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The Changing Context in Practice of Humanitarian Intervention under International Law in the Contemporary Society

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Abstract

Abstract Human right violations are on the increase in this era. As a consequence, nations cannot ignore the perpetuation of human rights abuses in other territories. Humanitarian intervention is therefore one of the exception to the principle of state sovereignty whereby another nation uses force to intervene into the territory of a country as a result of gross human rights violation. However, this was the initial or original aim/context of the practice of humanitarian intervention. Recent times has shown that there is a changing context in the practice of humanitarian intervention especially by the 'so-called' world super powers. This paper examines these changes and argues that humanitarian intervention is no longer used for the purpose of genuine protection of human rights but for selfish altruistic purposes which is for the benefits of the intervening state.

1. Introduction

No society today is static. Each society keeps changing and so also the international system¹. Some of these changes are inevitable because of the complicated nature of the society is taking today. Thus 'with the international community increasingly willing to recognize and act against human right abuses, we stand at the brink of a new era'.² The practice of the humanitarian intervention has also been subject to several changes. From the onset, the concept was not internationally recognized. At the time the United Nations (UN) Charter came into force, international law centered on state sovereignty. The independence of states, especially with respect to matters of domestic concern, was of foremost importance. New developments in international human rights law, particularly with regard to international crimes, authorize, if not require, all states to take action in the face of widespread grave violations of human rights amounting to such crime.³

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¹Kardas S, "Humanitarian Intervention: The evolution of The Idea and Practice" in *Journal of International Affairs*, Vol. VI, No.2, (June-July 2001).

² Weiss T.G, "Triage: Humanitarian Interventions in a New Era" in *World Policy Journal*, Vol. 11, No. 1 (Spring, 1994), pp. 59.

³Charney J.I. "Anticipatory Humanitarian Intervention in Kosovo" in *The American Journal of International Law*, Vol. 93, No. 4 (Oct., 1999)837.

In this article the development of humanitarian intervention over the past will be considered highlighting the specific context in which it was practiced in the past and how it is being practiced nowadays. In this way, the changes it has undergone over time will be brought to light. In order to give a critical appraisal of how the law stands and how it has developed so as to present a realistic overview of humanitarian intervention, various examples will be laid out to illustrate the ever-changing nature of intervention. To do this accurately, the UN Charter with its method of operating, as well as the concomitant developments of customary international law must be taken into account⁴.

Genuine selflessness is far from being the bona fide rationale for intervention nowadays.⁵ Not only the lack of altruism, it seems that humanitarian intervention as it stands today is a restricted notion, called upon in situations where it is relatively cheap, is against a militarily weak nation, operates in a location that is accessible and strategically important, where public opinion is in favour and the intervention does not interfere with other political and economic objectives⁶. This is not, however, a reason to undermine the role value of genuine humanitarian intervention.

A proper consideration of the changing perspective in the practice of Humanitarian Intervention would be of much significance when considering it against the backdrop of the pre- and post-cold war era and also current role it plays in contemporary time. Significant changes were made during the post-cold war as will be seen in the later part of this article. However, before pre and post-cold war changes are considered, it is imperative to look into the state of affairs in the practice of Humanitarian Intervention before the coming into force of the UN charter and after coming into force until the end of the cold war.

2. The Context of Humanitarian Intervention: Pre-UN Charter and Post- UN Charter Until the end of the Cold War

In the pre-charter and post charter era, even though Humanitarian Intervention has established itself as a doctrine under international law, it still remain in its traditional form and most of the Humanitarian Intervention carried out after the inception of the Charter and before the end of the cold war were not really justified on humanitarian grounds but on some other grounds especially self-defence. In this era, the UN Security Council assumed greater function in term of regulating the conduct of Humanitarian Intervention. Thus, if the Security Council deem something as a threat to 'international

⁴ Customary international law has changed the Charter's interpretation in several areas, such as abstentions in voting in the Security Council and the use of the 'Beijing formula' by the Secretary General. It could therefore be reasonable argued that it may also change how Chapter VII operates.

⁵ O'Donoghue A, "Humanitarian Intervention Revisited" in *Hanse Law Review*, vol. 1 No.2, p165

⁶ Chinkin, "The State that Acts Alone: Bully, Good Samaritan or Iconoclast", [2000] 11 *European Journal of International Law*, 36, 37 cited in O'Donoghue A, "Humanitarian Intervention Revisited" in *Hanse Law Review*, vol. 1 No.2, p165

peace and security⁷ there is always a possibility of the UN sanctioning such an action.⁸ One example is of humanitarian intervention in this era is the Indian invasion of East Pakistan (presently Bangladesh) in 1971. Though India's long-term hostility towards Pakistan was an unspoken consideration in this intervention, self-defence was the ultimate justification given for the Indian action, it started from humanitarian reasoning and it resulted in a humanitarian exercise.⁹

The Indian government's backtracking, from its original humanitarian justification is understandable at the time, as any other legal justification would not have been acceptable by the UN Security Council. The international community accepted the intervention rather easily and Bangladesh became the 138th member of the United Nations in 1974. So while Indian acknowledged self-defence, the reality was otherwise¹⁰.

In Cambodia in 1978, where scenes of some of the most atrocious carnages of the 20th century occurred, Vietnam claimed self-defence as the justification for intervention, but unlike Bangladesh, the intervention was marred by Cold War politics and consequently condemned by the General Assembly¹¹ as a breach of the Charter. It also came under massive condemnation from a large part of the world community, yet the massive human rights violations committed by the Khmer Rouge had to come to an end. History has been kind to the operation, as the international community has accepted Vietnam's actions as justified under the circumstances, but occupation did not end until the 1990s¹².

The Tanzanian intervention in Uganda in 1979 is another familiar example of humanitarian intervention in the Cold War period. Again the action was justified on self-defence grounds, and, similar to the Indian operation in 1971, it was not condemned by the General Assembly or the Security Council. This constant use of self-defence as a justification of humanitarian intervention provokes the question regarding the nature of the relationship between both concepts (humanitarian intervention and self-defence). Can humanitarian intervention be said to be an aspect of the law of self-defence?¹³ This is unlikely as it is usually only false piety to some kind of legal justification that causes it to be invoked. Also it might unnecessarily hamper humanitarian intervention should it become legitimised as an arm of self-defence, as there would be more pressure to actually prove self-defence. This may leave circumstances where intervention is required and where those countries immediately affected are unable or unwilling to intervene without a champion.

The above examples show the fact that even though Humanitarian Intervention

⁷Article 39, Chapter VII of the Charter of the United Nations.

⁸O'Donoghue A, "Humanitarian Intervention Revisited" 166.

⁹Ibid.

¹⁰Ibid.

¹¹General Assembly Resolution 34/22, 4th November 1979, The situation in Kampuchea.

¹²O'Donoghue A, 'Humanitarian Intervention Revisited' p166.

¹³Ibid.

had established itself as a norm under customary international law, it was not carried out as Humanitarian Intervention properly so called. This may not be unconnected with fear of criticisms from the International community because of the provisions of the charter expressly banning the use of force within the territory of another nation. It is therefore submitted that humanitarian intervention played a more of a passive than an active role during this period. However, it was achieving one its main goal which is ending gross violation of human rights. This is not to say there were no cases of abuse in the practice of Humanitarian Intervention, it is however submitted such cases were minimal compared to occurrence in the present era.

3. Changing Context of Humanitarian Intervention in the Post-Cold War Era

Strict definitions in the Cold War period created the idea that intervention was illegal *per se* because it is in breach of the principles of sovereignty and self-determination. But the shift of focus from Article 2(IV) to 2(VII) of the UN Charter has opened the whole matter to reinterpretation. Thus we have a situation where, as Greenwood states:

... it is no longer tenable to assert whenever a government massacres its own people or a state collapses into anarchy that international law forbids military intervention altogether.¹⁴

The end of the Cold War has brought about a substantial change in the practice of Humanitarian Intervention under international law.¹⁵ These changes are rooted in different developments. Some of the factors responsible for this change include: the changing nature of the international system; the end of superpower rivalry has to some extent removed the systemic constraints on intervention in domestic affairs. The end of the ideological confrontation has also largely weakened the rationale for supporting 'friendly' repressive regimes to prevent them from falling into the other camp.¹⁶ This is especially true as far as the US is concerned.¹⁷ As the Cold War had made non-intervention a universal norm, with the end of the Cold War, norms pertaining to the

¹⁴ C. Greenwood, 'Is There a Right of Humanitarian Intervention', *The World Today*, February 1993,

p. 40. Cited in Kardas S 'Humanitarian Intervention: The evolution of The Idea and Practice'.

¹⁵ Kardas S 'Humanitarian Intervention: The evolution of The Idea and Practice'

¹⁶ Ibid.

¹⁷ Saddam's repression of the Kurdish population before and after the end of the Cold war is illustrative of this point. See Donnelly J, 'Human Rights, Humanitarian Crises, and Humanitarian Intervention' *International Journal*, vol. XLVIII, No.1, Autumn 1993 p.628, 632; also this situation also exist for the US and Liberia relationship in 1980s, thus despite deteriorating cold war lead the US to its support for Liberia. See Sesay M.A, "Collective Security or Collective Disaster? Regional Peace-Keeping in West Africa" *Security Dialogue* Magne Barth (ed.), Vol 26, No.2 (June 1995) 208.

protection of individual rights have increasingly received general acceptance, particularly among the Western states. This resulted in a suitable political atmosphere for initiating interventions.

One of the changes in context of Humanitarian Intervention after the cold war was that its scope was enlarged. Thus, Humanitarian Intervention was not only response to the suffering caused by repressive governments, but was also applied in situations produced by internal conflicts, state disintegration and state collapses, as a result of which human rights are grossly violated. The overwhelming majority of armed conflicts in the post-Cold War era are internal or civil war.¹⁸ This is more so especially in the case of Africa and the Middle East. This has resulted in an increase in the number of situations crying out for humanitarian involvement, and the effects can be seen in the growing number of UN Security Council Resolutions under Chapter VII. In some cases, the Security Council defined gross violations of human rights and civil conflicts as a 'threat to international peace and security' and decided to impose economic sanctions or authorized the use of force.¹⁹

Kardas observes that:

This broad interpretation of 'threat to peace and international security' in the post-Cold War era has resulted in considering internal conflicts and humanitarian catastrophes with cross-border repercussions as constituting threats to international peace and security. Therefore, the crises whose external implications are severe enough to make an exception to the non-intervention principle have warranted and may, in the future, warrant humanitarian intervention.²⁰

Another change in context of Humanitarian Intervention is that the humanitarian component, namely the definition of humanitarian crisis, is no longer confined to protecting fundamental human rights, but is extended to include upholding international humanitarian laws of war (war crimes) and providing humanitarian assistance (gross deprivation and starvation).²¹

The UN especially through its Security Council played a more significant role in many of the Post-cold war intervention so much so that an intervention without Security Council authorization was seen as illegal and hence, was widely criticized. Instead of self-help by states, most of post-Cold War interventions were in some way related to regional

¹⁸Kardas S, 'Humanitarian Intervention: The evolution of The Idea and Practice'

¹⁹ Since 1989, it has imposed economic sanctions on 14 occasions (compared with twice between 1945 and 1988), and used force 11 times other than for self-defence (as opposed to three times between 1945-1988)

²⁰Kardas S 'Humanitarian Intervention: The evolution of The Idea and Practice'

²¹Ramsbotham O, 'Humanitarian Intervention: The Contemporary Debate' in Williamson R (ed.), *Some Corner of Foreign Field* (Macmillan Press Ltd, London, 1998)p64

or global interventions and legitimised or licensed by UN Security Council resolutions. This UN involvement was so visible that, even in non-UN interventions, those intervening have attempted to link the issue to the UN. That notwithstanding, the UN Security Council's involvement has also been criticized. It is observed that:

...some states object to this broad interpretation of humanitarian intervention authorised by the UN Security Council on the basis that the Security Council may act arbitrarily in some future cases. Furthermore, the argument that the Security Council, under the Charter and its practices, is not entitled to authorise humanitarian intervention based purely on massive violations of human rights with no cross-border repercussions raises questions about the legal and structural limits of the Security Council on matters of humanitarian intervention.²²

Apart from increasing UN involvement, multilateralism was another change in the agency the end of the Cold War era brought about. Here, 'multilateralism' does not necessarily mean any UN umbrella. Rather, it might be under UN authorization or in the form of self-help by states that come together. Many observers have always been suspicious of unilateralism due to the high risk of abuse. As stated before, Cold War conditions made a multilateral intervention difficult to realise, but, in the post-Cold War period, multilateralism became one of the necessary conditions for humanitarian intervention thus humanitarian military intervention now must be multilateral to be legitimate.²³ Ryan Goodman has stated correctly that the:

Key obstacle to legalizing unilateral humanitarian intervention (UHI) is the overriding concern that states would use the pretext of humanitarian intervention to wage wars for ulterior motives.²⁴

Nevertheless, it must also be noted that the remaining division from the Cold War era, namely the North-South division, continues to pose obstacles. Knowing that it would be their sovereignty that is overridden, developing countries have been maintaining traditional notions of non-intervention and state sovereignty and, in many cases, opposing multilateral actions justified by an implied doctrine of Humanitarian Intervention or at least to their becoming a norm.

Based on this background, some cases of the practice of Humanitarian Intervention in the post-Cold War period will be analyzed to show changes in context from the original role of prevention of gross human rights abuses. In this regard, UN Security Council Resolution 688, about the situation in Northern Iraq, was the watershed.

²²Kardas S, 'Humanitarian Intervention: The evolution of The Idea and Practice'

²³Ibid.

²⁴Goodman R, 'Humanitarian Intervention and Pretexts for War' *The American Journal of International Law*, Vol. 100, No. 1 (Jan., 2006), pp. 107. It is therefore surprising to see him making a case for the legalization of Unilateral Humanitarian Intervention with the knowledge that it is more prone to abuse than collective or multilateral Humanitarian Intervention

followed by the cases of Rwanda, Somalia, the former Yugoslavia(Bosnia), Haiti, Liberia, Kosovo and Sierra Leone.²⁵

4. The Practice of Humanitarian Intervention in Contemporary Society: Africa and Middle East.

Quite unfortunately, the practice of the concept of Humanitarian Intervention in today's contemporary society has assumed a new role which is totally different from its supposed role under international law. Recent developments in the practice of Humanitarian Intervention show that it is being used by the 'so called' great nations as instruments to achieve their own selfish goal and devoid of genuine altruism.²⁶ Today, despite gross violation of human rights in such a way as to "shock the conscience" of mankind, states and the UN may just cross their arms and watch as event unfold without taking any meaningful measure especially, if they have no specific interest in such states (in which gross violation of human rights is taking place). Further still, states may intervene forcefully in other state when there is no evidence of such gross violation of human right especially if they have specific interest in such states without any legal justification whatsoever. It has been observed, quite rightly that:

Humanitarian Intervention is always met with criticism, both when it takes place and when it fails to happen. Paradoxically, both these objections are defensible, as evidence shows that the principle has been applied unjustly in some cases, and irrationally was not implemented in others; even in cases of compelling need²⁷.

The criticism of the current context of Humanitarian Intervention to be carried out based on selfish interest is mainly ascribed to Unilateral Humanitarian Intervention. However, it is submitted that even multilateral Humanitarian Intervention is also not exculpated from such criticisms as recent occurrences in the UN demonstrates. Locula²⁸ has explained the application of Humanitarian Intervention in relation to political and economic interests particularly those of the 5 permanent members²⁹ of the Security Council(SC).³⁰ There is

²⁵Kardas S, 'Humanitarian Intervention: The evolution of The Idea and Practice'.

²⁶ This is not to say that there were no cases of abuse of the practice of the concept in past time, however, they are now so prevalent so much so that there is hardly a genuine Humanitarian Intervention today.

²⁷ See The Responsibility to protect, Report of the International Commission on Intervention and State Sovereignty: available at: <http://www.iciss.ca/report2-en.asp#dilemma> accessed on 25 April 2014. This will form the bedrock for the subsequent discussions in the next chapter; see also Locula J.M, 'The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya'.

²⁸Locula J.M, 'The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya'.

²⁹USA, UK, France, Russia and China.

no better way to express the true nature of contemporary Humanitarian Intervention than these succinct words of Walden Bello's that:

Contemporary humanitarian intervention suffers from three primary defects. Great-power logic soon overwhelms the humanitarian rationale for intervention. Such interventions often exacerbate bad situations. And humanitarian intervention sets a very dangerous precedent that can be used to justify future violations of the principle of national sovereignty. NATO's intervention in the Kosovo conflict helped provide the justification for the invasion of Afghanistan, and the justifications for both interventions in turn were employed to legitimize the invasion of Iraq and the NATO war in Libya³¹

Humanitarian intervention has not only raised eyebrows when it is applied or not, but questions arise regarding the human rights abuses that are also intentionally and unknowingly committed in the face of the exercise itself.³² It is the view of this writer that, there are cases where this may be a necessary evil, as state actors and their repressive regimes have been known to use their populations as a shield. People have lost their lives in previous interventions and the same will happen again, but this could be seen as a sacrifice for liberation.

Based on this, this paper present its own perspective, which is supportive of Humanitarian Intervention particularly in Africa, but highly critical of the hidden motives of intervening powers, particularly Western states. Discussion of this new dimension the practice of Humanitarian Intervention is taking is going to be done using recent examples in some part of Africa and the Middle East.

4.1. Events in Liberia

The case of Liberia is an example of cases of changing context of humanitarian intervention. Even though the Liberian case took place in the 1990s and the human rights abuses were incomparable to Rwanda, the UN Security Council had the authority and moral impulsion to intervene directly but ignored the situation.

When fighting broke out in Liberia in December 1989 and the entire country was plunged into civil war, a chain of events with wide ranging implications for economics,

³⁰ The SC was conceived as an executive organ of the UN with immense executive and legislative powers. There are 15 members of the council. Shaw M.N, *International law* 1084. The primary responsibility of the council is for the maintenance of international peace and security. Articles 23, 24, 25 and 28 of the UN charter.

³¹ Bello W. 'The Crises of Humanitarian intervention' in *Foreign Policy in Focus* available online <http://futurefastforward.com/images/stories/geopolitical/TheCrisisOfHumanitarianIntervention.pdf> accessed on 20 May 2014.

³² Locula J.M. 'The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya'.

despite its numerous substantive⁴⁰ and operational challenges,⁴¹ with little backing from the United Nations.⁴² The United Nations was invited to join the search-for-peace effort in Liberia only after ECOWAS had failed to make any appreciable progress towards conflict resolution.⁴³ However, Security Council did not appear nor authorize an international intervention force because there was nothing to gain from Liberia in the form of oil or other commodities of significant economic interest to powerful countries.⁴⁴ Liberia, like Rwanda, was left in the cold. In an apparent show of shame, the Security Council retrospectively passed a resolution sanctioning ECOWAS intervention in Liberia.⁴⁵ This was contained in Resolution 788 of the UN Security Council.⁴⁶

Years later, in 2003, the Security Council authorized peacekeeping intervention in Liberia by resolution 1509,⁴⁷ although, one may argue that it was only a way for the

⁴⁰ The military force is faced with a lot of challenges: both substantive and operational. Substantive challenges includes- loyalty issues of troops, lack of political consensus, extra regional interests, lack of economic resources, rivalry and deep suspicion between the ruling class, dominating role of Nigeria and colonial differences. Khobe M.M, 'The Evolution and Conduct of ECOMOG Operations in West Africa'3.

⁴¹ Operational challenges includes excessive control by home governments, language differences; lack of standardization of equipment, arms and ammunition, different training standards, doctrine and staff procedures, poor sea and air lift capabilities, absence of vital air-to-ground support assets, particularly ground attack helicopters; lack of logistic support for some contingents, inadequate resources to deal with humanitarian problems, poor co-ordination and liaison with international relief agencies and the misrepresentation of force activities by mercenary organisations and the international mass media. Khobe M.M. "The Evolution and Conduct of ECOMOG Operations in West Africa"5.

⁴² Locula J.M, "The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya".

⁴³ Adibe C. E, "The Liberian Conflict and the ECOWAS-UN Partnership" *Third World Quarterly*, Vol. 18, No. 3, (1997) 471.

⁴⁴ Ibid, the greatest surprise however was that even Zaire, which held the SC presidency when the war broke out, together with Ethiopia, was opposed to the council dealing with Liberia. It could be deduced that perhaps the two countries feared to initiate a precedent that could, in all probability, be applicable to them in future. See Sesay M.A 'Collective Security or Collective Disaster? Regional peace-keeping in West Africa' 209

⁴⁵ After gross violation of human right had taken place. Interview with Professor Muhammad Tawfiq Ladan, Department of Public Law, Faculty of Law, A.B.U Zaria, on 31 March 2012

⁴⁶ Security Council Resolution 788: Liberia 19 November 1992.

⁴⁷ United Nations Security Council Resolution 1509 on Liberia. <<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Liberia%20SRes1509.pdf>> accessed on 28 May 2014.

US to protect its interests related to the Firestone Rubber Plantation,⁴⁸ the largest rubber company.⁴⁹

4.2. Darfur, Sudan

Africa's most recent genocide occurred and is still taking place in Sudan's Darfur Region.⁵⁰ The Security Council passed a few inconsequential resolutions and made light-weighted condemnations,⁵¹ but refused to act. Had Sudan being a country with large oil deposit, that would have triggered the authorization of international intervention on the part of the Security Council. It is no doubt that the Security Council could have moved in Darfur, but as part of the double standard game at that level, two of the permanent members of the Security Council (P5), China⁵² and Russia⁵³ being the importers of arms along with other military hardware to the Khartoum government and exporters of oil from Sudan, did not use their positions to prevent the unjustifiable killings.⁵⁴ Resolutions and major decisions were always vetoed by those two Security Council permanent members⁵⁵.

4.3. Rwanda

Rwanda is another spectacle of blood, which left a big hole in the hearts of shared humanity on account of sheer acts of man's inhumanity to man exacerbated by neglect of

⁴⁸ International Labor Rights Forum, Firestone Rubber Plantation in Liberia, <http://www.laborrights.org/stop-child-labor/stop-firestone/news/11344> accessed on 28 May 2014.

⁴⁹ Ibid.

⁵⁰ Genocide in Darfur, Sudan, DarfurScore.org, Calling on Congress to Stop the Genocide, available at: <http://www.darfurscores.org/darfur> accessed on 28 May 2014.

⁵¹ Locula J.M., "State Sovereignty and the International Moral Responsibility to End Mass Atrocity: A Case Study of Darfur, Early 21st Century Killing Field of Africa"

⁵² BBC News, China Defends Arms Sales to Sudan, available at: <http://news.bbc.co.uk/2/hi/asia-pacific/7258059.stm> accessed on 28 May 2014

⁵³ The Los Angeles Times, China and Russia Faulted for Sudan Arms Sales, available at: <http://articles.latimes.com/2007/may/09/world/fg-sudan9> accessed on 28 May 2014

⁵⁴ Locula J.M., 'The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya'

⁵⁵ Veto powers at the Security Council are used in cases like this to maintain the balance of power in favor of the P5 at the detriment of weaker states and their citizens. Locula J.M., 'The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya'. Veto or negative vote by a permanent member of SC prevents the adoption of a motion notwithstanding that it is supported by not less than 9 required vote. Eghewole W. O., "United Nations Security Council and the Challenge of Rule of Law in the 21st Century"³

Charter's legal assignment by the relevant global authorities.⁵⁶ The Rwandan genocide took place in 1994 before the approval of humanitarian intervention principle in 2005 at the UN World Summit in New York.⁵⁷ When critically analysed, the principle of the UN is to preserve international peace and security.⁵⁸ It is also a matter of fact, as indicated in Chapter VII of the UN Charter, that it must act against anything that stands in the way of the peace. It has already been argued that the International Community had the power and all the necessary international instruments to prevent the carnage that occurred in that East African State. Critics, including leading rights advocates and institutions, had alerted the world that genocide was unfolding. The Security Council was obviously not interested in that issue.

The senseless bureaucracy of the SC is worthy of mention— the slow to act culture at the organization is one of its weak points.⁵⁹ Research shows that "the Security Council passed Resolution 918 in May 1994, which increased the UN strength in Rwanda to 5,500 troops and nearly six months passed before the force was eventually deployed, by which point approximately 500,000 Rwandan civilians had already been killed."⁶⁰ In another opinion has it that "The genocide in Rwanda could have been prevented. There were many steps that the international community could have taken to prevent the genocide that would not have involved military action."⁶¹ The genocide left heavy casualties on the citizens and the nation at large. According to statistics, by the time the genocide ended, 800,000 Tutsis along with moderate Hutus were massacred in about 100 days.⁶² Others say that this figure is understated.⁶³ Beside the failure by the UN Security Council to take collective action to prevent the genocide in Rwanda, the US, the so called

⁵⁶Egbewole W.O. "United Nations Security Council and the Challenge of Rule of Law in the 21st Century" *Beyond Bar Advocacy-Multi-Disciplinary Essays in Honour of Anthony Okoye Mogboh SAN* by ChimaCentusNweze, AnayoJustinaOffiah& Anthony Mogboh p797

⁵⁷ The 2005 World Summit, available at: <<http://www.un.org/summit2005/>> accessed on 26 April 2014

⁵⁸ Article I, Charter of the UN; What is the purpose of the United Nations? Available at: <<http://answers.yahoo.com/question/index?qid=20080106081905AAT45jU>> accessed on 26 April 2014

⁵⁹Locula J.M. 'The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya'

⁶⁰ Prevention of Rwandan Genocide, available at: http://www.trincoll.edu/~thyde2/rwanda_prevention.htm accessed on 26 April 2014

⁶¹ Ibid

⁶²BBC News, Africa, Rwanda "Rwanda: How the genocide happened?" <<http://news.bbc.co.uk/2/hi/1288230.stm>> accessed on 23 April 2014.

⁶³ Ibid

“world’s greatest power – the world’s greatest democracy”, a nation with all the military, communication, financial resources to have stopped the slaughter, has also been accused of not doing much in the event to have saved the lives of Rwandese.⁶⁴

The assertion has been made that “there were plenty of early warnings” of the Rwandan genocide, but they were systematically ignored.⁶⁵ Sustained arguments have shown that “in the spring of 1992, the Belgian ambassador in Kigali, Johan Swinner warned his government that the Akazu, a secret group of Hutu Power advocates organized around the President’s wife, ‘is planning the extermination of the Tutsi of Rwanda to resolve once and for all, in their own way, the ethnic problem....’⁶⁶ All these landed on deaf ears and the country sailed into the blood share.

It has been revealed that “Solidarity within the UN was practically nonexistent with regards to Rwanda. Most countries had no investments or anything to gain from helping Rwanda, so little was done.”⁶⁷ This is the nature of the so called “Security Council” and the game of choosy interests it has and continues to demonstrate⁶⁸.

4.4. Iraq

Although the main rationale for the U.S. invasion of Iraq was Saddam’s alleged possession of weapons of mass destruction (WMDs), an important supporting rationale was regime change for humanitarian reasons.⁶⁹ When no WMDs materialized, the Bush administration retroactively justified its intervention on humanitarian grounds: getting rid of a repressive dictatorship and imposing democratic rule⁷⁰.

On the question of the complex and unjustified military overrun of Iraq by the US-led coalition forces, it is clear that the Security Council did not endorse the action;

⁶⁴ Prevention of Rwandan Genocide, <http://www.trincoll.edu/~thyde2/rwanda_prevention.htm> accessed on 23 April 2014

⁶⁵ Gregory H. Stanton, “Could the Rwandan Genocide Have Been Prevented?” <<http://www.genocidewatch.org/COULD%20THE%20RWANDAN%20GENOCIDE%20HAVE%20BEEN%20PREVENTED.htm>> accessed on 23 April 2014.

⁶⁶ Prevention of Rwandan Genocide, <http://www.trincoll.edu/~thyde2/rwanda_prevention.htm> accessed on 23 April 2014

⁶⁷ War and Media Disinformation: The “Rambling Three Page Letter” <<http://www.newsfrommiddleeast.com/?xstart=mlmpf&new=76781>> accessed on 24 May 2014

⁶⁸ Locula J.M, ‘The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya’

⁶⁹ Bello W, ‘The Crises of Humanitarian intervention’ in Foreign Policy in Focus available online <<http://futurefastforward.com/images/stories/geopolitical/TheCrisisOfHumanitarianIntervention.pdf>> accessed on 20 May 2014

⁷⁰ Ibid

however, it did not even try to stop the US and its allies from transgressing Iraqi's sovereignty and seriously compromising the security of its people⁷¹. In the wake of preparations for the war, President Bush was reported to have said "I don't care what the international lawyers say, we are going to kick some ass."⁷² On several basic points in this regard, it is not possible to divorce US interest from the UN interest.

It is worth mentioning that, had Saddam Hussein been around to encounter the current wave of political revolution that is sweeping the entire Arab world, and it happened that his loyal security forces fired at either peaceful or aggressive protesters, intervention could have been very likely in Iraq, initiated and sponsored by the US and Great Britain.⁷³ Locula says:

I am convinced that such resolution could have never been vetoed, because the P5 could have known the benefits it was going to arrive at from the intervention in return. Even if such a resolution was vetoed, the few would have gone for the interest of the oil as they did. This is where I am usually frustrated to say that the Security Council is a gigantic political and economic enterprise at the expense of its member states.⁷⁴

When the coalition forces invaded Iraq, President Bush encouraged Iraqis not to set their oil wells on fire.⁷⁵ This was a live television broadcast which was transmitted in Arabic.⁷⁶ Within the course of that time, especially after the forces had taken over the greater portion and strategic locations in Iraq, there were ships headed from Iraq with millions barrels of oil. This is the kind of intervention the so-called super powers conduct.⁷⁷

Iraq today is a base for U.S. geopolitical control of the oil-rich Middle East. It is a state propped up by U.S. military power, its oil resources and its wealth geared

⁷¹ Ibid

⁷² After the 9/11, 2001 invasion, it was clear that President Bush was preparing to retaliate with or without the support of the SC and whether or not the rule of law was observed. This was quoted in Richard Clarke, *Against all Enemies* (Free Press, 2004) 24.

⁷³ Ibid.

⁷⁴ Locula J.M. 'The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya'.

⁷⁵ War and Media Disinformation: The "Rambling Three Page Letter".

<<http://www.newsfrommiddleeast.com/?xstart=mlmpf&new=76781>> accessed on 24 May 2014

⁷⁶ Ibid.

⁷⁷ Locula J.M. 'The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya'.

primarily to serve the West.⁷⁸ A drastically weakened polity, the country is threatened by the centrifugal forces of ethnic and sectarian conflict. Secular values and the status of women have been eroded by fundamentalism.⁷⁹ Rampant crime and terrorism have generated a high level of physical insecurity. As for economic conditions, per-capita output and living standards are well below their pre-invasion levels, and the population lives in a state of chronic insecurity, with 55 percent of Iraqis lacking access to safe water, one million people lacking food security, 6.4 million dependent on food rations from the public distribution system, and 18 percent of the work force unemployed.⁸⁰ Humanitarian intervention has reduced what used to be one of the most advanced countries of the Middle East to this deplorable state⁸¹.

4.5. Libya

The intervention in Libya has been stated to be 'a disguised form of unlawful use of force'⁸² and thus one of the worst abuses of the doctrine of Humanitarian Intervention⁸³ even though it is generally assumed to be lawful since the Security Council authorized it ostensibly in exercise of power granted to it under Chapter VII of the UN

⁷⁸ Bello W, 'The Crises of Humanitarian intervention' in Foreign Policy in Focus available online <http://futurefastforward.com/images/stories/geopolitical/TheCrisisOfHumanitarianIntervention.pdf> accessed on 20 May 2014.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Falk R, 'Humanitarian Intervention and its Non-Humanitarian Agenda' <<http://www.globalpolicy.org/ghumanitarianq-intervention/50591-humanitarian-intervention-and-its-non-humanitarian-agenda.html?itemid=591>> accessed 27 May 2014.

⁸³ Bello W, 'The Crises of Humanitarian intervention' in Foreign Policy in Focus available online <<http://futurefastforward.com/images/stories/geopolitical/TheCrisisOfHumanitarianIntervention.pdf>> accessed on 20 May 2014, Some may argue that the Libyan intervention is justifiable on the grounds that its very own ambassadors at the United Nations defected and called for the imposition of no fly zone over the country as a way of limiting Gaddafi's capabilities to hold on to power and to stop the wanton killing of protesters. But it is also important to investigate the intent of the ambassadors. Firstly, it is probable that the ambassadors defected because they do not want to be called to answer questions before any court of international jurisdiction as part of the Moammar Gaddafi's regime. Secondly, they too may be interested in having real state powers, on the same level as that of Gaddafi and his family. Also, one could argue that the ambassadors' defections were encouraged from other quarters since Moammar Gaddafi has long remained an international target. Locula J.M, 'The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya'

Charter.⁸⁴ The UN Security Council Resolution 1973 (2011)⁸⁵ on Libya authorized Member States, acting either alone or through regional organizations or arrangements, "to take all necessary measures to protect civilians under threat of attack in the country, including Benghazi."⁸⁶ The resolution was in response to allegations of killings and mistreatment of civilians in parts of Libya by the country's government following anti-government protests.⁸⁷ Consequently, a no fly zone⁸⁸ over Libya was established through Security Council Resolution 1973⁸⁹ with 10 votes⁹⁰ with 5 abstentions.⁹¹ The mission has arguably reduced the extent of civilian casualties by Libyan forces, but the killings continue, and there is little indication that they will stop soon.

Significantly, like Iraq in 2003,⁹² it has been revealed that a ship loaded with tens of thousands of barrels of oil departed a port in the rebels' stronghold city of Benghazi.⁹³ The question of the destination of such large amount of oil should not even arise because it is surely going to the West. One might infer that the proceeds from the oil shipment maybe set for the exchange of military equipment to help strengthen the rebels'

⁸⁴ Modeme L.E. "The Libya Humanitarian Intervention: Is It Lawful In International Law?" <http://mmu.academia.edu/LawrenceEmeka/Papers/577779/The_Libya_Humanitarian_Intervention_Is_it_Lawful_in_International_Law> accessed 21 May 2014. Page 2.

⁸⁵ Of 17 March 2011.

⁸⁶ Paragraph 4.

⁸⁷ Modeme L.E. "The Libya Humanitarian Intervention: Is It Lawful In International Law?" <http://mmu.academia.edu/LawrenceEmeka/Papers/577779/The_Libya_Humanitarian_Intervention_Is_it_Lawful_in_International_Law> accessed 21 May 2014. Page 1.

⁸⁸ which the United States, England, and France leaped to impose to the consternation of Germany, China, Russia, and other countries that abstained from the Security Council resolution.

⁸⁹ UN Resolution 1973 of 17 March 2011 <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/268/39/PDF/N1126839.pdf?OpenElement>> accessed 25 May 2014.

⁹⁰ The members of the Security who voted in favour of the resolution were clear that the resolution was based on humanitarian considerations. The Colombian representative, Nestor Osorio, spoke for the others when he observed that his government "was convinced that the purpose of the new resolution was essentially humanitarian and was conducive to bringing about conditions that would lead to the protection of civilians under attack from a regime that had lost all legitimacy" See Security Council statement of 17/03/11 accompanying Res. 1973, available on <http://www.un.org/News/Press/docs/2011/sc10200.doc.htm#Resolution> accessed on 21 May 2014.

⁹¹ Security Council SC/10200, <<http://www.un.org/News/Press/docs/2011/sc10200.doc.htm>> accessed 25 May 2014.

⁹² BBC News, Iraqi First Oil Export Due, <<http://news.bbc.co.uk/2/hi/business/3003154.stm>> accessed 25 May 2014.

⁹³ Libyan rebels say need four weeks to assess damage to oil fields, <<http://www.platts.com/RSSFeedDetailedNews/RSSFeed/Oil/6023989>> accessed 25 May 2014.

positions against Gaddafi. In fact, the United States has just committed US\$25 million to the rebels as non-lethal assistance.⁹⁴ Despite the difficult economic situation the US government faces, it does not seem to mind spending new money and deepening its international debt through warfare under the disguise of protecting civilians.⁹⁵ It must be borne at the back of our minds that this is not for nothing.

The Libyan intervention was not based on actual genocide, indeed not even on potential genocide but on a rhetorical threat of revenge that went viral in the media.⁹⁶ In his March 11 speech, Gaddafi urged his supporters to "show no mercy" and go "house to house" in Benghazi, which President Barack Obama seized on to warn that genocide was about to take place.⁹⁷ In fact, as many commentators have noted, Gaddafi's words were directed at rebel fighters, not civilians, and in the very same speech, he promised amnesty to those "who throw their weapons away."⁹⁸

Indeed, after NATO went to war, human rights investigators from Amnesty International and Human Rights Watch found no evidence of genocide or the deliberate targeting of civilians or aircraft being used on protestors and crowds or mass rape.⁹⁹ This is not to say that there were no instances of brutal actions by Gaddafi's troops. But there was no evidence for the genocide and massive and systematic violations of human rights that formed the pretext for intervention.¹⁰⁰ Such is the contemporary context of the practice of Humanitarian Intervention.

5. Conclusion

This paper has considered in some detail the changes in context of practice of Humanitarian Intervention with greater emphasis on its contemporary role as being used by

⁹⁴U.S. to give Libyan rebels \$25 million in non-lethal. <<http://www2.tbo.com/content/2011/apr/20/202043/us-to-give-libyan-rebels-25-million-in-non-lethal-news-breaking/>> accessed 25 May 2014.

⁹⁵Locula J.M, 'The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya'.

⁹⁶ Bello W, 'The Crises of Humanitarian intervention' in *Foreign Policy in Focus* available online <http://futurefastforward.com/images/stories/geopolitical/TheCrisisOfHumanitarianIntervention.pdf> accessed on 20 May 2014.

⁹⁷ This is why some authors usually refer to the intervention as 'Preemptive Humanitarian Intervention'. Bello W, 'The Crises of Humanitarian intervention'.

⁹⁸ Bello W, 'The Crises of Humanitarian intervention' in *Foreign Policy in Focus* available online <http://futurefastforward.com/images/stories/geopolitical/TheCrisisOfHumanitarianIntervention.pdf> accessed on 20 May 2014.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

the 'so called' developed countries as an instrument of neocolonialism and for purposes of their own personal gain. Facts were laid down to buttress this point.

Despite the practical problems of Humanitarian Intervention, it still plays a significant role if its overall objectives is to put an end to human rights abuses and creates safety for the unarmed civilians; even if states are opposed to its application. Most states that reject the principle of humanitarian intervention are at the forefront of human rights abuses and fear prosecution under international law, and hide behind the concept of sovereignty¹⁰¹.

However, the fundamental objective of Humanitarian Intervention stated above as being used to end human right abuses cannot be achieved with this current attitude of the UN, particularly, its Security Council. The current abuses the concept of Humanitarian Intervention is subjected to is so glaring considering the above stated examples.

In an apparent discovery of some of this major lapses that has bedeviled the contemporary role of humanitarian intervention, an attempt was therefore made by the general assembly to set up a criteria for curbing this abuses brought about by the newly assumed role of Humanitarian Intervention. This criteria was a form of reform or reorientation of the practice of Humanitarian Intervention. This was called the concept of Responsibility to protect which is also subject to numerous criticisms.

¹⁰¹Locula J.M. 'The Theory and Practice of Humanitarian Intervention and the Interest of Western Powers: Liberia, Darfur, Rwanda, Iraq, and Libya'