

Ethics and Humanitarian Intervention

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[See table of contents](#)

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Chatterjee, Deen K., and Don E. Scheid, eds. *Ethics and Foreign Intervention*. Cambridge: Cambridge University Press, 2003.

Finnemore, Martha. *The Purpose of Intervention: Changing Beliefs About the Use of Force*. Ithaca, NY: Cornell University Press, 2003.

Holzgrefe, J.L., and Robert O. Keohane, eds. *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas*. Cambridge: Cambridge University Press, 2003.

Welsh, Jennifer M., ed. *Humanitarian Intervention and International Relations*. Oxford: Oxford University Press, 2004.

In discussions of intervention in international politics, issues of law and ethics receive more attention than is usual in discussions of international politics. One, but not the only, reason is that states and the governments which govern those states do not wish to appear to be engaging in realpolitik. If it is to be seen as legitimate, a decision either to intervene in the affairs of another state or to desist from intervening must be justified in a manner that, while it may remain controversial, must at least appear plausible and sincere. While there continues to be controversy about decisions taken by some Western states to intervene in contexts like Somalia, Kosovo, Afghanistan, and Iraq and about decisions not to intervene in contexts like Rwanda and Chechnya, a degree of consensus has emerged on the theoretical level. Few commentators continue to adhere to the notion that the territorial sovereignty of states should be viewed as entirely absolute precluding any and all sorts of intervention regardless of the situation. On the other hand, most commentators support the notion that there should be a strong presumption in favor of the right of individual states to exercise sovereignty as they see fit within their respective territories except in exceptional cases.

How strong a presumption should there be in favor of territorial sovereignty, and how exceptional should the requirements be for either sanctioning or mandating intervention are among the issues explored in Martha Finnemore's *The Purpose of Intervention* and in the essays compiled in the collections *Ethics and Foreign Intervention* edited by Deen Chatterjee and Don Scheid, *Humanitarian Intervention* edited by J.L. Holzgrefe and Robert Keohane, and *Humanitarian Intervention and International Relations* edited by Jennifer Welsh.

In *The Purpose of Intervention: Changing Beliefs About the Use of Force*, Finnemore explores the impact and evolution of norms, examining, as the subtitle indicates, a number of ways in which the purposes for which intervention have been undertaken in the past, such as preventing a delinquent state from defaulting on its debts, would be considered inappropriate or even unthinkable today. She also notes that the scope for intervention for some other purposes has broadened as humanitarian concerns extend now not only to Europeans and North Americans but, however imperfectly in practice, to humanity regardless of race, language, or religion. Finnemore effectively makes the case that norms do matter, and that these evolve in response to changes in prevailing notions of law and ethics.

Ethics and Foreign Intervention includes essays by Stanley Hoffmann, Chris Brown, Michael Blake, George R. Lucas, Jr., Henry Shue, Erin Kelly, Tom J. Farer, Christine Chwaszcza, Allen Buchanan, Richard W. Miller, Iris Marion Young, and C.A.J. Coady. Brown addresses the critique made from both left and right that justifications for intervention are inherently flawed because decisions to intervene in response to some violations of human rights and not others, or to intervene in response to some instances of ethnic cleansing and not others, or to intervene in response to some denials of national self-determination and not others, represents a degree of inconsistency fatal to the claim that one is seeking, through humanitarian intervention, to take morality seriously. Brown takes the view that the practical wisdom permitting discrimination between cases in which intervention is likely to be effective and result in an outcome that would be better than would have resulted in the absence of intervention and cases in which intervention is not likely to be effective or to result in net benefit to the victims of injustice, is perfectly compatible with the attempt to act morally. Not all the contributors are as sympathetic as Brown to the notion of intervention. Miller suggests that, even in the narrow range of cases in which he would find intervention legitimate, it usually has resulted from a flawed process in which superpowers and great powers have failed at an earlier stage to consider alternative policies that might have produced a negotiated settlement. While not ruling out altogether resort to intervention in theory, Young takes the view that too often resort to intervention is illegitimate in practice because it has been undertaken before other alternatives have been exhausted. Coady, while not absolutely ruling out the possibility that intervention may be justifiable, argues that just-war criteria as he interprets them (who has the authority to resort to military force, when force can be used in a proportionate manner, when resort to force genuinely represents a last resort, and when it is likely to be successful) makes the presumption against intervention an extremely strong presumption to override.

Holzgrefe and Keohane's *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* includes essays by J.L. Holzgrefe, Tom J. Farer, Fernando Teson, Allen Buchanan, Michael Byers and Simon Chesterman, Thomas M. Franck, Jane Stromseth, Robert O. Keohane, and Michael Ignatieff. Ignatieff

points out that in today's world, powers must respond not only to states subject to tyrannical regimes but, as well, to failed states incapable of providing order and personal security within their borders. Teson argues that liberal principles render a prohibition against all intervention unsustainable. Stromseth examines differing approaches to the evolution of international law in regards to intervention.

Humanitarian Intervention and International Relations, edited by Jennifer M. Welsh, includes essays by Henry Shue, Nicholas J. Wheeler, Welsh, Sir Adam Roberts, Nicholas Morris, James Mayall, Ian Martin, and Simon Chesterman. Shue suggests that exceptional cases in which a state has failed to provide minimal order, justice, and respect for rights may justify intervention. Wheeler posits that the 1990s witnessed an evolution in norms in regard to sovereignty and intervention. Several of the essays examine cases in specific regions that raise questions of the importance of timing, and of the tension between the strategy of attempting to serve as an impartial arbiter or broker and the strategy of coming to the support of one side identified as victims, seeking to end their persecution.

Any consideration of possible humanitarian intervention must encompass both moral and prudential concerns. Combining the two is both necessary and problematic. Focus on prudential factors may seem amoral and overly detached but there is no point from either moral or prudential points of view in exacerbating a tragic situation by initiating an intervention doomed under the prevailing circumstances to inflicting casualties to no benefit to the victims of injustice. Any decision on intervention would have to consider a range of issues including the justness of the cause, the proportionality of the response, the issue of legitimacy and authority, the probability of success in alleviating suffering and injustice, and the possibility of achieving success without inflicting undue casualties and hardship on innocents. Issues of ethics are important for their own sake but also because genuine concern for ethics, even when ethical issues are not simple with uncontroversial solutions, is vital before the court of international public opinion.

Much of the discussion from intervention debates whether specific decisions to intervene or not to intervene were justifiable. Every context is somewhat different, and the consequence is that past experience must be considered when future possible interventions arise, even though the differences preclude seeing any specific precedent as a model. Kosovo is a frequently cited case because intervention took place without a mandate derived from a United Nations Security Council resolution. This lack of an explicit mandate has become a more controversial issue since the intervention in Iraq similarly took place without a Security Council resolution mandating it. In each case, it has been argued that interventions were consistent with earlier resolutions condemning Yugoslavia/Serbia in one case and the Saddam Hussein regime in Iraq in the other. Other cases, like those of Rwanda, remind us that not intervening reflects a decision as much as intervening. Much of the discussion ponders the contention that in some contexts perhaps the issue should be viewed not in terms of whether there is a right to intervene but in terms of whether there may be a duty. In dif-

ferent ways, both East Timor and Afghanistan were ambiguous cases. In the former case, the ultimate deployment of outside forces occurred with the formal approval of Indonesia, although this approval came only after much pressure in non-military forms. One can debate whether the term “intervention” should or should not be limited to the actual use of military forces. In the post-9/11 Afghanistan case, it could certainly be viewed as a self-defense response to an attack from an organization that was either operating under the protection of the Taliban regime or was effectively part of that regime. A consequence is that the overthrow of the Taliban regime can be justified without some of the complications that arise in other cases. One may or may not view this latter case as falling under the category of intervention.

The case under consideration as this is written is the Sudan. Even as a film depicting the atrocities that took place in Rwanda when intervention beyond a limited peacekeeping operation did not happen receives Academy Award nominations, it appears unlikely that a resolution mandating intervention in Sudan would pass in the United Nations Security Council without at least one veto by a permanent member. Iraq complicates the issue in at least two respects. With commitments in Afghanistan and Iraq on top of its previous commitments, the United States does not have the resources available to send to the Sudan. While an African coalition could intervene in Sudan, it may be possible, given the Security Council situation, that such an intervention, if it is to proceed, may have to proceed in the absence of an explicit Security Council mandate. While one may view the Kosovo operation as a precedent, the issue of intervening without an explicit Security Council mandate has become more controversial in the aftermath of the intervention in Iraq.

These four books are recommended not because a reader will find in their pages easy or straightforward answers to issues like those raised by current discussions about Darfur in Sudan but because at least they help to frame the debate and identify some of the factors that a serious consideration would have to examine.

James G. Mellon graduated from Dalhousie University, and has taught at Mount Allison, Lakehead, Dalhousie, and Saint Mary’s Universities.