. *Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief*

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development.

Within this framework the participating States will recognise and respect the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere.

The participating States recognise the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States.

They will constantly respect these rights and freedoms in their mutual relations and will endeavour jointly and separately, including in co-operation with the United Nations, to promote universal and effective respect for them.

They confirm the right of the individual to know and act upon his rights and duties in this field.

In the field of human rights and fundamental freedoms, the participating States will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfil their obligations as set forth in the international declarations and agreements in this field, including *inter alia* the International Covenants on Human Rights, by which they may be bound.

INTER-AMERICAN TREATY OF RECIPROCAL ASSISTANCE

Signed at the Inter-American
Conference for the Maintenance of
Continental Peace and Security,
Rio de Janeiro, August 15-September 2, 1917

ARTICLE 1

The High Contracting Parties formally condemn war and undertake in their international relations not to resort to the threat or the use of force in any manner inconsistent with the provisions of the Charter of the United Nations or of this Treaty.

ARTICLE 3

1. The High Contracting Parties agree that an armed attack by any State against an American State shall be considered as an attack against all the American States and, consequently, each one of the said Contracting Parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations.

2. On the request of the State or States directly attacked and until the decision of the Organ of Consultation of the Inter-American System, each one of the Contracting Parties may determine the immediate measures which it may individually take in fulfillment of the obligation contained in the preceding paragraph and in accordance with the principle of continental solidarity. The Organ of Consultation shall meet without delay for the purpose of examining those measures and agreeing upon the measures of a collective character that should be taken.

3. The provisions of this Article shall be applied in case of any armed attack which takes place within the region described in Article 4 or within the territory of an American State. When the attack takes place outside of the said areas, the provisions of Article 6 shall be applied.

4. Measures of self-defense provided for under this Article may be taken until the Security Council of the United Nations has taken the measures necessary to maintain international peace and security.

ARTICLE 6

If the inviolability or the integrity of the territory or the sovereignty or political independence of any American State should be affected by an aggression which is not an armed attack or by an extra-continental or intra-continental conflict, or by any other fact or situation that might endanger the peace of America, the Organ of Consultation shall meet immediately in order to agree on the measures which must be taken in case of aggression to assist the victim of the aggression or, in any case, the measures which should be taken for the common defense and for the maintenance of the peace and security of the Continent.

ARTICLE 7

In the case of a conflict between two or more American States, without prejudice to the right of self-defense in conformity with Article 51 of the Charter of the United Nations, the High Contracting Parties, meeting in consultation shall call upon the contending States to suspend hostilities and restore matters to the *statu quo ante bellum*, and shall take in addition all other necessary measures to reestablish or maintain inter-American peace and security and for the solution of the conflict by peaceful means. The rejection of the pacifying action will be considered in the determination of the aggressor and in the application of the measures which the consultative meeting may agree upon.

ARTICLE 8

For the purposes of this Treaty, the measures on which the Organ of Consultation may agree will comprise one or more of the following: recall of chiefs of diplomatic missions; breaking of diplomatic relations; breaking of consular relations; partial or complete interruption of economic relations or of rail, sea, air, postal, telegraphic, telephonic, and radiotelephonic or radiotelegraphic communications; and use of armed force.

ARTICLE 9

In addition to other acts which the Organ of Consultation may characterize as aggression, the following shall be considered as such:

- a. Unprovoked armed attack by a State against the territory, the people, or the land, sea or air forces of another State;
- b. Invasion, by the armed forces of a State, of the territory of an American State, through the trespassing of boundaries demarcated in accordance with a treaty, judicial decision, or arbitral award, or, in the absence of frontiers thus demarcated, invasion affecting a region which is under the effective jurisdiction of another State.

CHARTER OF THE ORGANIZATION OF AMERICAN STATES

AS AMENDED BY THE PROTOCOL OF BUENOS AIRES IN 1967

Chapter II

PRINCIPLES

Article 3

The American States reaffirm the following principles:

- a) International law is the standard of conduct of States in their reciprocal relations;
- b) International order consists essentially of respect for the personality, sovereignty, and independence of States, and the faithful fulfillment of obligations derived from treaties and other sources of international law;
- c) Good faith shall govern the relations between States;
- d) The solidarity of the American States and the high aims which are sought through it require the political organization of those States on the basis of the effective exercise of representative democracy;
- e) The American States condemn war of aggression: victory does not give rights;
- f) An act of aggression against one American State is an act of aggression against all the other American States;
- g) Controversies of an international character arising between two or more American States shall be settled by peaceful procedures;
- h) Social justice and social security are bases of lasting peace;
- i) Economic cooperation is essential to the common welfare and prosperity of the peoples of the continent;
- j) The American States proclaim the fundamental rights of the individual without distinction as to race, nationality, creed, or sex;
- k) The spiritual unity of the continent is based on respect for the cultural values of the American countries and requires their close cooperation for the high purposes of civilization;
- l) The education of peoples should be directed toward justice, freedom, and peace.

Article 12

The political existence of the State is independent of recognition by other States. Even before being recognized, the State has the right to defend its integrity and independence, to provide for its preservation and prosperity, and consequently to organize itself as it sees fit, to legislate concerning its interests, to administer its services, and to determine the jurisdiction and competence of its courts. The exercise of these rights is limited only by the exercise of the rights of other States in accordance with international law.

Article 14

The right of each State to protect itself and to live its own life does not authorize it to commit unjust acts against another State.

Article 15

The jurisdiction of States within the limits of their national territory is exercised equally over all the inhabitants, whether nationals or aliens.

Article 18

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements.

Article 19

No State may use or encourage the use of coercive measures of an economic or political character in order to force the sovereign will of another State and obtain from it advantages of any kind.

Article 20

The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever. No territorial acquisitions or special advantages obtained either by force or by other means of coercion shall be recognized.

Article 21

The American States bind themselves in their international relations not to have recourse to the use of force, except in the case of self-defense in accordance with existing treaties or in fulfillment thereof.

Article 22

Measures adopted for the maintenance of peace and security in accordance with existing treaties do not constitute a violation of the principles set forth in Articles 18 and 20.

Chapter VI

COLLECTIVE SECURITY

Article 27

Every act of aggression by a State against the territorial integrity or the inviolability of the territory or against the sovereignty or political independence of an American State shall be considered an act of aggression against the other American States.

Article 28

If the inviolability or the integrity of the territory or the sovereignty or political independence of any American State should be affected by an armed attack or by an act of aggression that is not an armed attack, or by an extracontinental conflict, or by a conflict between two or more American States, or by any other fact or situation that might endanger the peace of America, the American States, in furtherance of the principles of continental solidarity or collective self-defense, shall apply the measures and procedures established in the special treaties on the subject.

RESTRICTED

ANNEX IV: RECENT FRENCH PRACTICE

Since 1961 France has intervened militarily 18 times in 9 independent African States. Recently, actual military intervention has become less frequent. Nonetheless, in 1977, French aircraft were used to bring Moroccan troops into the Shaba Province (formerly Katanga) of Zaire to control Katangan rebels infiltrating from Angola. President Giscard d'Estaing explained that friends of France, when acting within their rights when their security was threatened, would not be abandoned. A similar action, using French troops and American logistic help, took place in 1978 'to protect French citizens'. In 1979 the French air force flew M. Dacko to Bangui and installed him as President to replace Bokassa. French troops remaining in the Central African Republic took no action 2 years later when Dacko was overthrown. The (Socialist) French Defence Minister said troops would only take action to protect the lives of French citizens. French troops have been intermittently embroiled in the civil war in Chad since 1968. The French Government has variously explained its policy as being to support the sovereign independence of Chad, to prevent the dispute from spreading into an East-West confrontation and as the defence of the territorial integrity and independence of a friendly state.

RESTRICTED



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RESCUE

There are 158 members of the United Nations and barely 40, certainly under 50 of them, have governments which subscribe to the principles of parliamentary democracy and human rights which underlie the original *raison d'être* of that international body. The vast majority of members of the United Nations are dictatorships of one kind or another, but all of the kind which is ultimately legitimized only by the barrel of the gun and certainly not by the symbolism of the mace. Indeed if they saw a mace, most members of the UN would assume that it was not a symbol of the sovereignty of the parliamentary tradition so much as one more blunt instrument with which to beat their peoples into submission and to pound words into a pabulum of falsehood.

The perversion of truth and the manipulation of a purely local majority of dictatorships at the UN were both evident when the Grenada episode was debated early yesterday at the General Assembly. The vote condemned the action, which has saved Grenada from a dictatorship and is clearly welcomed by Grenadians themselves. How ironic, then, that the majority of unelected dictatorial governments which voted to condemn the East Caribbean States and the United States called for early elections in Grenada — a privilege they deny absolutely or in all but name to their own citizens. Not the Soviet Union and its allies, though; even they could not quite stomach that recommendation.

Most members deplored the use of force and persisted in describing the action as illegal — the one an exercise in cynicism, the other in the familiar manipulation of language which is such an effective instrument in the hands of enemies of liberal democracies. Language is to democracy what a sound currency is to the working of an economy: abuse one and the other becomes fatally subverted. It is not surprising therefore that those who are hostile to free speech in their own countries use it so effectively as a weapon of suppression within and subversion elsewhere.

The intervention in Grenada was requested from Grenada's neighbours and the only avail-

able nation with the requisite power at hand. It was requested by the only remaining constitutional authority within Grenada. The Governor-General subsequently confirmed his invitation in writing when his safety was assured. That is not the way that the dictatorial majority in the United Nations would like to see the episode. It is none the less surprising that Mr Denis Healey in the House of Commons yesterday was so contemptuous of Sir Paul Scoon's legitimacy. Even Sir Geoffrey Howe was less than generous in his endorsement of an operation which has brought more security to Grenada than its citizens have known for many years.

So who is to look after those members of the United Nations who, like Grenada, are to all intents unable to defend themselves from any group of thugs? That is the question posed on this page today by Lord Home. It was raised rather less effectively yesterday in the Commons by the Foreign Secretary. It needs an answer. It received an answer last week, quite succinctly, when Grenada's neighbours and the United States went to that country's rescue. The facts of that episode have now run foul of the cynicism at the United Nations, and the general manipulation of language which occurs whenever the interests of the Soviet system appear to be challenged.

The United Nations was founded on a principle of non-interference in the affairs of sovereign states. At that time its membership comprised nations who could lay some claim to a capacity to look after themselves in defence of their sovereignty, so that any intervention was bound to be overt and identifiable to the world community. That situation is wholly different now for two reasons.

The first is the growth of a new generation of so-called sovereign states which have little or no capacity to protect that sovereignty from the slightest threat. The second is because the spread of totalitarianism outwards from the Soviet Union uses covert methods more frequently and more successfully than overt ones. They present the West with a challenge which it has hitherto had neither the clarity of mind nor the will to tackle.

In 1964 Tanzania invited British troops in to quell a mutiny. In the mid 1970s Tanzanian troops invaded Uganda to help topple President Amin. Did either of those precedents influence Tanzania's vote in the United Nations yesterday? Of course not. Yet had there been any honesty left in Tanzania we might have seen some recognition of the fact that what Grenada has suffered is what Zanzibar suffered in the 1960s and what any Third World country, which is not yet a military dictatorship will suffer from unless some measures are taken by the West to protect them from the relentless progress of Communist or near-Communist attempts to undermine the slender political structures on which developing countries are based.

Those countries have no articulate communities to argue about freedom. They are not so concerned with politics as with the basic requirements of development and subsistence. They can literally be hijacked by armed men aided and supplied by outsiders. Many have been so already, and few have been rescued from such an experience.

The Brezhnev doctrine enunciated a principle which the Western world recognized to be intolerable. Yet nobody has taken action to see that it would in practice not be tolerated. That doctrine was that no country, once it has been embraced by so called "Socialism" could be allowed to revert to a non-Socialist state.

Since then the Western world has watched impotently while nation after nation has become the prisoner of this rhetoric, ruled by military dictatorships which often call themselves People's Democratic Republics, with neither popular consent, nor democracy, nor the republican ideal anywhere in evidence. Grenada is almost the first small defenceless country to be rescued from that prison. Its rescue should be welcomed, and fully consolidated.

A more important task for the West now is not to feel hang-dog about this rescue, but to develop a coherent and multilateral approach to further rescues. If it could not have been done for Grenada, could anybody have had hope? From this small beginning, a strategic initiative should be seized.

Getting round law on intervention

From Lord Home of The Hirsel

Sir, In the welter of words which have been written and spoken on the subject of the breach by the United States of the clause of the Charter which forbids intervention by one country in the affairs of another there is one question which the critics have never answered. When a small and sovereign country finds itself subverted by communists, and about to be overborne by force, where can it go to preserve its independence?

The only practical answer available may be to a powerful, friendly nation which is willing and has the power to respond.

Grenada found such neighbours in Jamaica, Barbados and the United States who answered the call. The result was that they were denounced by liberal opinion for breaching the UN rules.

I am suggesting that international law is immature and defective in this important area of relations between nations. Perhaps that is inevitable so long as Russia and a few countries which follow her instructions are ready to deal in subversion and takeover.

Is it not a little hard to blame the potential victim and the rescuer until the law is reformed?

The reaction of your learned readers would be interesting.

Yours sincerely,
HOME,
House of Lords,
November 2.

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