



universität
wien

MASTERARBEIT / MASTER'S THESIS

Titel der Masterarbeit / Title of the Master's Thesis

„Wars for Humanity?“

A Study on Humanitarian Interventions and their Relation
to International Law and Power Interests“

verfasst von / submitted by

Aleksandar Rudić, BA

angestrebter akademischer Grad / in partial fulfilment of the requirements for the degree of
Master of Arts

Wien, 2017 / Vienna 2017

Studienkennzahl lt. Studienblatt /
degree programme code as it appears on
the student record sheet:

A 066 824

Studienrichtung lt. Studienblatt /
degree programme as it appears on
the student record sheet:

Masterstudium Politikwissenschaft

Betreut von / Supervisor:

emer. Ao. Univ.-Prof. Dr. Otmar Höll

I dedicate this thesis to my mother Zorica, who passed two months before its completion.

Not all the words in the world could describe my gratitude to her and my regret that she did not see this thesis completed.

Contents

Abbreviations	3
1. Introduction	5
1.2. Methodology	7
2. Before the Start: A Brief Focus on the Words.....	8
3. Approaching Humanitarian Interventions: Developments, Actors, Concepts.....	10
3.2. History of State, Sovereignty and Self-Determination.....	11
3.1. Modern Theories on State, Sovereignty and Self-Determination.....	18
4. Basics of International Law.....	21
4.1. Sources of International Law.....	22
4.1.1. Custom.....	23
4.1.2. Conventions – Treaties.....	24
4.1.3. Other Sources of International Law.....	25
4.2. Important Institutions	26
4.2.1. General Assembly	27
4.2.2. Security Council	28
4.2.3. Judiciary – International Court of Justice and International Criminal Court	29
4.3. International Law and Municipal Law	31
4.4. Human Rights and Human Rights Law.....	34
4.4.1. Universal Declaration on Human Rights.....	35
4.4.2. Human Rights Law.....	37
4.4.3. Implementation, Compliance and Enforcement of Human Rights.....	38
4.4.4. Universality of Human Rights.....	40
4.5. Use of Force	44
5. Power of States and State Interests.....	47
5.1. Factors of Power.....	48
5.2. Types of Power.....	53
5.3. State Interests	55
5.3.2. Interests of the United States of America.....	57
6. The Cases	59
6.1. Rwanda 1990 - 1994.....	61
6.1.1. Conflict.....	61

6.1.2.	Reaction.....	62
6.1.3.	Intervention	63
6.1.4.	International Law Aspect	64
6.1.5.	Power and Interests Aspect	65
6.1.6.	Aftermath.....	66
6.2.	Bosnia and Herzegovina 1992 – 1995.....	67
6.2.1.	Conflict.....	67
6.2.2.	Reaction.....	68
6.2.3.	Intervention	69
6.2.4.	International Law Aspect	71
6.2.5.	Power and Interest Aspect.....	72
6.2.6.	Aftermath.....	74
6.3.	Kosovo 1999.....	74
6.3.1.	Conflict.....	75
6.3.2.	Reaction.....	76
6.3.3.	Intervention	77
6.3.4.	International Law Aspect	78
6.3.5.	Power and Interest Aspect.....	79
6.3.6.	Aftermath.....	81
6.4.	Libya 2011.....	81
6.4.1.	Conflict.....	81
6.4.2.	Reaction.....	83
6.4.3.	Intervention	84
6.4.4.	International Law Aspect	85
6.4.5.	Power and Interest Aspect.....	86
6.4.6.	Aftermath.....	88
7.	Effects and Consequences of Humanitarian Interventions.....	88
7.1.	Why are most Humanitarian Interventions Conducted by the West?.....	90
7.2.	Which Interests does the West Have for Conducting Humanitarian Interventions?.....	92
7.3.	How do the Humanitarian Interventions Influence International Relations?.....	99
8.	Conclusion.....	103
9.	Literature	106
	Abstract/Zusammenfassung	112

Abbreviations

CIA – Central Intelligence Agency

DRC – Democratic Republic of the Congo

EC – European Community

EU – European Union

FRY – Federal Republic of Yugoslavia

ICC – International Criminal Court

ICJ – International Court of Justice

ICISS – International Commission on Intervention and State Sovereignty

ICTR – International Criminal Tribunal for Rwanda

ICTY – International Criminal Tribunal for former Yugoslavia

NATO – North Atlantic Treaty Organization

RPF – Rwandan Patriotic Front

RRF – Rapid Reaction Force

RtoP, R2P – Responsibility to Protect

UN – United Nations

UNAMIR – United Nations Assistance Mission for Rwanda

UDHR – Universal Declaration on Human Rights

UNGA – United Nations General Assembly

UNOMUR – United Nations Observer Mission to Uganda – Rwanda

UNPROFOR – United Nations Protection Force

UNSC – United Nations Security Council

UK – United Kingdom

USA – United States of America

VCLT – Vienna Convention on Law of Treaties

1. Introduction

It all started with my interest for international law. For quite some time now I was perplexed, if not annoyed, by the constant use of this concept by states seeking to justify their actions which seemed unjustifiable. This was mostly the case with great powers whose every action was claimed to uphold some sort of international law.

The inception came during the events in Ukraine in late 2013 and early 2014, which ultimately resulted in regime change and secession of Crimea and its subsequent annexation by Russia. Throughout the crisis Russia used legal terms to justify its actions. Firstly, there was the question of deposing the incumbent president Viktor Yanukovich which Russia claimed was illegal. Secondly, Russia claimed self-determination of the people of Crimea, after a referendum on independence was held. Crimea itself is home to a large Russian-speaking population as well as Russia's Black Sea Fleet. Russia sent soldiers to the peninsula, which were unmarked at the time, retrospectively arguing that they were there to protect their citizens and to ensure peace during the referendum. Naturally the entirety of Russia's involvement in the Ukrainian crisis was heavily criticized by the West, which introduced sanctions against Russia triggering a standoff not seen since the end of the Cold War.

Being more or less familiar with the concepts of sovereignty and territorial integrity, upon which the international system is built, I was naturally very skeptical and critical towards Russia's argumentation. However, it reminded me on a similar crisis when Kosovo declared independence. During that crisis the tables were turned and the West supported the right of self-determination for Kosovars, intervening in Yugoslavia in 1999 and largely supporting Kosovo's independence declaration in 2008. On the other hand, Russia opposed it pointing out the sovereignty and territorial integrity of Serbia.

In both these cases both sides claimed to have international law on their side and thus that their actions were justified, while arguing that the other side was in the wrong. It is fairly easy to understand that these claims were intended primarily for internal consumption in order to mobilize population for support, but also to seek international backing. After all, having international law on your side is a powerful argument to legitimize foreign policy.

But what happens when both sides are in the right? There have been more than enough legislations, customs, rules and treaties in international relations over the years to legitimize a great

variety of actions. Furthermore, many of these laws were a reaction to situations at the time of their making, so it is possible that over time some laws were made that oppose others. So, when two opposing sides claim international law-abiding it could be not only a case of political play, but a genuine belief.

Having two opposing sides believing in the legality of their actions is the most normal thing in every-day life. Opponents take their issue to court and use legal arguments to prove they are right, and we see nothing wrong with that. In fact, this is the legal foundation of our society, while a whole industry of great reputation is built around law, encompassing lawyers, judges, universities, law-making, clerks, etc. But whereas in private matters there are courts to rule and states to enforce these rulings, there is no such scheme in the international system. True, the last century saw a rise of international courts of law, some of which were very successful in prosecuting crimes, but they have been criticized for selectivity. In fact, only recently, South Africa made headlines by its decision to withdraw from *International Criminal Court* (ICC) in a move that could start a chain reaction¹. While the decision has been ultimately blocked by the country's judiciary, many African countries see bias towards their citizens, which face trials, while countries like USA or Great Britain, while providing judges and lawyers, do not extradite their citizens to stand trial.

This is the core of the problem – the lack of central authority above any other to enforce international law. The mentioned USA, Russia and Great Britain are great powers, with strong economies, nuclear arsenal and a permanent seat in the United Nation Security Council. As such, they can impose decisions which have de facto power of the international law, but are also able not to abide by international law if their interests dictate otherwise. The problem of international law is thus more an issue of power, than a legal issue. This interplay of international law, opposing legal concepts and state power is as important as it is interesting.

However, international law is a vast body of legislation with most of it being very mundane and non-controversial. The decision to focus on humanitarian interventions was obvious for several reasons.

Firstly, it is a very important issue. In the last 30 years there has been an increasing amount of interventions claimed to be on humanitarian grounds. This caused a new dynamic in international relations with some of the main concepts like sovereignty, territorial integrity, use of

¹ Allen, Karen (2016) – “Is this the end for the International Criminal Court?”, in: *BBC News*, URL: <http://www.bbc.com/news/world-africa-37750978> (retrieved 29.10.2016).

force or self-determination being redefined. Further, interventions conducted in this period also had as a consequence a rise of anti-West sentiment and have arguably contributed to creation of jihadist terrorism.

Secondly, the issue of humanitarian interventions provides a good case to study the problems of international law. Being one of the most controversial development since the end of the Cold War, the literature on humanitarian interventions is plentiful. Furthermore, the number of conducted humanitarian interventions provides a large pool of cases which could be analyzed and compared. All of this will provide me with enough material to conduct my research.

By analyzing humanitarian interventions, I hope to gain a better insight into history, development and complexities of international relations.

1.2. Methodology

My prime method will be text analysis. I intend to study expert literature for theoretical and historical background, but also use legal documents, such as declarations and treaties, as well as political statements and newspaper articles. In order to gain good insight into development of international law and related concepts, such as state, sovereignty and power, a significant part of this paper shall be dedicated to history. This I regard as necessary because history of ideas (Ideengeschichte) is crucial to understanding many political phenomena.

After the historical and theoretical framework has been formed, case studies will be conducted. Analyzing all humanitarian interventions in any detail would be impossible in this format, but a sufficient amount must be analyzed to gain a representative picture. For this purpose I have selected the cases of Rwanda, Bosnia and Herzegovina, Kosovo and Libya.

Comparative analysis will be crucial in processing the facts from historical overview and case studies. State behavior also needs to be compared in order to seek possible regularities and attempt generalizations.

An important part of my analysis will also focus on culture. Throughout my studies I learned that cultural studies offer a very useful insight into many political phenomena, often overlooked by other methods of analysis. Cultural aspects of humanitarian interventions and international law such as popular reception or media reporting will be in focus. In relation to power I will refer to discourse analysis devised by Michel Foucault.

My main research question is:

- What are the criteria for great powers to conduct humanitarian interventions and how do humanitarian interventions influence power relations among states?

My main hypotheses:

- Human rights and humanitarian interventions are used by certain states as a legitimization for maximizing their power.
- Legitimization of the use of force is a historical constant with continually changing paradigms. One of the present paradigms is human rights/humanitarian interventions.
- Unlike state law, the system of international law enables states to be selective when implementing and enforcing it. This is especially the case in relation to great powers.
- Human rights possess a significant amount of soft power potential.

2. Before the Start: A Brief Focus on the Words

Before we dive into the hugely complex concept of humanitarian interventions a more fundamental issue needs to be addressed – the name itself. According to Aidan Hehir “the term ‘humanitarian intervention’ was first used by William Edward Hall in 1880, though similar expressions had been employed earlier in the 19th century”².

Intervention is a word found in many different disciplines. Thus, in medicine, intervention can mean a surgical operation, in arts it is a form of exhibition, and in psychology it is an attempt of a certain group of people to convince an individual to seek help. In international law and international relations “the word intervention is often used quite generally to denote almost any act of interference by one state in the affairs of another; but in a more special sense it means dictatorial interference in the domestic or foreign affairs another state which impairs that state’s independence”³. Andrew Clapham also adds that “the most extreme form of intervention has always been war”⁴. Words like dictatorial interference and war make us see why the word intervention has been used: it simply sounds nicer.

² Hehir, Aidan (2010) – *Humanitarian Intervention*, p. 168.

³ Clapham, Andrew (2012) – *Brierly’s Law of Nations*, p. 450.

⁴ *Ibid.*, p. 451.

In order to demonstrate this point, my first reference will be an unlikely one: American comedian George Carlin, who is known for his engaged humor. In one of his sketches⁵ he describes the phenomenon he calls “inventing soft language”. He was talking about the psychological problems of war veterans. In the First World War, Carlin says, this condition was called *shell shock*. “Simple, honest, direct language. Two syllables”. In the Second World War, the same condition received a new name: *battle fatigue*. “Four syllables now”, Carlin says and adds, “fatigue is a nicer word than shock”. During the war in Korea, Carlin argues, that condition was named *operational exhaustion*. “Hey, we’re up to eight syllables now, and humanity has been squeezed completely out of the phrase, its totally sterile now”. In the end comes the Vietnam war and the condition receives the name it is widely known today – *post-traumatic stress disorder*. “Still eight syllables but we added a hyphen now, and the pain is completely buried under jargon”, concludes Carlin. If we add that post-traumatic stress disorder is now referred to with its abbreviation PTSD the issue becomes even more evident.

Although Carlin was a comedian whose primary purpose was to entertain, the phenomenon he jokes about is a real one and often employed by public officials. Unlike invasion, war, bombardment or occupation, intervention is sterile, technical and dehumanized word and it does not cause as much negative emotions. It has been of crucial importance to politicians to employ euphemisms to “hide” or reduce the negativity of the action they are advocating or conducting.

Then we have the word humanitarian, whose use in this context has been highly controversial. “The use of an essentially positive adjective – humanitarian – to describe an intervention largely determines the parameters within which the evaluation of this intervention can proceed”⁶. Moreover, without knowing exactly what humanitarian intervention means, some people will make wrong assumptions. When explaining what my thesis is about I deliberately asked people if they knew what the concept means. Those more politically informed knew it, but a considerable number did not and they assumed it was some sort of relief or aid. This is without a doubt because of the positivity of the word humanitarian. It is easy to see why it is so, because we are surrounded by positive uses of the word *human*: in schools we are thought that *Humanism* was a positive turning point in history; our parents teach us that we should be *humane*; *humanitarian* aid reflects the philanthropist activities of individuals and societies; *human* rights are considered

⁵ Carlin, George – “Soft Language”, in: <https://www.youtube.com/watch?v=7n2PW1TqxQk> (retrieved 11.10.2016).

⁶ Hehir (2010), p. 12.

universal liberties of all people and after all – we are all *human*. It could be said that we are hard-wired to associate this word with positive implications.

It is no wonder then that humanitarian intervention has been selected as a euphemism of choice for many world leaders when legitimizing something that would be more correctly named foreign invasion. “The use of a term like “humanitarian” tends to skew the debate by putting those in favor of intervention on the moral high ground while painting opponents as “anti-humanitarian””⁷. However, because so many conflicts in the past three decades have been branded humanitarian interventions, the term lost some of its positivity. This is troubling because “‘humanitarianism’ and ‘humanitarian action’ are terms widely used among aid workers and non-governmental organizations. In this context the term ‘humanitarian’ is used to denote altruistic, apolitical concern for human welfare”⁸. Due to so many interventions which bore the name ‘humanitarian’ there came to a militarization of the term⁹.

Although the term humanitarian intervention persists, there have been attempts to back away from it. Most notably this has been done by an influential *International Commission on Intervention and State Sovereignty* (ICISS). “The ICISS strictly refers to military intervention and deliberately rejects the term “humanitarian intervention”¹⁰. Instead, ICISS introduced a new concept: *Responsibility to Protect*. This concept is not the same as humanitarian intervention but the two are very much interconnected and it is worth noting that this phrase also sounds positive. Responsibility is a desirable human trait, and protection implies that a third party is intervening on behalf of someone needing protection. Also noteworthy is that among diplomats and academics this concept is known by its abbreviation RtoP or a somewhat fashionable version R2P. One can hardly avoid being cynical by concluding that something as serious as cause for a war sounds like a character from Star Wars.

3. Approaching Humanitarian Interventions: Developments, Actors, Concepts

⁷ Pingeot, Lou/Obenland, Wolfgang (2014) – *In whose name?*, p. 22.

⁸ Hehir (2010), p. 12.

⁹ *Ibid.*, p. 13.

¹⁰ Pingeot/Obenland (2014), p. 22.

After this very brief linguistic presentation I will now start focusing on the phenomenon itself. As it is often the case in humanities, and certainly in political science, there are almost as many definitions of humanitarian intervention as there are authors writing about it¹¹. Because most of them contain certain similar elements they could be summed up as follows: humanitarian intervention is a threat or use of force against a sovereign state by another state or group of states to stop grave violations of human rights.

This is the most basic definition and it will be the starting point for my arguments. But to gain a full grasp into what it actually means, main concepts surrounding humanitarian interventions, such as state, sovereignty, self-determination, international law, human rights and the use of force, need to be discussed. Since my research question deals with the power aspect of humanitarian interventions, basic theories on power will be presented.

3.2. History of State, Sovereignty and Self-Determination

In this way or another, state is probably the most analyzed concept in political science. Although globalization introduced other important actors to the international scene, the state remains the main component of the international political system and of international law. “A traditional definition of international law would have provided that it governed the relations of States to one another”¹².

State is also a central element to the matter of humanitarian interventions because, as mentioned, humanitarian interventions are conducted by states against states. Being one of the most written about issues in social science, it would be impossible to go into any detailed discussion about the state, but some outlines are necessary.

First it needs to be pointed out that the state, in its modern sense, is a fairly recent phenomenon. Yet, there are evident similarities comparable to all forms of government throughout history. At their core, all forms of government are organizations. There are different theories about what triggered the creation of early forms of organization which later developed into states. It could be that higher level of organization was needed in order to attack and defend from other

¹¹ See Teson (1998), p. 1, Holzgreife (2005), p. 18, Welsh (2006), p. 3, Brownlie (1974), p. 217, Brown (2006), p. 135, Vincent (1974), p. 13, Roberts (2002), p. 5, in: Hehir (2010), p. 11.

¹² Grant, John P. (2010) – *International Law*, p. 1.

communities. Another theory is that in order to sustain larger communities, food production needed to be organized on a larger scale and thus more sophisticated organization was required. Building irrigation systems would be an example, which could also explain why some of the first civilizations rose in the mostly dry areas of Egypt und Mesopotamia.

Both these scenarios indicate an increased need for large-scale organization, which, in turn, leads to the unavoidable need for hierarchy. This is where power relations come into play, because every hierarchy means different amounts of power among actors.

Over time, these structures became more and more organized, and in antiquity we already have sophisticated state-like forms built by the Egyptians, Chinese, Greeks and Romans, to name but a few popular examples. Importantly, once these states were established, there were rules about how they should behave towards each other. It would be very early to talk about international law at this stage, but this is how the idea was conceived.

Greeks built their polis on the basis of mutual benefit of the inhabitants¹³. Later on, as identities and size of many poleis in Greece solidified, animosities grew and alliances were made, which lead to opposing interests, power politics and conflicts. An example of this was well documented in the history of Peloponnesian War by the influential Athenian historian Thucydides. Peloponnesian War was fought by the alliances around Athens and Sparta. Very important to this conflict was the question of whose war was just. Athenians considered their war justified by the sole fact that they are the strongest and that “justice is altogether absent in relations between states”¹⁴. Contrary to this, Sparta took a moral ground claiming that she and her allies “are waging war against the Athens in order to save Greece from the tyranny of Athenian imperialism” and that “gods will consequently favor them in it”¹⁵. As we can see here, religion had a prominent role, which in some cases continues to this day. Romans built on the Greek ideas of state, with more than a few contributions of their own. Irene Etzensdorfer and Ralph Janik point out that within the Roman State „Staat, Krieg und Recht erstmals eine Verbindung eingingen“¹⁶. Indeed, Romans were famed for their military organization and even more for their legal prowess, with Roman law influencing most European legal systems today. Similar to Greeks, Romans also had a very close

¹³ See Etzensdorfer, Irene/Janik, Ralph (2016) – *Staat, Krieg und Schutzverantwortung*, p. 16.

¹⁴ Pangle, Thomas L./ Ahrens Dorf, Peter J. (1999) – *Justice Among Nations*, p. 14.

¹⁵ Ibid., p. 15.

¹⁶ Etzensdorfer/Janik (2016), p. 17.

relationship to religion: both the republic and the empire had a sacral dimension, while after their deaths, emperors were considered divinities.

Right before their collapse, western Romans influenced Europe in yet another way – they made Christianity an official religion of the Empire. Unlike the previous Roman pantheon which absorbed deities from other civilizations, in order to integrate these civilizations into the Roman State, Christians believed in only one god. This meant that a ruler could not be considered divine, which changed the political dynamic entirely.

After the collapse of the Western Roman Empire, a period known as the *Middle Ages* begins in Europe. Clapham names two influences that defined the political system of the Middle Ages: feudalism and the Roman Catholic Church¹⁷.

Feudalism was the economic system based on land rent. Basically, the ruler gave lands to nobles in exchange for their military support and the nobles gave land to the folk, which worked it against a tax. This created a decentralized system because both the military force and the means of production lied in the hands of nobles, not the state. “The tendency of feudalism [was] to disperse among different classes those powers which in modern times we regard as normally concentrated in the state”¹⁸.

The influence of the Church in Middle Ages, not only in spiritual, but also in political sense, is undisputed. The fact that rulers could no longer be considered deities themselves, did not mean that their authority was not presented as divine. In fact, even today, European monarchs hold their titles “*by the Grace of God*”¹⁹. This meant that the authority to rule came from god, which gave the Church a powerful intermediary role. In these circumstances the power of the Church became larger than of any state. Consequently, many rulers often found themselves in conflict with the Pope, who claimed to have the highest authority. A noteworthy fact is that the Church in the Middle Ages holds a monopoly over literacy, making it the main source of political ideas.

It could be argued that during the Middle Ages the word of the Pope was international law. “The Church formed a powerful transnational authority placed above mere monarchs”²⁰. “In theory at least, the Pope had the power and the duty to adjudicate in disputes between states and was their

¹⁷ See Clapham (2012), pp. 2-7.

¹⁸ Ibid., p. 3.

¹⁹ Latin: *Dei Gratia*, German: *Von Gottes Gnaden*, French: *Par la Grâce de Dieu*.

²⁰ Hague, Rob/Harrop, Martin (2004) – *Comparative Government and Politics*, p. 17.

hierarchical superior. The Treaties of Tordesillas and Saragossa were late exercise of this role”²¹. These treaties, which divided the world into spheres Portuguese and Spanish spheres of influence, had in fact the power of international law and they were respected by their signatories, illustrated by the fact that only Brazil speaks Portuguese while the rest of Central and South America speaks Spanish. The Church also had a vital role in legitimizing the Crusades. However, this also meant that the position of the Pope was a sought-after career with noble families from around Europe competing for the spot and the power that came with it. At times, there were also rival popes, with one having a seat in Avignon in France. All this meddling and misuse of the Church led to strong opposition to those practices. “From around 1520, Protestant reformers led by Martin Luther condemned what they saw as corruption and privileges of the organized Church”²². They aimed at reforming the Church, but ended up creating a Church of their own, with rulers and nobles of many (mostly northern) states joining. This started a series of conflicts throughout Europe, which resulted in a total transformation of the medieval state system. For our discussion two largest conflicts are of special importance.

The first one was a civil war in France in the second half of 16th century, broadly known as *Huguenot Wars*. The war lasted for decades costing millions of lives and the atrocities committed in the war inspired the philosopher Jean Bodin to rethink the foundations of the political system. Widely regarded as the creator of the concept of sovereignty²³, Bodin was so horrified by the atrocities of war that he argued that a central authority was needed, powerful enough to safeguard the safety of the citizens. “In Bodin’s view, the sovereign – literally, the one seated above – should be responsible for legislation, war and peace, appointments, judicial appeals and the currency”²⁴. Bodin argued that the sovereign, while being responsible for implementing laws, also needs to be free of them. This however does not mean absolute tyranny and arbitrariness, because “there are some laws that do bind him, the divine law, the law of nature or reason, the law that is common to all nations, and also certain laws which he [Bodin] calls the *leges imperii*, the laws of the government.”²⁵. In Bodin’s view, the sovereign should be the monarch since he had the divine legitimization of his power. Bodin’s opinions influenced a whole range of modern thinkers, who

²¹ Cooper, Robert (2004) – *The Breaking of Nations*, p. 21.

²² Hague/Harrop (2004), p. 18.

²³ See: Clapham (2012) Etzensdorfer/Janik (2016), Hague/Harrop (2004), Trbovich (2008).

²⁴ Hague/Harrop (2004), p. 18.

²⁵ Clapham (2012), p. 9.

nevertheless secularized his conception of the sovereign, such as Thomas Hobbes, John Locke and Jean-Jacques Rousseau.

The second conflict whose aftermath shaped the modern international system was the *Thirty Years War*. Probably the largest war until that point in history, this war took millions of lives, mostly in the German-speaking areas. It ended by a series of treaties called the *Peace of Westphalia* which, importantly, stated that no state is to interfere into affairs of another state. Today, authors often use the term *Westphalian State* or *Westphalian System* to depict modern state and international system.

These two wars thus created an outline of what will become a modern sovereign state. Bodin's writing had an effect on liberal thinkers after him, but they distanced themselves from the sacral and exclusively monarchical nature of sovereignty. Instead, they promoted an idea of a social contract, where citizens would willingly transfer power to the state so that the state can protect their interests and security. According to this view, sovereignty no longer came "by the Grace of God" but by the will of the people. It is no accident that this rising awareness started happening in 16th and 17th century. Modern science breaks Church's monopoly on education and drives unprecedented technological development. This also has a stimulating effect on the economy and urbanization, which creates a new class – the bourgeois. Becoming increasingly wealthy, members of the bourgeois with no noble roots start demanding political rights which would reflect their newly acquired economic importance. This is recognized by Locke who argues that the state should develop a legal system which would safe keep the private property. Finally, this struggle culminated by the American and, more importantly, *French Revolution*. By that time "the number of independent political units fell from around 500 in 1500 to just 25 by 1800, as a medieval architecture of principalities, duchies and bishoprics gave way to a more recognizable model framework of larger countries"²⁶.

French Revolution kicks off what Eric Hobsbawm called the long 19th century. The ideals of the French Revolution were spread by Napoleon, while after his defeat, the Congress of Vienna established a new European order, known as the *Concert of Europe*, which aimed to prevent wars by balancing power of five strongest states in Europe: Austria, France, Prussia, Russia and United Kingdom. This system was largely successful and for a century there would be no devastating wars

²⁶ Hague/Harrop (2004), p. 18.

in which all the Great Powers participated simultaneously. Peace and stability resulting from such a system made Europe enjoy all economic and technological benefits of the *Industrial Revolution*.

The principles of the French Revolution also led to the rise of nationalism, an ideology that strived to define people living on a certain territory that shared the same language and culture as one entity - nation. Nationalism sets a whole new paradigm of political unity as multitudes of nations across Europe start demanding their collective political rights. So in fact, the focus of political struggle shifts from economy, which was the case with bourgeois, to culture. This development presented relatively little problems to homogenous states such as France or Sweden, or later Germany and Italy, but multinational Austro-Hungary struggled. Conservative monarchies of the Concert were naturally opposed to this new ideology, because it meant a totally new political system.

The Concert of Europe finally collapsed with the First World War in which some empires of Russia, Austro-Hungary and Ottoman Empire disappeared, while a new one came to prominence – United States of America. Being a new power, with traditional disdain to great power politics²⁷, USA, led by the idealistic President Woodrow Wilson, wanted a new global system that was regulated by international law and governed by a *League of Nations*. In political theory this view would become known as Idealism²⁸. The collapse of old multinational empires finally gave a chance for smaller nations to gain independence. “The principle of national self-determination, espoused by American President Woodrow Wilson and reflected by nationalist sentiment within the imperial territories themselves, played a key role in redrawing the map of Europe”²⁹. This resulted in nation-state becoming the main unit in the new international political system embodied in the League of Nations.

Today, we know that the League was a failure and some 20 years after the First came the even more devastating Second World War. Again, the aftermath of this war brought changes. The first immediate change was a reformation of the international organization into *United Nations*. Unlike the League, UN had one body whose decisions were binding – the *Security Council*, consisting of 15 members, five of which are permanent with veto powers: USA, Russia (USSR at

²⁷ Monroe doctrine dictated that no European power is to meddle in the affairs of the Americas while USA will keep out of European affairs.

²⁸ See Filzmaier, Peter/Gewessler, Leonore, et al. (2006) – *Internationale Politik*, p. 72.

²⁹ Hague/Harrop (2004), p. 23.

the time), China, United Kingdom and France. The Security Council will play a larger role in my analysis later on.

Two other major developments shaped the post-WWII world: *Cold War* and *decolonization*. Cold War divided the world into three large blocs: The Western liberal democracies around the US, the Eastern socialist countries around USSR and the Non-Aligned Movement. Since the latter was more of a benign forum of states, rather than an alliance, it is said that the constellation of power was bipolar³⁰. In such an environment, the global politics (and the accompanying conflicts) were shaped by the interests of the two large blocs, namely their main representatives – USA and USSR.

From today's perspective, even more important post-WWII development than the Cold War was decolonization. The principle of self-determination really came to its own after the Second World War when colonies of Great Powers started demanding independence. In only 40 years, between 1944 and 1984 the number of states rose approximately by 94³¹, effectively doubling the number of states in the world.

But decolonization process revealed a flaw about the conception of the state: it is a European phenomenon, which reflects European realities. Although European states tried (and in some cases succeeded) to install their political culture abroad, it should not have been disregarded that other parts of the world did not share the same political categories with Europe, such as the state or a nation. It is no wonder that many former colonies failed as states, partly because their borders were drawn by Europeans, not by the states themselves. In relation to the international recognition of the new states, Etzensdorfer and Janik explain: „Dabei wurden die Mitgliedschaftskriterien äußerst flexibel gehandhabt, bestehende Grenzstreitigkeiten sollten ebenso wenig ein grundsätzliches Problem darstellen wie das Fehlen einer effektiven Zentralgewalt“³². Although there is little doubt that decolonization was a positive process, what it also showed is that the nation state is not a universal political category applicable everywhere.

Finally, most recent event that influenced international relations was the collapse of the East-European socialist states, most notably USSR and Yugoslavia. This had far-reaching consequences in many ways, but I will mention two of them.

³⁰ See Filzmaier /Gewessler, et al. (2006), p. 20.

³¹ Hague/Harrop (2004), p. 22.

³² Etzensdorfer/Janik (2016), p. 79.

First of all, the world had its *unipolar moment*, with USA remaining the sole superpower able to pursue its interests globally, and a number of regional great powers such as European Union, Russia, China, India, Japan, South Africa and Brazil³³. In this period globalization intensifies, global trade blooms and information technologies link the world. States become increasingly dependent on each other and media gain truly global reach. Trade and political unions gain a whole new dimension as exemplified by the case of European Union. All of this influences a decline of state independence. Although USA remains by far the strongest country in the world, it is wrong to call the present system unipolar, because of the rising strength of China, EU's slow divorce from the USA and Russia's more assertive role in international affairs.

Secondly, after the end of Cold War, the global community again became more numerous by addition of now independent member states of USSR and Yugoslavia. More recent examples of Montenegro, Kosovo, South Ossetia, Abkhazia and Crimea showed that this process is not yet over.

3.1. Modern Theories on State, Sovereignty and Self-Determination

Any political scientist will testify how ungrateful it is to explain what a state is. It is one of those phenomena which is relatively easy to recognize, but extremely hard to define. This may be because many states had different ways of emergence, as we have seen in the brief overview above. Thus, we come across theories like these: "Modern states are territorial; their governments exercise control over persons and things for the most part within their frontiers"³⁴, or "the state is a political community formed by a territorial population which is subject to one government"³⁵. These kinds of theories are reflected in Georg Jelinek's three elements criterion, namely a territory, a permanent population and a sovereign government³⁶.

However, these theories explain better what is not a state, than what it is. Thus we can safely conclude that the Inuit are not a state, because they do not have a specified territory or a central government, but we cannot exclude Kurdistan Region in northern Iraq, because it has a population with shared identity, living on a certain territory with a strongly autonomous government. Kurdistan Region has another factor that would point to its statehood: armed force. At this point it

³³ See Filzmaier /Gewessler, et al. (2006), p. 21.

³⁴ Clapham (2012), p. 139.

³⁵ Hague/Harrop (2004), p. 7.

³⁶ Etzensdorfer/Janik (2016), p. 56.

is useful to mention the very influential theory of Max Weber who viewed state as the monopolist over the use of physical force³⁷. Interesting aspect of Weber's theory and probably the reason why it became so influential is that it sums up the history of state to a question of who controls the mechanisms of force. If we now return to the example of medieval kingdoms, we can say that they cannot be regarded as states because they did not hold a monopoly over force, because it was split among many nobles who had their own personal armies.

But being a monopolist on force on a certain territory is sometimes also not enough, because there are many territories which are not in control of any state. *Montevideo Convention on the Rights and Duties of States* of 1933 added a fourth element to Jelinek's three, which is the "capacity to enter into relations with the other states"³⁸. This means that a state has to gain international recognition in order to be viewed as a state, which is normally done by its admission to the United Nations. Again, we could find exceptions and confusing cases. Bosnia and Herzegovina for example does not have a monopoly on the use of force³⁹, but it is a full member of the UN.

Let us now return to the concept of sovereignty, because it is clearly the key factor of statehood. Since the historical development of sovereignty has already been discussed I will now just point out some aspects which were not yet presented or clearly defined. "Sovereignty refers to the ultimate source of authority in society. The sovereign is the highest and final decision-maker within a community"⁴⁰. To make the concept more familiar Clapham points out that "territorial sovereignty bears an obvious resemblance to ownership in private law"⁴¹. Although they are no longer the exclusive actors in international relations, states remain the only bearers of sovereignty.

When discussing sovereignty, two sorts should be distinguished: internal and external sovereignty. Internal sovereignty is the possession of the right to enact and enforce laws, while the external sovereignty means international recognition of authority and territorial integrity. In Weberian terms of force, the internal mechanism of sovereignty would be the police, while external would be the army. "The acceptance of legal sovereignty, however, did not automatically entail a full respect for another state's territorial integrity, since the right to make war was considered an

³⁷ Hague/Harrop (2004), p. 7.

³⁸ Etzensdorfer/Janik (2016), p. 56.

³⁹ Executive and legislative powers in Bosnia and Herzegovina are still not exclusive to its own institutions, but also vested in the Office of the High Representative.

⁴⁰ Hague/Harrop (2004), p. 8.

⁴¹ Clapham (2012), p. 168.

essential part of sovereignty”⁴². But after the First World war, global community moved towards making territorial gains by war and conquest illegal, making territorial integrity and non-intervention the cornerstones of sovereignty⁴³.

The principles of territorial integrity and non-intervention mean that state territory is sacred and that no other state will pursue that territory. This presents a contradiction to the principle of self-determination, because when a new state is born, it is born out of another state, whose territory was supposed to be sacred. In the 20th century there have been three big waves of self-determination: the aftermath of the First World War, decolonization and the breakup of the socialist bloc. Each of these cases had different background. The questions that arise are *who, when and under which circumstances* receives a right for self-determination?

The question of who is usually answered with: the nation seeking independence. But nation is an extremely vague concept, criticized for lacking clearly defined criteria⁴⁴. Indeed, the word itself causes confusion, because it enables endless interpretations. Taken from Latin meaning “place of birth”⁴⁵, nation has a different meaning in English, where it is interchangeably used with the word state⁴⁶, while in German it depicts ethnicity.

The questions of when and why offer no easier answers. While the second wave was probably long overdue, because colonizing foreign territories for economic gain was no longer politically, morally and economically justifiable, it could be argued that the first wave, after the First World War, and the third wave, after the Cold War, were a punishment to the defeated.

This clearly indicates that neither territorial integrity nor self-determination are solid principles, but rather selective political tools. Deciding which one of them has the priority seems to be decided on a case by case basis, dependent on the interest of key actors. Trbovich points out difference between self-determination as a right and a principle, noting that “the vague formulation indicates that its political component as a selectively applied *principle* was still stronger than its use as a legal *right*”⁴⁷. Thus, Kurds and Tibetans are unable to gain independence, because Turkey and China are strong countries with important alliances. On the other hand, Serbia is neither a

⁴² Trbovich, Ana S. (2008) – *A Legal Geography of Yugoslavia's Disintegration*, p. 5.

⁴³ See Ibid.

⁴⁴ See for example Anderson, Benedict (1996) – *Imagined Communities*, or: Hobsbawm, Eric/Ranger, Terence (Ed.) (1983) – *The Invention of Tradition*.

⁴⁵ Hague/Harrop (2004), p. 9.

⁴⁶ Hence for example the name United Nations, although states are represented in that institution and not nations.

⁴⁷ Trbovich (2008), p. 12, italics hers.

strong country, nor a well-connected one, meaning that a large part of the world's states supported the secession of Kosovo. The fact that Kurds, Tibetans and Kosovars suffered grave violations, which could warrant their independence, just illustrates my point of different standards.

4. Basics of International Law

Any discussion about humanitarian interventions is necessarily also a discussion about international law. To understand the controversy surrounding humanitarian interventions at least a basic grasp of how international law works is needed. Since the previous chapters dealt with the historical and theoretical background of concepts *related* to international law, now it is time to focus on the international law itself.

The concept and the rule of law represents arguably the most important political achievement in the history of mankind. The very basic scheme of law is that there is a rule of behavior and that this rule must be respected. This is probably how most people understand law. Of course, the concept is far more complex than that.

The issue becomes even more difficult when we introduce the international component. As noted above, the basic definition of international law is that it is a body of rules governing relations of states towards each other.

Again, I would like to start with the interesting linguistic aspect, because international law is somewhat of a misnomer. Let us for now disregard the word law, because the very interesting dilemma which questions if international law is law at all is discussed further on, and focus only on the word 'international'. 'International' literally means among nations. However, as we have discussed above, nation is a group of people sharing same cultural identity, whereas a state is a political entity which may contain many nations. Thus, the more appropriate way to name international law would be interstate law. This is observable in many languages⁴⁸.

I make this point only because it is interesting. There are practical reasons why the word 'international' is being used, such as the fact that it is well-established, but also that in English the word nation is often used as a synonym to state. Another reason might be the fact that 'international' sounds more encompassing which makes it more legitimate.

⁴⁸ German: *Völkerrecht*, French: *droit international*, Spanish: *derecho internacional*, Russian: *Международное право* (Mezdunarodnoe pravo - 'narod' meaning people).

In any case, the following chapters describe international law and how it works. Firstly, there is the issue of what international law actually is, namely what its sources are and how it is created. Secondly, there is the question of institutions in charge of making and upholding international law. Institutional level bears great importance to our main debate on humanitarian interventions and the use of force in general. Further on, a comparison between international law and municipal law will be made. I consider this comparison very useful to understanding how both of them function. In this regard the role of force is especially important and it will be given a chapter of its own. Using force has been a heavily debated issue and it stands in the focus of this paper.

4.1. Sources of International Law

Unlike the straightforward way municipal law is being made, international law is made in various ways and it has several sources. *International Court of Justice* (ICJ) is one branch of the United Nations tasked with legal matters among states and as such it is the most relevant body to determine which rules qualify as international law. The sources of international law are defined in the Article 38(1) of the Statute of the ICJ:

“The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
- b. international custom, as evidence of a general practice accepted as law;
- c. the general principles of law recognized by civilized nations;
- d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.”⁴⁹

The first two sources – conventions and custom – make for the largest and most stable part of international law.

⁴⁹ *Statute of the International Court of Justice* (1945), URL: <http://www.icj-cij.org/documents/?p1=4&p2=2> (retrieved 28.1.2017).

4.1.1. Custom

“Custom (...) is something that States do (or refrain from doing) generally, consistently and for some time that, somewhere along this general and consistent course of action, they come to regard as legally obligatory”⁵⁰. Custom then is an established and repetitive pattern of State behavior, and as such, represents a very pragmatic way of establishing rules. It is an acknowledgement of centuries of interstate relations which produced well-established patterns of behavior. Indeed, custom used to be the most important source of international law, “whose essential nature is customary”⁵¹. However, establishing a customary law is by no means a straightforward process, because custom is not merely a habit and there has to be “evidence of acceptance”⁵² among states. Such evidence is categorized as state practice and *opinio juris*.

Practice entails three main criteria: duration, generality and consistency, none of which are clearly defined. As for duration, “at one time, it was thought that, for custom, a practice had to be followed from something like time immemorial”⁵³. In the meantime, rapidly evolving developments and increasing complexity of international relations established the need for a faster formation of international law. There has even been talk of “instant custom”⁵⁴ in case when enough countries begin to acknowledge the rule as custom.

Generality requires that a custom is recognized as such by states. However, “all but the strictest of positivists admit that it is not necessary, to show that *every state* has recognized a certain practice”⁵⁵. In fact, “in practice the tendency is to look to the practice of the major players in the relevant area”⁵⁶. This is logical because a country like Canada has more experience and relevance in the question of sea fishing than a country like Hungary, and thus its opinion has more weight.

Lastly, consistency is required because if states do not constantly behave in accordance to the rule, it may not be considered custom and cannot form international law.

There is also the crucial element of *opinio juris* which constitutes a custom. This means that states adhering to a certain rule must believe they are doing so because they are obliged by law to do it. The opposite to that would be that they are behaving in a certain way as a favor to some

⁵⁰ Grant (2010), p. 16.

⁵¹ Pisillo-Mazzeschi, Ricardo (1997) – “Treaty and Custom: Reflections on the Codification of International Law”, in: *Commonwealth Law Bulletin*, Vol. 23: 1-2, pp. 549-565, p. 549.

⁵² Clapham (2012), p. 62.

⁵³ Grant (2010), p. 16.

⁵⁴ Sheick, Kasim N. (2014) “International Law”, in: *The Law Teacher*, Vol. 48: 3, pp. 380-382, p. 380.

⁵⁵ Clapham (2012), p. 59, italics his.

⁵⁶ Grant (2010), p. 17.

other state or out of principle, etc. This has also been called the “psychological element in custom”⁵⁷

4.1.2. Conventions – Treaties

“Contractual engagements between states are called by various names – treaties, conventions, pacts, acts, declarations, protocols, to name just a few”⁵⁸. As I mentioned above, custom used to be the primary source of international law, which is why I described it first. This primacy of custom, however, no longer applies, because in the last century or so, codified rules such as conventions and treaties took that place. This is logical, because unlike custom, treaties are formed in a clearer, more defined and more transparent way than custom. “When faced with an international law issue, one should first look to any applicable Convention, then to any relevant custom and, failing both these, to general principles of law”⁵⁹. There are many reasons why treaties gained importance, most importantly the growing numbers of states⁶⁰, especially in 20th century. The two world wars also played an important role, directly by making states make treaties to prevent conflicts and loss of life, and indirectly through formation of international organizations, such as the UN, tasked with facilitating interstate discourse which they often do through treaties. UN played a central role in drafting *Vienna Convention on the Law of Treaties* (VCLT), which in its Article 2(1)(a) defines treaty as “an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation”⁶¹. VCLT gives a detailed overview of terminology, drafting, reservations, entry into force, interpretations, modifications, terminations, procedures, signing and ratification of treaties.

However, not every treaty is of equal importance and binding to all states. “The class of treaties, which it is admissible to treat as a source of general law, are those which a large number of states have concluded”⁶². Grant distinguishes between a law-making treaty, which is multilateral

⁵⁷ Ibid., p. 18.

⁵⁸ Clapham (2012), p. 302.

⁵⁹ Grant (2010), p. 12.

⁶⁰ See Pisillo-Mazzeschi (1997), p. 549.

⁶¹ “Multilateral Vienna Convention on the Law of Treaties (with annex)” (1969), in: *United Nation Treaty Series* (1980), Vol. 1155, I-18232, p. 333.

⁶² Clapham (2012), p. 55.

and of general importance, and treaty-contract, which is usually bilateral or with small number of parties on specific matters⁶³. Obviously, a state is not subject to the treaty if it is not a party to it.

Importantly, treaties are often written-down principles of custom. This process is called codification, and although it seemingly brings certainty of law, democracy and transparency of the process, as well as a chance for a reform of international law⁶⁴, there are arguments against it. Pisillo-Mazzeschi points out that critics question the practicality of codifying, as well as the fact that codifying might impede the normal evolution of customary law, which is flexible and adaptable. Most notably, the fact that most of law-making treaties are not signed and ratified by all the states divides the international community, “which could give rise to a double behavioral standard and to a series of complications in the relations between States parties and States non-parties”⁶⁵. The latter point is of concern for our present debate on human rights and humanitarian interventions.

Conclusively it should be pointed out that among all sources of international law, treaties look most law-like, because of the way they are written and the way they work, once ratified by states.

4.1.3. Other Sources of International Law

While custom and treaties represent the most important and strongest sources of international law, they are not the only ones, as described in the Article 38(1)(c) and (d). The reason why custom and treaties are not sufficient is because unforeseeable circumstances and developments in international relations emerge all the time and some issues cannot be resolved by neither custom nor treaty. This has especially been the case in the past. Admittedly, these two provisions demonstrate that Article 38 is archaic, which is not surprising, considering that it has been first drafted in 1920⁶⁶.

Perhaps the most evident indication of times gone by is the term ‘civilized nations’ used in Article 38(1)(c). It implies the alleged dominance of certain states, while disregarding others as primitive and uncivilized. Although this provision has no more bearing whatsoever it is still there.

⁶³ See Grant (2010), p. 13.

⁶⁴ See Pisillo-Mazzeschi (1997), p. 550.

⁶⁵ *Ibid.*, p. 551.

⁶⁶ See Grant (2010), p. 20.

This Article prescribes that general principles of law shall also be applied as a source of international law. The formulation “general principles of law” is by no means an exact one and “it includes, though it is not limited to, the principles of private law administered in national courts where these are applicable to international relations”⁶⁷. Not every state has its own legal system, but rather groups of states use certain legal systems to make laws. Thus, when we talk about general principles, we do not refer to norms accepted by single states, but by legal systems. However, Grant points out that universal acceptance is not required, but that acceptance of the majority is needed⁶⁸.

Article 38(1)(d) defines judicial decisions and teachings from prominent jurists as a subsidiary source of international law. Judicial decisions play an important role in common law legal systems, such as the English or American ones. In those countries, if a court rules on a subject which is unspecified by the law, the decision becomes law. There are however dangers in applying this method to international law, because of different legal norms in the world and because of opposing national interests. This is probably the reason why this is just a subsidiary source. In practice, however, rulings of relevant courts such as the International Court of Justice carry great weight. Grant mentions a strong influence these rulings have on further development of international law⁶⁹, while Clapham assigns greater importance to such decisions due to advancement of communication technology, which made these decisions available everywhere.

Teachings and writings by prominent authors on the other hand does not have a great impact on international law, at least not directly. This is also one provision that has been largely outdated. Whereas there used to be a time when thoughts of prominent jurists, such as the already mentioned Grotius, served as a source of law, this is no longer the case.

4.2. Important Institutions

In the historical overview, we have seen how international relations became increasingly institutionalized. It would be safe to assume that every large conflict in newer history contributed to international integration for the sake of preventing conflicts. Thus, after Napoleonic Wars, five European Powers created the Concert of Europe, First World War brought the League of Nations,

⁶⁷ Clapham (2012), p. 63.

⁶⁸ See Grant (2010), p. 20.

⁶⁹ *Ibid.*, p. 21.

while the Second World War caused the creation of United Nations as well as a number of regional institutions such as the European Union. Especially the UN is of great importance for our discussion because it has a global reach and very high legitimacy and acceptance among states. At this point it is purposeful to remind ourselves to the purposes of the UN as described in the Charter:

1. “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;
2. 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;
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
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.”⁷⁰

Among the six main organs⁷¹ charged with fulfilling these purposes three are very relevant to our discussion and they will be presented: *General Assembly, Security Council and International Court of Justice*.

4.2.1. General Assembly

By the number of representatives, the *General Assembly* (UNGA) is the largest body of the UN and the only one with universal representation. It is made from representatives from all of the ever-increasing number of states, presently holding at 193⁷² and meeting annually. The UN describes the role of the UNGA as “the main deliberative, policymaking and representative organ of the UN”⁷³. The most important characteristic of the UNGA, and at the same time its weakest point, is that it makes decisions in a parliamentary way: one country – one representative – one vote. Indeed, many share the view of the former UN General Secretary Dag Hammarskjöld in seeing the UNGA as a quasi-parliamentary gathering of the world⁷⁴. However, the voting principle is unrealistic, for obvious reason that the states are not equal in size and strength, which is why the decisions of the UNGA are not binding.

⁷⁰ *Charter of the United Nations* (1945), URL: <http://www.un.org/en/charter-united-nations/> (retrieved 31.1.2017).

⁷¹ These are: General Assembly, Security Council, Secretariat, Economic and Social Council, International Court of Justice and United Nations Trusteeship Council (inactive).

⁷² At the time of its creation in 1945, UN had only 51 members. See *United Nations – Member States*, URL: <http://www.un.org/en/member-states/index.html> (retrieved 31.1.2017).

⁷³ *United Nations – Main Organs*, URL: <http://www.un.org/en/sections/about-un/main-organs/index.html> (retrieved 31.1.2017).

⁷⁴ See Göhtel, Dieter (2002) – *Die Vereinten Nationen – Eine Innensicht*, p. 8.

This is not to say however that UNGA has no importance since it has some influential competences. Among its most important regular tasks are adopting the UN budget, appointing Secretary General after recommendation by the Security Council and naming non-permanent members of the Security Council. UNGA is also a forum in which states can discuss the widest range of topics and for many smaller states it is the only opportunity to gain global audience for their issues. Although the resolutions of the UNGA are not binding, the sheer legitimacy the UNGA possesses can have a great influence on international relations and even international law. “It is argued, when the General Assembly adopts a resolution, intended to set norms and expressed in clear language, that resolution, if supported by an overwhelming majority of the Assembly’s members, can be regarded as custom”⁷⁵. “These resolutions might be relevant because they help in identifying relevant rules of customary international law by providing evidence of state practice, *opinio juris*, or both”⁷⁶

An interesting point is the percentage of processed topics by the UNGA: 40-45% are about world peace and international security, 30-35% are economic, social, humanitarian and development issues, while 25-30% deals with internal procedures, legislations and control⁷⁷

4.2.2. Security Council

The Security Council (UNSC) is the most prominent and certainly most powerful of all UN organs. This is for the simple reason that its decisions are obligatory to all member states of the UN. There has been much discussion and controversy about the UNSC. It consists of 15 Member States, five of which – China, France, Great Britain, Russia and USA – are permanent members with veto powers, and 10 non-permanent members chosen regionally for two years.

As the name suggests, Security Council’s main task is maintaining peace and security by dealing with disputes and suggesting how disputes could be solved. UNSC does not have a fixed schedule of meetings, but rather meets when needed to discuss certain issues and crises, which means that the state representatives constantly need to be in New York, where the UNSC meets. In

⁷⁵ Grant (2010), p. 17.

⁷⁶ Guzman, Andrew T./Meyer, Timothy L. (2010) – “International Soft Law”, in: *Journal of Legal Analysis*, Vol. 2:1, pp. 171-225, p. 216.

⁷⁷ Göhtel (2002), p. 8.

the year 2016 there have been 258 meetings, and it often happens that there are several meetings per day⁷⁸.

The most characteristic aspect about the UNSC are its resolutions which are binding to all member states of the UN. This does not mean that the UNSC is omnipotent and it cannot create binding international law, but rather “material or evidential *sources* of law”⁷⁹. Its mandate is also limited by the Charter of the UN. The most convincing instrument the UNSC has on its disposal are the ability to impose economic sanctions and to give authorization for the use of force. It is important to note that the UNSC does not have its own army, although “Article 43 of the Charter was intended to provide the United Nations with an organized military force at the Security Council’s disposal”⁸⁰, which means that the SC needs to rely on the Member States to conduct eventual military operations.

Security Council lies at the center of our debate and details about it will be presented as the discussion progresses.

4.2.3. Judiciary – International Court of Justice and International Criminal Court

International courts are a modern phenomenon conceived in the 20th century. They could be regarded as an update of international arbitration, which itself is a fairly recent development. The idea of arbitration is that two arguing parties transfer the authority of solving their argument to a third party whose decision they will accept. Usually, the third party is either another State or a panel of legal experts from third States. This presented a groundbreaking new way of settling dispute without the need for a conflict.

After the First World War, the *Permanent International Court of Justice* was created as a part of the League of Nations. After the Second World War, it was succeeded by the International Court of Justice (ICJ), which was made one of principle branches of the UN. ICJ has 15 judges, all from different countries, chosen by both the General Assembly and the Security Council for a 9-year mandate. Importantly, the permanent members of the Security Council cannot block the

⁷⁸ *United Nations Security Council – Meetings Records*, URL: <http://www.un.org/en/sc/meetings/records/2016.shtml> (retrieved 31.1.2017).

⁷⁹ Hehir (2010), p. 135, italics his.

⁸⁰ *Ibid.*, p. 136.

selection of a judge. However, “the five permanent members of the Security Council have always had a judge of their nationality on the Court”⁸¹.

ICJ entertains two types of cases: disputes among states (contentious cases) and advisory cases to the UN agencies. In the former instance, the Court will listen to a dispute only if all party states consent. There is also a compulsory option in case a State willingly chooses to be submitted to the Court⁸², or if an international treaty recognizes the authority of the Court⁸³

Although perceived as a global judiciary body⁸⁴, the ICJ has severe limitations preventing it from becoming such a body in reality. Most notably, it lacks means of enforcement and it relies either on the voluntary submission by the states themselves, or on the action by the Security Council. This can be problematic if the losing party is a permanent member of the UNSC and does not want to recognize the decision of the ICJ⁸⁵. Another hurdle are the reservations to the Statute through which States can opt out of certain provisions.

Unlike the ICJ, which deals with states and UN bodies, the *International Criminal Court* (ICC) focuses on individuals accused of “four main crimes”: genocide, crimes against humanity, war crimes and crime of aggression. ICC was established after a series of ad hoc tribunals which were tasked to process similar crimes in the great wars of the 1990s, such as Bosnia and Rwanda. Likewise, unlike the ICJ, the ICC is not a part of the UN system, but was rather established through a separate treaty called the Rome Statute in 2002. However, Security Council can refer a case to the ICC as it was the case with Omar al-Bashir of Sudan as well a number of Libyans, including Muammar Gaddafi.

ICC has 18 judges in 3 divisions – Pre-Trial, Trial and Appeals – which are chosen by the Assembly of States Parties on a 9-year non-renewable term. Although the Statute has been signed by 124 States⁸⁶, many of the important States have not ratified the signature or have withdrawn it

⁸¹ Grant (2010), p. 134.

⁸² *Statute of the International Court of Justice* (1945) - Article 36(2).

⁸³ According to Clapham (2012, p. 421) and Grant (2012, p. 135), there are more than 300 bilateral and multilateral treaties that allow party States to submit eventual disputes regarding those treaties to the ICJ.

⁸⁴ See Clapham (2012), p. 419.

⁸⁵ A case in point is the so-called “Nicaragua case”, where Nicaragua sued USA for its involvement in the local uprising. The Court ruled in Nicaragua’s favor and ordered reparations, but it could never be enforced, because USA would not comply and it blocked the Security Council on the issue.

⁸⁶ International Criminal Court - *The States Parties to the Rome Statute*, URL: https://asp.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx (retrieved 2.2.2017).

– like Russia and USA – or have not signed it – for example China and India. This questions the universality and legitimacy of the ICC. Since almost all the cases are against African leaders, the ICC has been accused of bias and, as I mentioned at the very beginning, some states have threatened to leave the Statute altogether.

4.3. International Law and Municipal Law

So far, we have explored the not really simple nature of international law. To better understand how it works, it is purposeful to compare it to municipal law and to explore how the two interact.

The first point where the two differ are the subjects, because municipal law deals with individuals within a state, while international law primarily deals with states. This means that the two have a different functioning dynamic.

First let us explore the institutional level. There are many ways municipal law could be created. It could be based on religious laws like sharia, it could be made through decree by a ruler, or it could be made through decisions by judges, which was already mentioned when writing about the common law. However, by and large most states have three pillars of power, tasked with creating laws (legislative), upholding laws (judicative) and enforcing laws (executive). In most states, legislative power is vested in a parliament, containing representatives of the people. Ideally, none of the pillars should enjoy more power than the other two, which is not always the case. It is very important to note that every state has a clearly-defined legal system, regardless of its form, which it imposes on all its inhabitants.

International order however has none of the three pillars. One could be creative and see world parliament in General Assembly, some sort of world government in the Security Council and world court in the International Court of Justice, but these comparisons would not withstand even the slightest scrutiny. Consequently, the international legal system is not as well-defined as municipal law, which, bluntly put, makes municipal law more of a law.

This lack of clearly defined institutions and legal system may lead to a conclusion that international law is not law at all. Grant counters this opinion stating that “far too much time, effort and paper have been devoted by international lawyers to countering the claim that international law

is not law at all”⁸⁷. There is however a healthy amount of skepticism regarding the usage of the term law to describe the rules governing states. This is where the perception of the concept of law plays an important role. Since many of us are used to experiencing law as a *principle which absolutely must be respected*, we automatically perceive international law in the same way. Therefore, we are not convinced when leading theorists of international law, such as Louis Henkin declare that “almost all nations observe almost all of the principles of international law and almost all of their obligations almost all of the time”⁸⁸. As we have seen, there is hardly any authority above sovereign states which could force them to respect any rule of law. In such circumstances “almost all of the time” is unfortunately as good as it gets.

Politics plays an important role in both international and municipal law. Yet again, whereas in states politics is contained in the realm of legislative and executive branches, judicative branch ideally does not make political, but legal judgements. In other words, politics shapes the laws, but it does not interpret them. This is not always the case with international law. It could be argued that opposing decisions of the American Judge in the ‘*Nicaragua Case*’, or Russian Judge in the ICJ ruling on Kosovo’s independence were not motivated by legal, but political arguments. Another possibility is that different states have different interpretations of international law, in line with their different legal traditions. “States almost always agree on the content of the applicable law; it is on the application of the law to the particular facts or on the facts themselves that the states disagree”⁸⁹.

Another very important, perhaps the most crucial factor, is the role of force and violence in international and municipal law. The already mentioned Max Weber’s theory of *Gewaltmonopol* stipulates that a state can use violence to establish state order. From legal point of view, a state can use physical violence through its institutions to guarantee and enforce the rule of law. This physical violence is visible when police detains a suspect or when a convicted criminal is denied freedom. This principle is the so-called Augustinian theory, where law is described as “the command of a sovereign backed by the threat of punishment”⁹⁰. The lack of *Gewaltmonopol* could be the reason why international law does not function as good as municipal law.

⁸⁷ Grant (2010), p. 2.

⁸⁸ Henkin, Louis (1979), quoted from: Guzman (2008), p. 22.

⁸⁹ Gray, Christine (2004) – *International Law and the Use of Force*, p. 10.

⁹⁰ Murphy, Sean D. (2009) – “The Concept of International Law”, in: *Proceedings of the Annual Meeting (American Society of International Law)*, Vol.103, International Law As Law (2009), pp. 165-169, p. 166.

There are however theories that limit the importance of force and violence in law enforcement. Shaw reproduces H.L.A. Hart who “saw law present when the obligation arises from social rules, when the general demand for conformity is insistent and deviations result in intense social pressure that generate feelings of shame, remorse, or guilt”⁹¹. This concept transfers the question of law-compliance from physical area (physical violence), to a more psychological area. Needless to say, we care a great deal what our environment thinks about us, and that influences our behavior.

There is a similar concept in international relations. Even though they may not be punished for disregarding it, states generally tend to comply with international law. Guzman describes The Three *Rs* of Compliance⁹²: *reputation*, *reciprocity* and *retaliation*. If a state does not comply with its international obligations other state or states may choose to answer with the same measure and stop complying with that obligation as well. This is the measure of reciprocity. A more drastic and expensive measure is retaliation, which means that another state or states punish a non-complying state through economic, diplomatic or military means. The factor of reputation is a psychological, and thus the most interesting one. Every state has a certain reputation on the international stage, upon which other states form their opinions and policies. If a state constantly breaks its commitments and disregards international law, other states will be skeptical in entering agreements with it. “A good reputation is valuable because it makes promises more credible and, therefore, makes future cooperation both easier and less costly”⁹³. State reputation is of great relevance to our forthcoming discussion on power.

Apart from comparing international and municipal law to understand how they work, it is also insightful to offer a brief overview of how they interact and influence one another.

Theoretically there are two major approaches: *monism* and *dualism*.

Monism stipulates that international and municipal law belong to the one same system. Hans Kelsen was one of the proponents of this theory, as he claimed that both laws have the same *Grundnorm*, and thus belong to the same system. Since this is the question of form, he is regarded as a formalist⁹⁴. Another side of monist persuasion are naturalists, who “uphold a strong ethical

⁹¹ Ibid.

⁹² See Guzman, Andrew T. (2008) – *How International Law Works – A Rational Choice Theory*, pp. 33-34.

⁹³ Ibid., p. 33.

⁹⁴ Shaw, Malcolm N. (2003) – *International Law*, p. 122.

position with deep concern for human rights (...) and advocate supremacy of international law as the best method available of attaining this”⁹⁵.

On the other hand, dualists claim that international and municipal law belong to two separate systems with none of them having supremacy over the other. Dualists disagree with the ‘natural’ supremacy of international law and claim that only state approval of international laws, for example by ratification through parliament, can make it become part of the municipal law. In this regard, there could be a difference between treaty and custom. Some states like the Great Britain require a ratification of treaties through the Parliament, but accept international custom without ratification, which means it is both monistic and dualistic in its approach⁹⁶.

In practice, international and municipal law have ways of influencing each other. We have already mentioned that Article 38(1)(d) of the Statute of International Court of Law lists “general principles of law” as one of the sources of international law. These general principles also come from municipal law.

Mostly however, it is international law exercising influence on municipal law. Once an international rule, such as a treaty, has been established, a state cannot justify non-compliance with the fact that its municipal law prevents it from doing so⁹⁷.

There are also many cases in which international law received a constitutional status within a state. For example, Annex I of the Constitution of Bosnia and Herzegovina lists 15 multilateral treaties and conventions on human rights. Similarly, by becoming a member of the European Union, Austria incorporated European Convention on Human Rights into its constitution.

4.4. Human Rights and Human Rights Law

The principles of human rights are not new. Its roots could be found in different sources, such as religion, philosophy, arts or politics. We can point to the equality of all humans in many religions, the philosophy of Enlightenment, or writings of Thomas Paine or John Stuart Mill, to name but a few. Again, the importance of events in the ‘long 19th century’ cannot be overstated. French Revolution and Industrial Revolution wear the ‘revolution’ classification because they

⁹⁵ Ibid.

⁹⁶ See Grant (2010), p. 31.

⁹⁷ *Multilateral Vienna Convention on the Law of Treaties* - Article 27.

profoundly influenced society as a whole. Increasing education and literacy, combined with developing communication technologies meant that people could be informed about what was going on in the world. On the other hand, urbanization created critical mass of intellectuals and artists, which developed political ideologies, such as liberalism, socialism and nationalism. The principles of these ideologies contributed to the definition of human rights.

But there is more to human rights than just philosophical principle. During the 20th century, they have developed into a global discourse and, in some cases, received a status of international law. Needless to say, human rights are the framework, with which the use of force in humanitarian interventions is legitimized, and as such they bare great relevance to our discussion. The following chapter will deal with the principles of human rights as well as their codification into international law. Since claims have been made that human rights are universal, I will also discuss if this is truly the case.

4.4.1. Universal Declaration on Human Rights

When we talk about human rights today, there is an important year attached to it – 1945. There have been large conflicts before, but none of them have seen atrocities and disregard for human life in such an extent as it was the case in the Second World War. Shocked by this catastrophe, and probably ashamed for failing to prevent another world war only two decades after the previous one, world leaders created the United Nations. The task and *modus operandi* of the UN was laid out in the UN Charter, which contains many references to human rights. Among the first things the young UN did was creating a *UN Commission on Human Rights* in 1946, which operated under the authority of the Economic and Social Council. The Commission then began work on drafting the *Universal Declaration on Human Rights* (UDHR), adopted by the General Assembly of the UN in 1948 after almost two years of drafting⁹⁸. The Document itself consists of 30 articles which outline the “basic rights and fundamental freedoms [...] inherent to all human beings, inalienable and equally applicable to everyone”⁹⁹. At the time the UN consisted of only 56 states, 48 of which voted in favor of the Declaration, while 8 abstained. While the adjective

⁹⁸ See United Nations - “History of the Document”, in: *United Nations*, URL: <http://www.un.org/en/sections/universal-declaration/history-document/index.html> (retrieved 16.10.2016).

⁹⁹ United Nations - “The Foundation of International Human Rights Law”, in: *United Nations*, URL: <http://www.un.org/en/sections/universal-declaration/foundation-international-human-rights-law/index.html> (retrieved 16.10.2016).

“universal” leaves little room for misinterpretation about the generality claim of the stated principles, UN also stresses that the “drafting committee, [was] consisting of members of the Commission from eight States, selected with due regard for geographical distribution”¹⁰⁰, as well as legal and cultural diversity. The basic concepts behind the UDHR and human rights in general is dignity and equality of all humans. “Human dignity is understood, first, as an affirmation that every human being has an equal moral value or status”¹⁰¹. This principle also serves as a premise for interpretation of the UDHR.

But unlike treaties or conventions, declarations are not legally binding documents and the UDHR is no exception. This was a contested issue at the time of the drafting because “states were divided between those who wanted a declaration only and those who sought binding obligations in a treaty or covenant”¹⁰². Since the former side prevailed, it means that states can disregard UDHR’s principles without any direct consequences. However, this does not mean that the UDHR bears no relevance. On the contrary, its impact has been strong and multifaceted.

First and foremost, the UDHR served and still serves as a standard-setter for the subsequent treaties, which became binding to all states. The UDHR is the spirit of the international human rights regime and it is key in interpreting human rights law.

Further, a previous chapter already explained the theory of ‘instant custom’, which some authors claim arises if many states accept a principle which is intent to become a rule. Since the UDHR on Human Rights has been accepted by overwhelming majority of states and because it is written in “clear legislative language”¹⁰³ aimed at establishing rules, a case for instant custom has been made. Moreover, there are some states which are so committed to human rights that it would be hard to imagine them not complying with their principles. Liberal democracies have been most effective in accepting and implementing human right norms. Adhering to such non-binding commitments has been named soft law, and the UDHR has certainly gained such profile.

Finally, it must be pointed out that since its drafting onwards, the UDHR has made a profound cultural influence on people and institutions all over the world. People started identifying with those principles which, over time, received somewhat of a dogmatic status. Thus, human rights gained a considerable amount of soft power potential, and they began influencing international

¹⁰⁰ “History of the Document”, in: *United Nations*.

¹⁰¹ Shelton, Dinah L. (2014) – *Advanced Introduction to International Human Rights Law*, p. 7.

¹⁰² *Ibid.*, p. 91.

¹⁰³ Grant (2010), p. 23.

politics. The best example of this have been international NGOs, such as Amnesty International, which gained such prominence that they are able to influence the actions of states.

4.4.2. Human Rights Law

Apart from the Universal Declaration on Human Rights, which is not obligatory in a legal sense, human rights also became subject of multilateral treaties, which have made them obligatory international law. Arguably the most fundamental, and for our discussion very relevant, was the *Convention on the Prevention and Punishment of the Crime of Genocide*. “The Genocide Convention was the first human rights treaty of the modern system, codifying an international norm that protects the right to life and to the existence of national, ethnic, racial, and religious minorities”¹⁰⁴. Dinah Shelton lists nine “core” human rights treaties¹⁰⁵:

- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- Convention on the Elimination of all Forms of Racial Discrimination
- Convention on the Elimination of all Forms of Discrimination against Women
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of Child
- Convention on the Protection of all Migrant Workers and Members of their Families
- Convention on the Rights of Persons with Disabilities
- Convention on the Protection of All Persons from Enforced Disappearance

These conventions have been adopted by the General Assembly, and signed and ratified by at least 20 states which put them in force. However, these conventions do not encompass all aspects of human rights and their formulation left much to be desired, which is no wonder considering that they are built upon compromises of hundreds of states. But these conventions do indicate a developing trend of them becoming an important part of international regime.

¹⁰⁴ Schabas, William (2012) – “Genocide and Crimes against Humanity: Clarifying the Relationship”, in: Wilt, H.G./Vervliet, J./Sluiter, G.K./Houwink ten Cate, J.Th.M. (Ed.) (2012) - *The Genocide Convention – The Legacy of 60 years*, pp. 3-14, p. 4.

¹⁰⁵ See Shelton (2014), p. 51.

UN has been instrumental in facilitating, drafting and implementing these treaties. Moreover, UN agencies strive to uphold the principles of human rights, with four of them deserving a special recognition for being “the most active of the specialized agencies in the field of human rights”¹⁰⁶:

- World Health Organization
- International Labor Organization
- United Nations Educational, Scientific and Cultural Organization
- Food and Agriculture Agency

Of course, it is also important to note several regional unions and organizations which have adopted, implemented and to an extent enforced the principles of human rights. Such organizations are *African Union*, *Organization of American States*, *the Arab League*, *Association of Southeast Asian Nations*, *Organization for Security and Cooperation* and *European Union*. While it is “undeniable that the systems differ in how certain rights are treated, reflecting regional concerns, priorities and legal traditions”¹⁰⁷, each system has exercised leadership on specific issues, reflecting regional priorities¹⁰⁸ – Europe on death penalty, Africa on environment, Arab nations on elderly and Americas on disappearances and violence against women.

4.4.3. Implementation, Compliance and Enforcement of Human Rights

As it is the case with international law in general, making states implement and adhere to international norms is not a straightforward process. In principle, states parties themselves are responsible for implementing human rights, and although all the above-mentioned treaties also established oversight bodies to monitor compliance, there is very little they can do to enforce it. And yet, since human rights became one of the most dominant political concepts in recent decades, states cannot afford to disregard them entirely. If a state chooses to do so, what usually follows is a strong reaction by other states, international organizations and other non-state actors.

One crucial point about breaching human rights is that one state does not directly harm another state by doing it to its own people. This makes states sometimes turn a blind eye to human rights violations, when their interests dictate so. However, provided there is a will to act, there are

¹⁰⁶ Shelton (2014), p. 57.

¹⁰⁷ Ibid., p. 103.

¹⁰⁸ Ibid., p. 106.

measures individual states can undertake to penalize other states for breaches of human rights. States may act unilaterally or multilaterally, and their response could be various economic, diplomatic or even military sanctions.

A far more effective way of dealing with breaches of human rights is through international organizations. “International organizations may take measures to enforce human rights obligations should a State refuse to comply with the decisions of monitoring bodies or engage in gross and systematic violations. These measures range from suspension of participation in the organization through economic and other sanctions to the option of using unilateral or multilateral force to intervene in the country”¹⁰⁹.

Since some of the human rights principle achieved a treaty status, they could be subjects of international courts. ICJ is tasked with upholding treaties, and the court has heard cases on human rights in the past¹¹⁰. But far more value is placed on international courts which deal not with states, but with individuals, such as the ICC. The problem with ICC has already been explained and that is that many states do not participate and there have been questions about bias. There are of course regional courts, such as the European Court of Human Rights, which has been quite effective in processing cases on human rights.

Because international courts cannot enforce their decisions themselves, they must rely on UN institutions, most notably the Security Council. Since its creation until 1991, the Security Council acted on human rights in only two cases: Zimbabwe (Rhodesia) under Ian Duncan Smith in the 1960s and Apartheid South Africa in 1977. “Since 1991, in contrast, following the end of the Cold War, the UN has had a recourse to sanctions in cases involving human rights violations in Yugoslavia, Haiti, Somalia, Libya, Ethiopia and Eritrea, Liberia, Angola, Rwanda, Sudan, Sierra Leone, Afghanistan, the Democratic Republic of the Congo and Cote d’Ivoire”¹¹¹.

The last option at the Security Council’s disposal of course is the use of force, which brings me to the central subject of this paper. The Security Council is charged with keeping international peace and security and it does that first and foremost by determining the “existence of any threat

¹⁰⁹ Ibid., p. 266.

¹¹⁰ For example, the sides of the conflict in ex-Yugoslavia brought cases based on Convention on the Prevention and Punishment of the Crime of Genocide. Bosnia unsuccessfully sued Serbia and Montenegro in 2006-07 and Serbia and Croatia were involved in processes against each other between 1999-2015 based on the same Convention, which were also unsuccessful.

¹¹¹ Shelton (2014), p. 274.

to the peace, breach of the peace, or act of aggression”¹¹². If such a situation occurs, then the Security Council has the authority to use all means at its disposal to restore peace, including use of force. To reformulate, the Security Council can override the principle of state sovereignty and permit intervention. The question that presents itself is whether the breach of human rights represents a serious enough threat for peace to warrant such action?

There have not been many situations where the Security Council decided to act on humanitarian grounds, even though there have been many attempts. The idea of humanitarian intervention caused quite a stir in post-Cold War international relations. The dilemma presented in the question above additionally distanced the already divided permanent members of the Security Council. This was especially the case when certain interventions did not have an explicit approval of the Security Council. Atrocities like those committed in Rwanda and Srebrenica gained a substantial media coverage and what followed was an understandable outrage and demand for action, which was especially felt in the Western liberal democracies.

Yet some states remained unconvinced about humanitarian interventions. This was especially evident during the NATO intervention in Kosovo in 1999. Since this case was a game-changer, it will be presented in greater detail further on.

4.4.4. Universality of Human Rights

How universal and culturally and politically diverse human rights really are? This is not the most pleasant question to ask, especially in our society to which human rights are the pillars upon which the whole political system is built. And yet, because of wide-range implications of the doctrine, humanitarian interventions included, and because of sustained critique of the concept this question must be asked. Especially cultural and political aspects of human rights are being questioned.

The cultural argument is that different parts of the world and different civilizations also have different sets of values which do not necessarily reflect those promoted in the UDHR. One particular concern is that human rights largely reflect Western values, defined mostly by the philosophy of Enlightenment. Conor Gearty points out that “there are many who would

¹¹² *Charter of the United Nations* (1945) – Article 39.

acknowledge the Western origins of human rights”¹¹³. Besides the fact that the the most drafters of the UDHR came from the Western countries, it is important to note that prominent non-Western contributors to the Resolution such as Charles Malik, Peng-chun Chang, Hansa Jivraj Mehta and Wu Teh Yao received Western education which probably influenced their thinking.

Furthermore, although UN stresses the different backgrounds of the drafters there are couple of things to consider. First of all, today we have almost 4 times more independent states than in 1948 when the UDHR was passed. Africa for example was almost completely colonized by great powers at the time and now there are almost as many states in Africa as there were in the world in 1948 - 54. In his take about the universality of human rights Indian politician Shashi Tharoor points out that in “African societies group rights have always taken precedence over individual rights, and political decisions have been made through group consensus, not through individual assertions of rights”¹¹⁴. Proponents will point out that the countries that gained independence after 1948 have in one way or another adopted human rights as a universal norm either as a part of their constitution or by ratifying the UDHR, but anyone who has been dealing with UN and international relations in diplomatic or academic capacity knows that there are ways to push for ratifications on a quid pro quo basis.

Another important factor to consider is the role of religion. Among the UDHR’s influences, UN names St. Thomas Aquinas and Confucius, but Tharoor argues that “for religious critics of the universalist definition of human rights, nothing can be universal that is not founded on transcendent values, symbolized by God, and sanctioned by the guardians of the various faiths”¹¹⁵

On the political level, not all political systems have been equally receptive to the concept of human rights. “Right from the start the concept of human rights was challenged by the USSR and its allies as an expression of individualistic bourgeois morality”¹¹⁶. Indeed, among 8 absentees 6 were socialist states: Belarus, Poland, Ukraine, Yugoslavia, Czechoslovakia and USSR. In today’s count, after the breakup of the *Eastern Bloc*, that would make 25 countries.

¹¹³ Gearty, Conor – “Are Human Rights Truly Universal?”, in: <http://conorgearty.co.uk/>, URL: http://conorgearty.co.uk/wp-content/uploads/2016/01/Chapter_29_UniversalityFINAL.pdf (retrieved 16.10.2016)

¹¹⁴ Tharoor, Shashi (1998) – “Are Human Rights Universal?”, in: *World Policy Journal*, Volume XVI:4, URL: <http://www.worldpolicy.org/tharoor.html> (retrieved 16.10.2016).

¹¹⁵ Ibid.

¹¹⁶ Manokha, Ivan (2009) – „Facault's Concept of Power in the Global Discourse of Human Rights“, in: *Global Society*, Vol. 23:4, pp. 429-452, p. 436.

This brings us to the core of the problem both culturally and politically. As it can be seen, the crucial component of human rights is individualism. The UDHR clearly states that the prescribed freedoms are for every individual, regardless of which group they belong to: faith, nation, gender, race, etc. The dichotomy between individual and community is at the center of the conflict, as there are people, cultures and political systems which place the interests of the community above the interests of the individual. The reason why so many commentators brand human rights as a Western construct is because Western societies are also based on individualism. Indeed, individualism is the cornerstone of liberalism and liberal democracy, which are quintessentially Western. The dominance of liberalism in the West is best demonstrated in the fact that there are almost no liberal parties anymore, since their principles have been incorporated in all other mainstream parties. Of course, liberalism is not only a political, but an economic system as well. Free market and consumerism are characteristics of this system and in order for these concepts to be effective individuals need to be free to work, be active on the market and consume and their private property must be unalienable. These are all principles of human rights.

On the other hand, there are systems which favor community over individualism, such as socialism and nationalism. Europe experienced first-hand to which extremes these two systems can lead and is logically very skeptical to centralized and authoritative states. Both these systems tend to be economically interventionist and wary of private capital, especially in key industries. The states of the 20th century communist bloc rejected private property entirely and created state-run plan economies. Manokha argues that “one of the rights that posed perhaps the most difficulties was the right of private property, which was not recognized in the Soviet bloc”¹¹⁷.

The situation gets additionally complicated when we consider the different levels of development of different states. Liberalism and free market tend to function very well in developed societies, and these societies are consequently successful in implementing human rights. Economies in developing societies however seem to benefit from more authoritarian systems. “Critics argue that the developing countries often cannot afford human rights, since the tasks of nation building, economic development, and the consolidation of the state structure to these ends are still unfinished. Authoritarianism, they argue, is more efficient in promoting development and economic growth”¹¹⁸. It has been pointed out for example that very different dynamic of

¹¹⁷ Ibid.

¹¹⁸ Tharoor (1998).

development in two most populated states in the world – India and China – is due to their different systems. Whereas one-party China can implement policies regardless of their unpopularity, democratic India must consider the popularity of the measures before implementing them. Consequently, for decades now China has been having better economic development becoming the world’s second largest economy and lifting more than 500 million people out of poverty since 1981¹¹⁹.

Despite “serious human rights concerns”¹²⁰ India does have a democratic constitution in which many of the human rights are incorporated. On the other hand, “Senior Chinese leaders [...] now explicitly reject the universality of human rights, characterizing these ideas as “foreign infiltration,” and penalizing those who promote them”¹²¹. It implies that there is a very different perception of what human rights are. This perception has also been negatively influenced by political mistreatment of the human rights concept mostly by Western states. “Critics from countries that were still colonies in 1948 suggest that its provisions reflect the ethnocentric bias of the time. They go on to argue that the concept of human rights is really a cover for Western interventionism¹²². If we look at humanitarian interventions in the last 30 years and their consequences, this argument does not appear illogical.

Finally, there is the issue of adhering to the principles of human rights among their loudest proponents. As it will be shown later on, in the post-Cold War years most humanitarian interventions were conducted by USA together with other members of NATO. USA used humanitarian reasons to justify its use of force in Iraq 1991, Somalia, Haiti, Bosnia, Kosovo, Iraq 2003 and Libya. USA’s concern for human rights is natural, because, as we have discussed above, this principle is founded on liberal democratic ideals, on which USA itself was built. As such, USA feels obliged to react if its public perceives that human rights in another state are being brutally violated. However, it is important to note that USA’s record on human rights is not at all perfect. “Many US laws and practices, particularly in the areas of criminal and juvenile justice,

¹¹⁹ The World Bank (2014) – “China – Overview”, URL: <http://www.worldbank.org/en/country/china/overview#3> (retrieved 17.10.2016).

¹²⁰ Human Rights Watch (2016) – “India”, in: *World Report 2016*, URL: <https://www.hrw.org/world-report/2016/country-chapters/india> (retrieved 17.10.2016).

¹²¹ Human Rights Watch (2016) – “China”, in: *World Report 2016*, URL: <https://www.hrw.org/world-report/2016/country-chapters/china-and-tibet> (retrieved 17.10.2016).

¹²² Tharoor (1998).

immigration, and national security, violate internationally recognized human rights”¹²³. Cynics will probably point out that there is probably no country in the world with a perfect record of human rights, but there is a question of principles to consider. If USA selectively chooses to intervene or not to intervene on humanitarian grounds, while at the same time violating those same humanitarian principles, then this question of principle also becomes the question of credibility and legitimacy.

While sovereignty and cultural diversity have been the most favorite anti-interventionist arguments, the other side of the coin is that there has been and there are a whole number of leaders and other actors in the world, who have used sovereignty and cultural and political differences to cover up their mass atrocities. As Tharoor points out, “authoritarian regimes who appeal to their own cultural traditions are cheerfully willing to crush culture domestically when it suits them to do so”¹²⁴. The reaction to intervene after learning about mass atrocities was born for a good reason, and that is that we have already seen vicious crimes being committed with impunity.

All the factors listed above point out that the claim about universality of human rights is questionable at least. While they have been established as one of the dominant political discourses of our time and even gained status of international law, there remains a fact that they have been highly politicized, often used to legitimize the use of force.

4.5. Use of Force

We come now to the very precarious subject about the use of force. At the very beginning I presented theories about the creation of state and one of them was that the first state-like forms appeared out of necessity to defend and attack. This would mean that the use of force was one of the motives behind the existence of state. It also shows that the use of force is as old as civilization, and its role did not dwindle until today, in fact quite the opposite.

Use of force and its legitimization have been some of the most debated issues in international politics. Humanitarian interventions represent just a small portion of this debate, albeit a very hefty one in their own right. The following is just a basic fraction of the most important things to know.

¹²³ Human Rights Watch (2016) – “United States”, in: *World Report 2016*, URL: <https://www.hrw.org/world-report/2016/country-chapters/united-states> (retrieved 2.11.2016).

¹²⁴ Ibid.

Before the Second World War, the right to use of force was considered an aspect of state sovereignty and acquisition of territory by force was legitimate¹²⁵. The long striving to ban states from using force arbitrarily finally came about after the catastrophe of the Second World War. This prohibition came in form of the Article 2(4) of the UN Charter which states: “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”.

Of course, there were exceptions to that rule, and they are twofold: self-defense and permission of the Security Council.

The right of self-defense is also incorporated in the UN Charter under the Article 51, Chapter VII, which says:

“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”¹²⁶.

Although the scenario which allows states to defend themselves with force is fairly clear and requires an armed attack, some states were creative in interpreting it. This is in part due to the changes such as developing weapons technology, globalization and terrorism which contributed reformulating what state’s responsibilities are.

With developing technology, I refer predominantly to the strong role nuclear weapons and ballistic missiles could play in modern warfare. Modern weapons are capable of inflicting crippling damage in matter of hours if not minutes and some states have argued that they have the right to act preemptively if they are convinced that another state means them harm¹²⁷. Most notable example of this was the “Bush doctrine” in the wake of terrorist attacks on USA.

As well as much of the international law, Article 51 deals with states as actors. In recent decades, however, interstate wars became less numerous, and a new form of conflict dubbed ‘unsymmetrical warfare’ became much more common. It happens when a state conflicts with a non-state actor, such as guerilla or a terrorist group. Not having a fixed territory, these organizations

¹²⁵ See Grant (2010), p. 81.

¹²⁶ See *Charter of the United Nations* (1945) –Article 51.

¹²⁷ See Gray (2004), pp. 129- 133.

tend to move across borders and some states invoked Article 51 as a legitimization to cross the border of another state to intervene¹²⁸.

Many states, especially large ones, have great numbers of citizens abroad. Some states have argued that they have the right to use force under the Article 51 to protect their citizens abroad¹²⁹. Although Russia did not officially intervene in the eastern Ukraine, arguments could be heard that a large number of Russian-speaking people and Russian nationals live in that area and that Russia has the right to intervene and protect them.

Another symptomatic issue has always been the inclination of states to claim self-defense to legitimize military action. “States making their claims to self-defense try to put forward arguments that will avoid doctrinal controversy and appeal to the widest possible range of states”¹³⁰. The examples unjustifiable legitimization of the use of force for political gains are numerous throughout history.

Article 41 states that the Security Council has the authority to impose various sanctions, including trade embargos and economic sanctions. This measure is something UNSC does regularly¹³¹. If these measures do not work, the UNSC has the right, under the Article 42, to authorize the use of force. This represents the second exception to the ban of use of force. As mentioned before, the UNSC was meant to have its own military force at its disposal, which did not materialize, meaning that the obligation of intervening was left to the member states. This resulted in variety of issues, missuses and political tactics which contributed to limiting the positive impact the UNSC was meant to have.

Another reason why the Security Council was hindered was its 5+10 composition. In the period between 1945 and 1985 there have been 279 cases of veto, with USSR using it the most until 1970s and USA afterwards¹³². Veto generally reflects the interests of the P5 powers and there are observable periods of good and bad understanding among them¹³³. This means that there have

¹²⁸ A prominent example of this is Turkey in its fight against Kurdish militia PKK. Turkey frequently intervenes in neighboring Iraq and Syria, arguing that PKK is hiding and receiving support from neighboring Kurds. See Gray (2004), p. 115-116.

¹²⁹ See *ibid.*, p. 126.

¹³⁰ *Ibid.*, p. 99.

¹³¹ Some of the cases in which military force was used, such as Yugoslavia, Iraq and Afghanistan were initially hit with economic sanctions. Other prominent examples include North Korea and Iran, both for their nuclear programs.

¹³² See Gray (2004), p. 196.

¹³³ Cold War being the period of disagreement, immediate post-Cold War a time of relative accord and recently there have been disagreements again.

been just a handful of occasions where the Security Council gave an *explicit* authorization for the use of force.

Some states have claimed an *implicit* authority of the Security Council to conduct interventions. In those cases, an interpretation of the previous resolution may arguably give legitimization for the use of force. Such was the claim of Belgium for its intervention in Yugoslavia in 1999, as a part of NATO force.

A special case of authority to use force are peacekeeping missions. They however usually do not have the authority to interfere into conflicts, but to safekeep provisions of a Security Council decision or a treaty. Their right to use force is limited to self-defense. Peacekeeping missions and its right to use force only in self-defense came under severe critique in the aftermath of Rwanda and Srebrenica crimes.

5. Power of States and State Interests

A question I am often confronted with is: what exactly is political science? To this question, I tend to reply that it is a discipline which studies relations of power in society. Every human relationship, ranging from family to international system, has an element of power involved, which is why political science deals with so many different fields. Power is crucial to politics and studying power is essential to political science. It is no wonder then that political analysts extensively theorized about power, which is why today we have a good understanding of it. What I will focus on the following pages is power among states.

Power among states is very complex concept, which varies almost from state to state. It seems as if no two states have the same power relation, which makes it difficult to draw general conclusions. The character of power is also up for debate. “For some it [power] means the use of force, usually military force, but also political or economic force. For others power is not a specific thing or activity, but is an ability to influence the behavior of other states”¹³⁴. Straight away we see a dilemma between power as the use of force and power as influence.

¹³⁴ Sheenan, Michael (1996) – *The Balance of Power*, p. 7.

The most basic and widely used definition is that “power is the ability of an actor A to make an actor B do things (that are, as a rule, in A’s interests) which B would not otherwise have done”¹³⁵. One of the most influential contemporary theorists of power – Joseph Nye – states that “simply put, power is the ability to effect the outcomes you want, and if necessary, to change the behavior of others to make this happen”¹³⁶. Hans Morgenthau gives a more detailed account by stating that “when we speak of power, we mean man’s control over the minds and actions of other men. By political power we refer to the mutual relations of control among the holders of public authority and between the latter and the people at large. Political power is a psychological relation between those exercise it and those over whom it is exercised”¹³⁷.

The following chapter will elaborate on the theories of power, which is a concept central to the topic at hand. Since there are various factors influencing state power and different kinds of power at state’s disposal, the first part will deal with these differences.

Possessing power would be of little relevance to politics if states would not use that power, and in order to use it, states need to know not only how, but when they should do so. This is where it is important to have a look at state interests. This connection between power and interests will be discussed in the second part of this chapter. I will argue that the correlation between unique factors shaping each state’s power and the state’s interest also shapes the very nature of the state. And once this nature has been established, it is hard to escape it, which is why some states behave irrationally at times and why many states in the past have ultimately failed. I will also focus on the interests of Great Powers, because they are the ones that possess the most power and have the most influence in the international system. Being the strongest among Great Powers and at the same time the most interventionist one, United States of America will be given a special look.

5.1. Factors of Power

When it comes to acquiring and using power, the same rules do not apply for all the states, in fact quite the opposite. The amount of power and its character is hugely dependent on various factors, some of which are outside of state’s control. Morgenthau warns about three typical errors

¹³⁵ Manokha (2009), p. 430.

¹³⁶ Nye, Joseph (2002) – *The Paradox of American Power*, p. 4.

¹³⁷ Morgenthau, Hans J. (2006) – *Power among Nations*, p. 30.

in evaluating power. “The first disregards the relativity of power by erecting the power of one particular nation into an absolute. The second takes for granted the permanency of a certain factor that has in the past played a decisive role, thus overlooking the dynamic change to which most power factors are subjects. The third attributes to one single factor a decisive importance, to the neglect of all the others”¹³⁸. When discussing “elements of national power”, Morgenthau describes several factors which influence how powerful a state can be. These factors are: geography, natural resources, industrial capacity, military preparedness, population, national character, national morale, the quality of diplomacy and the quality of government¹³⁹. My addition to the list is cultural influence, whose growing importance has been recognized by authors starting with Joseph Nye. I would also like to divide these factors into “natural” ones, meaning those upon which a state has little influence, and those that can be influenced through policy.

Geography is the first “natural” factor. It makes all the difference if a state is surrounded by hostile states or if it has formidable natural barriers surrounding it. Not so long ago, acquiring territory through conquest was legitimate, which means that a state could have improved its geographical position through war, but this is no longer the case¹⁴⁰. Mountains, large plains and rivers all constitute natural barriers, but it is the sea that provides the states with best natural defense. States such as USA or UK have had an advantage of being cut off from their rivals by sea. The security that sea provided enabled these states not to pursue aggressive policies at all times¹⁴¹. On the other hand, mastering the sea gives a great advantage, and it is no accident that the strongest powers in history had strong navies. Russia for example only became a true great power after Peter the Great built a navy, while a mysterious decision by Ming Chinese to discontinue naval operations, even though they were technologically superior to any other nation, may have contributed to their decline¹⁴². Today, USA’s supremacy at sea is unrivaled. At the moment, its

¹³⁸ Morgenthau (2006), p. 166.

¹³⁹ See *ibid.*, pp. 122-162.

¹⁴⁰ Despite outlawing conquest through war, great powers still can improve their strategic position either through alliances, or stationing their forces in other countries, and cases such as Russian annexation of Crimea or Chinese building of artificial islands in South China Sea could put this principle in question.

¹⁴¹ USA’s Monroe doctrine towards European powers or the Great Britain’s self-perceived role as „balancer“ during the 19th century „Concert of Europe“ system were essentially status quo and non-aggressive. In contrast, Germany’s position between at times very aggressive neighbors France, Russia and Habsburg Empire made such policy difficult to follow.

¹⁴² See Kennedy, Paul (1988) – *The Rise and Fall of Great Powers*, pp. 4-8.

fleet contains 10 aircraft carriers which enable it to quickly and effectively project power in many parts of the world. USA's readiness to intervene is partly due to this fact.

Another "natural" factor is the population. Similarly to territory, states could have previously enlarge their population by conquest, which is something regularly done by empires throughout history. Although there is a possibility to influence population numbers through policy¹⁴³, it is difficult to make a radical change in relation to other countries. And while large absolute numbers do not necessarily guarantee great power, all great powers have large populations.

Having access to home-based natural resources used to be a very important factor for every great power. Colonization was driven by the need for resources of great industrial nations, but globalized free trade which blossomed in 20th century reduced the need for having an own source of natural resources. However, providing population with essentials such as food, water and energy remains a vital interest of every state. And while most of the states can produce enough food and water for their needs, energy resources such as coal, gas or more importantly oil are harder to come by. Because industrial nations need steady supply of oil to sustain their economies, measures have been constantly taken to ensure this supply. Accusations that western interventions in the Middle East are motivated by oil are neither new nor illogical. But if a state is strong enough, natural resources can also serve as a source of power. This has been most evidently demonstrated by Russia, which constantly uses its vast oil and gas supplies to influence other states.

Industrial capacity is a factor which to a large extent the is the result of policy. Industry enables states to process the raw materials into goods and thus fuel the economy. The correlation between having natural resources and being able to process them is very indicative of the success rate of the state and potentially of its power. If a country is rich with resources but unable to develop its industrial capacity, it can become a "prize of war"¹⁴⁴ as Morgenthau describes Congo in relation to its rich reserves of high-grade uranium and being unable to process it. Indeed, Africa's inability to develop a strong industrial capacity to process its vast natural resources has made it exactly the prize of war Morgenthau mentions.

¹⁴³ For example, USA has a centuries long policy of gaining population through immigration, which enabled it to grow relatively quickly. But there are also cases of slowing the population growth, such as the discontinued One-child policy in China.

¹⁴⁴ Morgenthau (2006), p. 131.

Probably the most important and certainly the most visible factor of power is military capacity. “What gives the factors of geography natural resources, and industrial capacity their actual importance for the power of a nation is military preparedness”¹⁴⁵. Many authors, especially those of realist persuasion, consider military to be the key element of state power. Indeed, military is the best guarantee of state’s survival, because it deters other states. But military also has an internal political role, because states use military expenditure as a fiscal tool to boost their economies and because military is used to propagate patriotic feelings in the population and some authoritative states even use military to keep control over their populations. Some leaders and states place too much focus on the military and may disregard other factors, thus falling into an error Morgenthau described above. For example, despite being economically underdeveloped and at times reportedly struggling to feed its own population, North Korea has one of the largest standing armies in the world, along with a fairly developed ballistic missile and nuclear programs. Other states such as Saudi Arabia, Israel and Russia also give large proportions of their national budgets to military expenditure. This is in part due to the hostile environment these states are in, but also because having a large military also gives country a certain reputation. Despite its physical size, history and resources, Russia’s economy is smaller those of states like Italy, South Korea and Australia¹⁴⁶ and it is arguable if it would be considered a great power were it not for its military capabilities. But focusing too much on military capabilities can be counterproductive for state’s power. “If, however, too large a proportion of the state’s resources is diverted from wealth creation and allocated instead to military purposes, then that is likely to lead to a weakening of national power over the long term”¹⁴⁷. Although North Korea has a very large army, it is not considered a great power in global terms. This is because the size of the military is only one of the factors. Morgenthau also emphasizes the importance of technological innovation, leadership and quality of the forces. A very good example is Israel, which has won wars against its Arab neighbors despite being vastly outnumbered, precisely because it had an advantage in other factors.

Further factors which Morgenthau describes are national character and national morale. National character suggests there are mental and cultural differences among different people. While not without merit, this claim is empirically difficult to frame and it is dangerous to attempt

¹⁴⁵ Ibid., p. 133.

¹⁴⁶ See World Bank (2017) – *World Development Indicators Database*, URL: <http://databank.worldbank.org/data/download/GDP.pdf> (retrieved 19.3.2017).

¹⁴⁷ Kennedy (1988), p. xvi.

generalized conclusions of this sort. National morale however is easier to grasp and less dangerous to misconcept. If I say that the national morale of my own country Bosnia is very low, that is not meant as an inherited national trait, but rather a consequence of war, economic crisis and political mismanagement. It is then safe to assume that national moral is a consequence of the quality of government, which brings me to the last factors of power described by Morgenthau, namely the quality of diplomacy and quality of government.

In Morgenthau's view diplomacy is the most important factor of power elaborating that "the quality of a nation's diplomacy combines those different factors [which have been described above] into an integrated whole, gives them direction and weight, and awakens their slumbering potentialities by giving them the breath of actual power"¹⁴⁸. Every state conducts diplomacy, but great powers take great care to show diplomatic presence in most of world's affairs. For example, the creation and later strengthening of the EU's institution of High Representative of the Union for Foreign Affairs and Security Policy has intensified the diplomatic activity of the EU and thus increased its influence. On the other hand, the decision of Great Britain to leave the EU will surely diminish its diplomatic influence, because it will no longer be able to count on EU capacities.

Finally, without good government, there can be no successful pursuit of power. "Good government, viewed as an independent requirement of national power, means three things: balance between, on the one hand, the material and human resources that go into the making of national power and, on the other, the foreign policy to be perused; balance among those resources; and popular support for the foreign policies being pursued"¹⁴⁹. Bismarck described politics as the art of the possible. Having limited resources at your disposal and knowing how to maximize them, without being timid or overreaching, is not an easy task. This makes good government central for creation and sustaining of not only power, but all the other aspects of state's being.

Apart from these factors described by Morgenthau, there is an element of culture which gained importance especially after the revolution of information technologies. As it is the case with geography and population, some states have inherited advantages over other states in cultural sense. For example, USA and Great Britain have the advantage of English language being a de facto lingua franca, while Europe in general has the advantage of rich history, art and, most of all, as the

¹⁴⁸ Morgenthau (2006), p. 152.

¹⁴⁹ Ibid., p. 156.

birthplace of dominant political ideas. Popular culture also became an influential tool of state power.

5.2. Types of Power

The factors presented above demonstrate how different every state is. This is equally true about the relations among states, because each one is unique. This means that not only do states possess different types of power, they also behave differently in different situations. If USA would have the same sort of problem with say Italy and Belarus, the approach USA would take in solving that problem would probably differ.

This rather obvious assumption made analysts devise categories in which to place these different approaches. Today, two major branches of power are usually mentioned: *hard power* and *soft power*.

Hard power is the traditional and conventional understanding of power as a mean of coercion. This usually involves military interventions and economic sanctions. It is called hard power, because the consequences facing the receiving state are hard, involving either economic hardship, material destruction or both. States, especially great powers, often resort to hard power to influence the outcomes they want. This type of power is also the main tool of the UN Security Council.

Unlike hard power, which aims at quick results, projecting soft power is a long-term affair which aims at making other states do things not out of coercion, but out of persuasion. The concept has been elaborated by Joseph Nye who points out that “a country may obtain the outcomes it wants in world politics because other countries want to follow it, admiring its values, emulating its example, aspiring to its levels of prosperity and openness”¹⁵⁰. The main tools of soft power are culture and values. Due to its highly functioning democracy, individual freedoms, economic prosperity, influential media and, perhaps most importantly, widespread popular culture, USA possesses large soft power potential. But USA’s “hard” interventions continue to create massive backlash among many peoples of the world, which decreases its soft power reach. Although many of its member states also intervene, EU possesses perhaps even more soft power potential than the

¹⁵⁰ Nye (2002), p. 8.

USA. In fact, the whole EU enlargement process has been conducted “softly”, not by threatening with sanctions or force, but by promising prosperity. Nye also points out that, unlike hard power, soft power is not entirely controlled by the state, at least not in the USA. “Many soft power resources are separate from the American government and only partly responsive to its purposes”¹⁵¹.

So, it is evident that hard power and soft power represent two very different things. Yet these types of power are often used in combination. For example, in order to conduct a regime change in another state, the intervening state has to not only remove the old regime with hard power, but it also has to use soft power to ensure that the next government is more in line to its interest, by influencing the opposition.

Not unrelated to the concept of soft power, but still different and unique, Foucauldian view of power, which lies in discourse, offers a deep insight into this issue. “This form of power results from a constellation of discursive structures, (scientific) knowledge and practices that accompany them to create a set of rules and standards, with reference to which agents may *exercise* power over other agents, as well as over themselves”¹⁵². The important characteristic of this sort of power is that it is not possessed by actors in the way hard power is. As such, it has two main features according to Manokha. The first one is that when actors use power, they only mediate the dominant view, which has already been established. The second characteristic is that, once established, the dominant view present in the discourse exercises power not only over others, but over oneself¹⁵³.

In the context of human rights discourse this means firstly that it is no longer consciously and actively produced by western states (which have been most active at promoting it), but rather that they just mediate the view about human rights which dominates their internal discourse. Secondly, because it is already established as dominant, human rights discourse influences western societies as well. As an example of this Manokha points out the western industry giants which have accepted and started promoting the human rights principles without coercion, after being criticized for their production practices in Third World countries¹⁵⁴.

¹⁵¹ Ibid., p. 11.

¹⁵² Manokha (2009), p. 430, italics his.

¹⁵³ Ibid.

¹⁵⁴ Ibid., p. 442, However, a point of argument could be if these companies would do this if they did not fear that their economic interests would suffer otherwise. As we have already discussed, economic pressure is one of the tools of hard power.

5.3. State Interests

Power in itself is just an ability of a state and it is also important to understand how and when states use this ability. Power is precious and states do not use it arbitrarily but rather aim to use it to secure their interests, which means that understanding the behavior of states and their power requires knowing what their interests are. Analyzing and speculating about state interests is very common in the public. Thus, we have been introduced to the thesis that by intervening in the Middle East, USA was protecting its interests, or that there is such a thing as Russian sphere of interest, which makes it intervene in neighboring countries. But how does a state define what its interest is?

Without a doubt the most essential interest of any state is its survival and all other interests derive from the state's need to achieve security. At the beginning of this paper we have seen that states can and do disappear, even and especially great powers, so focusing on survival is a very rational thing to do. "Security is, after all, a matter of life and death – which is why they are referred to as 'vital interests'"¹⁵⁵. In order to achieve this, states accumulate power as a deterrence and as a mean of achieving their goals. This led many authors to claim that gaining power is a state's priority. In this tone, Morgenthau states "international politics, like all politics, is a struggle for power"¹⁵⁶. Focusing on great powers, which "fear each other and always compete with each other for power"¹⁵⁷, John Mearsheimer states that "three features of the international system combine to cause states to fear one another: 1) the absence of a central authority that sits above states and can protect them from each other, 2) the fact that states always have some offensive military capability, and 3) the fact that states can never be certain about other states' intentions"¹⁵⁸. Morgenthau and Mearsheimer are known as scholars of realist persuasion. *Realism* holds a pessimistic view about humans reflected in the famous line by Thomas Hobbes that man is a wolf to man. After the Second World War realism and its many subdivisions has established itself as the dominant paradigm, especially among great powers.

But survival and security are not a mere absence of destruction, but making sure that all the other purposes of the state are fulfilled. Factors like a food and water supply, functioning economy,

¹⁵⁵ Cooper (2004), p. 38.

¹⁵⁶ Morgenthau (2006), p. 29.

¹⁵⁷ Mearsheimer, John (2001) – *The Tragedy of Great Power Politics*, p. 4.

¹⁵⁸ *Ibid.*

social and health care systems, planning and developing for the future, education, steady energy supply, as well as promoting and preserving cultural values are also among core interests connected to achieving the long-term goal of survival. And although accumulating power can be used to fulfill these interests, it does not directly resolve them. With this in mind, Nye states that “in my view, in a democracy, the national interest is simply what citizens, after a proper deliberation, say it is”¹⁵⁹. This view has a more positive view of human judgement than a realist one. Immanuel Kant’s maxim that democracies do not wage wars on each other because it is not in the interest of their peoples to do so, has led to the creation of a less power-oriented approach to the international politics, which literature classifies either as *idealism* or as *liberalism*. Idealism looks to establish norms of states’ behavior which is not motivated by their need of survival but by mutual benefits through cooperation. Woodrow Wilson’s attempt at creating such a system after the First World War was a failure, but the example of EU is still a success story, despite all its setbacks.

Realism and idealism are by far not the only schools of thought in international relations, but they are the two dominant ones and most relevant to our discussion about humanitarian interventions.

5.3.1. Interests of Great Powers

The term Great Power is usually used from a realist point of view and indicates how much hard power a state has. For example, Mearsheimer argues that “to qualify as a great power, a state must have sufficient military assets to put up a serious fight in an all-out conventional war against the most powerful state in the world”¹⁶⁰. Additionally, great powers usually have strong economies, large population, rich history, vibrant culture and developed science, but neither of these factors alone would make a great power great, without the military potential. There is always just a handful of great powers at one given moment. At this point, there are arguably no more than eight great powers in the world, with markedly different potentials. Saul Cohen differentiates five levels of powers in the world, among which first and second order powers qualify as great and those are: USA (after the collapse of USSR the only remaining first order power), Russia, China, Great Britain, Germany, France, Japan and India¹⁶¹.

¹⁵⁹ Nye (2002), p. 139.

¹⁶⁰ Mearsheimer (2001), p. 6.

¹⁶¹ See Fitzmaier, et al. (2006), p. 24.

But the nature of vital interests is relatively the same for all states, large and small, because they all want survival, developed economy, preservation of their culture, etc. What differs are priorities that some states prescribe themselves and the lengths they must make to fulfill them. Austria for example is a landlocked country, which means that it would not risk much to fulfill its seafaring interests, unlike say France. This is where great powers differ from other states – they have interests that may stretch all over the world, which also means that, one way or another, every great power is in some way interventionist.

Crucially, I believe that once a state establishes a pattern by which it fulfills its interests, that pattern becomes hard to change or break, sometimes irrespective of the changing environment. A common comparison of state's policy to a large tanker, which cannot easily change course regardless of who the captain is, serves a very illustrative point. This trajectory of interests and power is especially the case with great powers. In fact, a relation can be made between a state's longevity and its ability to adapt to new facts. Great Britain's centuries old continuity is a good case in point. Once an unrivaled superpower with network of territories around the world, it realized that such a position became unsustainable and it adapted to that fact. Although this meant a loss of power in absolute terms, the fact that Great Britain still exists, with relatively unchanged system is a confirmation that that policy was right. By comparison, its European rivals France and Germany, while still great powers today, had a much more turbulent history with revolutions and system changes which brought about great human and material sacrifice.

5.3.2. Interests of the United States of America

It would be unwise and unnecessary to describe particular interests of every great power in the world, but there must be a short overview of the interests of the USA, for two reasons. The first is best explained by Cooper: “The United States is the only power with a global strategy – in some sense it is the only power with an independent strategy at all. The rest of the world reacts to America, fears America, lives under American protection, envies, resents, plots against, depends on America. Every other country defines its strategy in relation to the United States”¹⁶². The second reason is that all post-Cold War humanitarian interventions have been either conducted by the USA or with its approval.

¹⁶² Cooper (2004), p. 45.

As it has been indicated before, power and interests are strongly influenced by the characteristics of the state, such as geography or demographics. I will briefly present three areas which in my view have the most influence on American interests.

The first one is the economy, which is by far the largest in the world, not counting the EU's. This means that USA imports and exports large amounts of goods and raw materials to and from all over the world. Consequently, its economic interests are also global which is why USA is omnipresent all over the world. An illustrative example is oil, not least because it has been described by critics as the main motivator behind many recent American military interventions. USA is dependent on cheap oil not only for the benefit of its economy, but for its whole way of life. Americans are among the most car-loving people in the world and their cities are built in such a way that owning a car is a necessity. This means that a serious lack of oil, or a significant price hike, would not only cause an economic crisis, but probably trigger an internal revolt. Both would be threatening to the national security.

The second great factor of American power, which is connected to its interests on many levels, is its military. It is the strongest, most expensive and the most sophisticated military in the world. Having a huge military complex profoundly influences how a state behaves. Robert Kagan points out that the fact that "U.S. military made remarkable advances in precision-guided munitions, joint-strike operations and communications and intelligence gathering, only made Americans more willing to go to war"¹⁶³. Besides that, Kagan argues, the geographical position of the USA caused its military to be a very effective at projecting power abroad, as opposed to European armies, which have more of a defensive purpose. As the result of all this, many American politicians, described as hawks, frequently advocate using military means to fulfill state interests.

It also mustn't be disregarded that supplying such a huge military requires industrial capacities. This is where the military meets economic interests, because military industry employs hundreds of thousands of people all over the USA. It might be cynical to point this out, but every military intervention is connected to spending large amounts of funds, which in turn stimulates the US economy.

¹⁶³ Kagan, Robert (2003) – *Of Paradise and Power*, p. 23.

Another cynical argument is that waging wars makes leaders more popular, which has great relevance, especially in democracies. This is by no means an exclusively American phenomenon, because, for example, Margaret Thatcher consolidated her political power after the Falkland War, and so did Vladimir Putin after wars in Chechnya.

The third factor that has great influence on the interests of the USA are its culture and values. USA's success as a country and its internal propaganda¹⁶⁴ has led many Americans to truly believe that USA is the best country in the world with a mission to make the world a better place. Since USA is a democracy, people's beliefs have a political value and they contribute to defining national interests. Nye writes: "Values are simply an intangible national interest. If the American people think that our long-term shared interests include certain values and their promotion abroad, then they become part of the national interest"¹⁶⁵. This might explain why stopping crimes against humanity and promoting human rights have been some of the most prominent arguments of the legitimization for the use of force by the USA since the end of the Cold War.

6. The Cases

After this somewhat exhaustive theoretical background, I now come to the analysis of cases of humanitarian interventions.

There have been many military interventions in history which were claimed to have a humanitarian character. As mentioned above, first time the term 'humanitarian intervention' was used was in 19th century, and that is also the century in which France, Britain and Russia fought against the Ottoman Empire in 1827, allegedly to protect Greek Christians¹⁶⁶.

In the 20th century humanitarian interventions intensified, but so did their misuse. A prominent example is the justification provided by the Nazi Germany to occupy Czechoslovakia, with stated purpose of protecting the Sudeten Germans.

¹⁶⁴ This term has a negative connotation, but it is the most correct one. Needless to point out that every state in the world exercises propaganda internally and externally.

¹⁶⁵ Nye (2002), p. 139.

¹⁶⁶ See Hehir (2010), p. 169, see also Mulaj, Klejda (2011) – "Dilemmas of Reacting to Mass Atrocities: Humanitarian Intervention to End Violent Conflict in the Western Balkans", in: *Democracy and Security*, Vol. 7:2, pp. 140-159, p. 141.

The Cold War's bipolar power dynamics also translated into conflicts at the time, with wars being waged to weaken the other side in this huge ideological confrontation. During this time, authors mention at least three humanitarian interventions: India intervening in East and West Pakistan (Bangladesh) in 1971, Vietnam in Pol Pot-ruled Cambodia in 1978 and Tanzania invading Idi Amin's Uganda in 1979¹⁶⁷.

It is only after the Cold War that the concept of humanitarian intervention comes to its full fruition, and there are several reasons why this is the case. Probably the most important one is the unipolar moment in which the USA enjoyed unchallenged power, while its rivals were figuring out their new place in the world. The role of the USA and its Western allies is of course of great importance to the debate of humanitarian interventions. These countries are the loudest advocates of human rights and, understandably, their populations get most 'offended' when foreign countries violate human rights of their people. Therefore, the West has a central role in humanitarian interventions and it has conducted the most (if not all) such interventions in the in the post-Cold War period.

Out of a great pool of possible cases I have selected four: Rwanda, Bosnia, Kosovo and Libya. Rwanda is chosen as an example of an enormous humanitarian catastrophe against which very little has been done. Because no intervention took place (at least not a decisive one that might have diminished a crime of such scale), Rwanda offers a case in which there were 'only' humanitarian factors to intervene, and very little self-interest of other states. On the other side, there are the cases of Bosnia, Kosovo and Libya, where intervention did take place, and these are the cases where the intervening states had self-interests to intervene. All the examples differ among themselves and they happened in different periods, which provides us with an opportunity to observe shifts in policies and relations of power among intervening powers.

Each of these cases will be presented in six points: (1) short portrayal of the conflict, (2) reaction by the relevant actors to the conflict, (3) description of the intervention, (4) description of the situation from the aspect of international law, (5) description of the situation from the aspect of self-interest and power gain by the intervening states and (6) the aftermath of the intervention. Especially points (4) and (5) represent the focus of my research.

¹⁶⁷ See Hehir (2010), p. 170.

Due to limitations of space, each case will be presented as concisely as possible. Since the devil is in detail, I am well aware of the danger of not presenting the full picture, but for every case there is more than a sufficient amount of further reading. Another important point is that humanitarian interventions are inherently a very contested subject, with literature teeming with normative language and emotional charge. I must also declare myself a liability as well, considering the fact that I am a Bosnian Serb who has witnessed firsthand one of humanitarian interventions which I am about to analyze. I was, and I probably still am, under the influence of years-long one-sided reporting and interpretation of what happened in both Bosnia and Kosovo. Therefore it was extremely important for me and for the integrity of this paper to present the facts from multiple sources and to refrain from the normative as much as possible.

6.1. Rwanda 1990 - 1994

6.1.1. Conflict

The conflict in Rwanda happened in the period of 1990 and 1994 and it was between the two dominant ethnic groups in the region: Hutu and Tutsi. This conflict was neither new, nor it was limited to Rwanda, because both groups also inhabit neighboring Burundi and Democratic Republic of the Congo (DRC).

As much as almost all of Africa, Rwanda was a colony, initially German, later given to Belgium who “infamously based their rule on what they perceived as the existing ethnic hierarchy, thereby privileging the Tutsis over the majority Hutus”¹⁶⁸. This was because Rwanda was ruled by Tutsis for centuries before the Europeans came. Rwanda experienced a very turbulent period after it gained independence between 1959 and 1962. During this period, a series of conflicts ensued, eventually causing tens of thousands of deaths, hundreds of thousands of displaced and power transfer from Tutsis, who became marginalized, to Hutus who took the government. As a result of these turbulences, many Tutsis fled to neighboring Uganda, where they later formed paramilitary forces in order to overtake the power in Rwanda. One such movement was *Rwandan Patriotic Front* (RPF), which unsuccessfully invaded Rwanda in 1990 due to the intervention by Belgium, France and DRC (Zaire). However, RPF resorted to a successful guerilla warfare, forcing international mediation which resulted in 1993 *Arusha Accords* and setting up the *UN Assistance*

¹⁶⁸ Hehir (2010), p. 180.

Mission for Rwanda (UNAMIR)¹⁶⁹. The Accords were supposed to set up a power sharing arrangement between the government, led by the president Juvénal Habyarimana, and the RPF and return of Tutsis from exile. This deal was not welcomed by Hutus and “as soon as the Accords were signed, extremists within Habyarimana’s regime (...) began killing Tutsis in an effort to scupper the peace process”¹⁷⁰. The concurrent conflict between Hutu and Tutsis in Burundi intensified tensions, which culminated on 6th of April 1994, when Habyarimana’s plane was shot down killing him along with his Burundian counterpart Cyprien Ntaryamira.

What followed were more than three months of planned and systematic killings of Tutsis and moderate Hutus by extremist militias, often armed only with machetes. “The death toll for the 100 days of bloodshed ranges from 500,000 to 1,000,000 depending on the methodology used”¹⁷¹. The killings, which have been universally declared a genocide, stopped after the RPF took control of the country and the French army intervened in the south-west of the country.

6.1.2. Reaction

The reaction of the international community to the conflict in Rwanda, or better said the lack of it, has been much criticized. Great powers which were best placed to react, France and USA, were slow to do so, often claiming unawareness about what was going on. There are various reasons why this was the case. First, the conflict in Rwanda was not the most reported about conflict at that time. The violent breakup of Yugoslavia was in full swing and the loss of American soldiers in Somalia just a couple of months before dominated the media. Second, much of the foreign press evacuated the country once the situation deteriorated, leaving much of the killings undocumented. Gérard Prunier cynically summed the situation up by stating that “in contemporary Western society events not seen on a TV screen do not exist”¹⁷².

All of this explains why the wide public was unaware, but it does not mean that countries’ leadership did not know about the atrocities. In fact, later inquiries determined that both the leadership of USA and France knew about the nature and the size of the killings as they were occurring. CIA gave almost daily briefings to the President Bill Clinton and his cabinet¹⁷³, while

¹⁶⁹ See *ibid.*, p. 181.

¹⁷⁰ *Ibid.*

¹⁷¹ *Ibid.*, p. 183.

¹⁷² Prunier, Gérard (1997) quoted from Hahir (2010), p. 191.

¹⁷³ See Carroll, Rory (2004) – “US chose to ignore Rwandan genocide”, in: *The Guardian*, URL: <https://www.theguardian.com/world/2004/mar/31/usa.rwanda> (retrieved 13.4.2017).

there have also been reports of France's complicity in the genocide¹⁷⁴. Hehir points to the fact that the UN delegations of Czech Republic, New Zealand, Spain and Argentina pressed the UN for action within weeks after the killings have started¹⁷⁵.

The killings of Belgian peacekeepers in the capital Kibali caused shock in Belgium and they lobbied with other countries to withdraw, which is what eventually happened. Gray argues that "member states were not willing to commit resources to Rwanda at the same time that they were heavily involved in former Yugoslavia and Somalia"¹⁷⁶.

6.1.3. Intervention

Although the reaction by the international community in Rwanda was rightly criticized as subdued and insufficient, it would be a mistake to say that there was no intervention in Rwanda. International interventions came either through UN action, or by states acting independently. The first such case was the already mentioned intervention in 1990 by Belgium, France and Zaire who helped the government after the RPF invaded.

The first involvement by the Security Council happened almost three years after that in July 1993, after the UNSC Resolution 846 established *United Nations Observer Mission in Uganda - Rwanda* (UNOMUR), which was stationed in Uganda¹⁷⁷. The Security Council established a Rwanda-based UNAMIR mission only after the Arusha Accords were signed¹⁷⁸. The mandate of the "2,500 lightly armed and equipped military personnel"¹⁷⁹ was largely to monitor the truce. UNAMIR was commanded by Canadian officer Roméo Dallaire, whose account was very important in understanding what exactly happened. Dellaire explained that, although UNAMIR had no intelligence capabilities, he came across a high-placed informant who told him what Hutu militias are planning¹⁸⁰. His cable in January 1993 to the *UN Department of Peacekeeping Missions*

¹⁷⁴ See Pflanz, Mike (2008) – "French leaders accused of complicity in Rwanda genocide", in: *The Telegraph*, URL: <http://www.telegraph.co.uk/news/worldnews/2506150/France-accused-of-complicity-in-Rwanda-genocide.html> (retrieved 13.4.2017).

¹⁷⁵ See Hehir (2010), p. 191.

¹⁷⁶ Gray (2004), p. 228.

¹⁷⁷ Prior to the Resolution 846, there was a Resolution 812 in March 1993, but it was more of a declarative character. See *UNSC Resolution 812* (1993), URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/812\(1993\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/812(1993)) (retrieved 13.4.2017).

¹⁷⁸ See *UNSC Resolution 872* (1993), URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/872\(1993\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/872(1993)) (retrieved 13.4.2017).

¹⁷⁹ Gray (2004), p. 228.

¹⁸⁰ See PBS Frontline (2004) – *Ghosts of Rwanda*, min.: 9:00 – 10:00, URL: <https://www.youtube.com/watch?v=VJAuyIRfYIM> (retrieved 13.4.2017).

(DPKO) did not have the desired effect of urgency and the nature of the UNAMIR mission and its numbers remained unchanged. Three months after that, the massive killing began. Delleire's informant also claimed that Belgian soldiers will be targeted "in order to break the back of our mission"¹⁸¹, which is exactly what soon happened when 10 Belgian soldiers were killed along with the Hutu Prime Minister Agathe Uwilingiyimana, whom they were guarding.

The deteriorating situation led to the second independent intervention, namely by 1,000 French and Belgian soldiers who evacuated the foreign nationals from Rwanda. On 21st of April, two weeks into the killing, by which point an estimated 100,000 people have been killed¹⁸², the Security Council makes a dreadful decision to further reduce the strength of UNAMIR to some 270 staff¹⁸³. This decision would be amended one month later, after the UNSC expanded the UNAMIR's mandate and "invited" states to provide resources¹⁸⁴, which they were very reluctant to do¹⁸⁵. The UNAMIR's force eventually did rise to 5,500, but only after the conflict have ended with RPF's military victory.

The last foreign intervention came through France, whose 2,500 Foreign Legionaries set up a 'safe zone' in the south-west of the country. Although humanitarian in name¹⁸⁶, this intervention was not only late, but it opened many questions about France's involvement in the conflict, especially since the 'safe zones' provided shelter for Hutu extremists¹⁸⁷.

6.1.4. International Law Aspect

The Genocide Convention of 1948, which was already mentioned in a previous chapter, states that genocide is "a crime under international law which they [party states] undertake to prevent and to punish"¹⁸⁸ and it defined what constitutes a genocide. However, many states, including the USA chose not to use the term genocide until it could no longer be avoided¹⁸⁹. This

¹⁸¹ Delleire, Romeo, in: *ibid.*, min.: 27:00.

¹⁸² *Ibid.*, min.: 59:20.

¹⁸³ See *UNSC Resolution 912 (1994)*, URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/912\(1994\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/912(1994)) (retrieved 14.4.2017).

¹⁸⁴ See *UNSC Resolution 918 (1994)*, URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/918\(1994\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/918(1994)) (retrieved 14.4.2017).

¹⁸⁵ See Gray (2004), p. 229.

¹⁸⁶ "Operation Turquoise" was billed as an intervention "to stop the massacres and to protect the populations threatened with extermination". McGreal, Chris (2007) – "France's Shame?", In: *The Guardian*, URL: <https://www.theguardian.com/world/2007/jan/11/rwanda.insideafrica> (retrieved 14.4.2017).

¹⁸⁷ See Hehir (2010), p. 188.

¹⁸⁸ *The Convention on the Prevention and Punishment of the Crime of Genocide (1948)* – Article 1.

¹⁸⁹ See Hehir (2010), p. 192, and PBS Frontline (2004), min.: 1:26:50.

reluctance to use the term certainly had a public relations reasons, but it also had a legal background, because the states would have been compelled to act, although the Convention does not specify in which way they should do so.

There can be little doubt that the situation in Rwanda was a clear threat to international peace and security, not only because the crime of genocide concerns all states, but also because it caused a large wave of refugees in a very delicate and poor region. This meant that the situation was of concern to the Security Council, which certainly did not ignore the it, but its resolutions were lacking decisiveness and timely response. Once the resolutions were in place, they were routinely broken by conflict parties, which also constituted a breach of international law.

One of the responses by the UNSC was the setting up the *International Criminal Tribunal for Rwanda (ICTR)*¹⁹⁰. The ICTR indicted 93 individuals out of which 62 were sentenced¹⁹¹.

Finally, there is the aspect of sovereignty to consider. After the assassination of the president, the extremists also killed the prime minister and the broken government was either unable or, more likely, unwilling to stop the killing, which would have been enough to raise issues about the government's legitimacy. Interestingly, the question of Rwandan sovereignty was neither raised as an excuse for non-intervention¹⁹², nor was it respected considering the operations conducted by Belgium and France.

6.1.5. Power and Interests Aspect

The reason why the international community was so slow to react to the genocide in Rwanda was that the great powers did not see enough national interest in doing so. Apart from Rwanda's neighbors, France was the country with most interest in the region, and it ended up conducting the most interventions in Rwanda, first of which was on the side of government when RPF invaded. At the time "French motivations for supporting Habyarimana against the RPF stemmed in part from a perception that Uganda and the United Kingdom were attempting to displace France's power base in Africa"¹⁹³. In 1993 France and Belgium conducted a rescue operation to evacuate foreign nationals from Rwanda. Clear interest was too rescue own citizens,

¹⁹⁰ See *UNSC Resolution 955* (1994), URL:

[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/955\(1994\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/955(1994)) (retrieved 14.4.2017).

¹⁹¹ United Nations Mechanism for International Criminal Tribunals - *The ICTR in Brief*, URL:

<http://unictr.unmict.org/en/tribunal> (retrieved 14.4.2017).

¹⁹² See Hehir (2010), p. 195.

¹⁹³ *Ibid.*, p. 185.

but also to gain praise. Finally, France intervened in July 1994, after the killing already subdued. While it must be said that this intervention did prevent a large-scale revenge killing by the Tutsi, because “following the genocide tens of thousands of Hutus were killed in reprisal attacks”¹⁹⁴, France had other specific interests in intervening. “Bruce Jones offers three explanations for French action, gained from confidential interviews he conducted with French governmental officials; first, to secure northern Zaire from refugee flows; second, to demonstrate French power to the Security Council; third, to downplay negative domestic criticism”¹⁹⁵. France’s support of the government, and its subsequent reaction led to a wide condemnation, most importantly from the new RPF-dominated Rwandan government. Rwanda since distanced itself from France, once its key ally, and tendered its application to join the Commonwealth.

The actions of USA were also heavily scrutinized and criticized. Unlike France, USA had no previous history in the region and thus no clear interests. President Clinton did not want to drag USA into interventionist mood without clear national interests in a period where the Cold War dynamics opened a multitude of conflicts¹⁹⁶. “Samantha Power argues that ‘staying out of Rwanda was an explicit US policy objective’”¹⁹⁷. As an excuse, USA used the events in Somalia as well as the untrue claim that it was not aware of the size of the atrocities.

In retrospect, both France and USA, as well as the rest of Western states, suffered a loss of reputation among African nations for not only disregarding the situation, but also taking steps that might have contributed to more deaths.

6.1.6. Aftermath

The most frequent motif after the genocide in Rwanda was “never again”, which was a *déjà vu* from the Holocaust of the Second World War. The scars left in Rwanda are something the country struggles with and will probably continue to struggle for another generation.

World leaders paid homage to Rwanda, visiting the sites and expressing their disbelief to what happened. One such leader was Madeleine Albright, at the time the USA Ambassador to United Nations, who was clearly influenced by what happened in Rwanda in her later political life. Commenting after the conflict, she said “I wish I had pushed for a large humanitarian

¹⁹⁴ Ibid., p. 188.

¹⁹⁵ Ibid., p. 193.

¹⁹⁶ PBS Frontline (2004), min.: 1:31:00.

¹⁹⁷ Hehir (2010), p. 188.

intervention”¹⁹⁸. Albright would go on to become the Secretary of State during the Kosovo crisis and was a mentor and supporter of Hilary Clinton, who was a Secretary of State during the Libyan crisis.

Rwandan genocide opened discussions about the role and the efficiency of the UN, because it failed to properly support its mission on the ground. After Rwanda, states, academia and other actors started an intensive discussion about the responsibility of the international community to protect grave violations of human rights.

6.2. Bosnia and Herzegovina 1992 – 1995

6.2.1. Conflict

The breakup of Yugoslavia was most turbulent in its ethnically most diverse state Bosnia. At the start of the conflict in 1992, Bosnia had a population of 4,3 million, 44% Muslim Bosniak, 31% Serb and 17% Croat¹⁹⁹. The cause of the conflict was the desire by Bosniaks and Croats to gain independence, while Serbs wanted to remain in Yugoslavia. The Serbs boycotted the 1992 referendum, which overwhelmingly decided that Bosnia should leave Yugoslavia, and independence was declared on 3rd of March 1992, soon internationally recognized. Clashes started soon after, “with the Serbian military having the upper hand”²⁰⁰ despite the arms embargo, because it controlled the vast arms stockpile of former Yugoslav army.

Right from the start, the international community was present in Bosnia and it contributed to the war dynamic. The war lasted until the end of 1995, when *Dayton Accords* were signed amid heavy international pressure. During the 3,5-year war, there have been numerous humanitarian catastrophes, war crimes and constant breaches of many Security Council resolutions. The number of victims has been contested, but a comprehensive research by the Sarajevo-based *Research and*

¹⁹⁸ PBS Frontline (2004), min.: 1:48:00.

¹⁹⁹ See Shrivastava, B.K. / Agrawal, Manmohan (2003) – “Politics of Intervention and the Bosnia-Herzegovina Conflict”, in: *International Studies*, Vol. 40:1, pp. 69-84, p. 72.

²⁰⁰ Mulaj, Klejda (2011) – “Dilemmas of Reacting to Mass Atrocities: Humanitarian Intervention to End Violent Conflict in the Western Balkans”, in: *Democracy and Security*, Vol. 7:2, pp. 140-159, p. 144.

Documentation Center put the number of dead at 95,940, with “roughly half (...) civilians, while 82 percent of those [civilians] were Bosnian Muslims (known as Bosniaks)”²⁰¹.

The formal nature of the conflict is still a matter of debate. All conflict parties were constitutionally recognized groups, which indicates that it was a civil war. On the other hand, the fact that Bosnia became independent, provides arguments that it was a struggle of the official government, against a rebel group. Or it could be considered an aggression, having in mind that fighters and supplies came from both Serbia and Croatia. In post-war Bosnia, these different views provided for different narratives of war, with Bosniaks referring to the war as an aggression, while the Serbs, who call it “fatherland war”²⁰², claim it was a civil war.

6.2.2. Reaction

The reaction by the international community, composing of USA, UN and *European Community* (EC) to the breakup of Yugoslavia was almost instantaneous, but it was plagued by differing interests and lack of coordination.

Because the situation was developing so quickly, many states did not initially know how to react. “Britain, France, Italy and Spain had their reservations (...). It was Germany that came out very strongly in support of the independence”²⁰³. Eventually EC recognized Bosnia on April 6, 1992. EC states have committed troops to the UN mission, which influenced their decision making. The greatest concern for EC was that the conflict might spread to the region and that a wave of refugees might create a crisis in Europe.

For the lack of direct national interest, USA was not too quick to react, and the Bush Administration framed the conflict as an “inevitable consequence of intractable and primordial hatreds unleashed with the collapse of the communist government’s tight control”²⁰⁴. The Pentagon, headed by Colin Powell was also against the military intervention, because he thought air campaign would not work, and ground offensive might end up like Vietnam²⁰⁵. This view persisted until the American media started reporting about the war more intensively and became

²⁰¹ Sito-Sucic, Daria / Robinson Matt (2013) – “After years of toil, book names Bosnian war dead”, in: *Reuters*, URL: <http://www.reuters.com/article/us-bosnia-dead-idUSBRE91E0J220130215> (retrieved 15.4.2017).

²⁰² Serbian: *otadžbinski rat*.

²⁰³ Shrivastava / Agrawal (2003), p. 71.

²⁰⁴ Western, Jon (2002) – “Sources of Humanitarian Intervention: Beliefs, Information, and Advocacy in the U.S. Decisions on Somalia and Bosnia”, in: *International Security*, Vol. 26:4, pp. 112-142, p. 119.

²⁰⁵ *Ibid.*, pp. 132-133.

more critical towards the Serbs, scrutinizing Bush, and later Clinton, for not reacting. In 1993 Clinton takes office, but he is also reluctant to intervene militarily. However, repeated violations of UNSC resolutions and reported war crimes, most notably the massacre in Srebrenica, force the hand of USA government into military action.

After the Cold War, the crisis in Yugoslavia gave the chance to UN to assert and redefine its role in international order. Indeed, through a multitude of UNSC resolutions UN was very active, establishing the *UN Protection Force* (UNPROFOR), introducing the arms embargo and no-fly zone, providing humanitarian help, setting up six safe zones under its protection and creating the *International Criminal Tribunal for the former Yugoslavia* (ICTY). Also, “in an unprecedented action in September 1992, the General Assembly, at the behest of the Security Council, declared Yugoslavia’s seat vacant thereby attempting to isolate the country”²⁰⁶. However, constant disregard for UNPROFOR, safe zones and UNSC resolutions by the conflict parties, as well as the fact that Great Powers had their own agenda, diminished the importance of the UN and thus perhaps set the tone of how important this institution will be in the post-Cold War period.

In general, the response of the international community has been criticized. In words of Kejda Mulaj “the Western reaction was confused and sluggish, their humanitarian response to a political and military conflict being by and large inadequate”²⁰⁷. Importantly, this caused outrage among Islamic states and “countries like Egypt, Malaysia and the United Arab Emirates (UAE) offered military assistance to Bosnia”²⁰⁸, despite the arms embargo.

6.2.3. Intervention

We can speak of three different kinds of interventions in Bosnia: (1) the UNPROFOR mission, (2) the NATO strikes on Serb positions to enforce the UNSC resolutions and eventually to bring them to negotiations and (3) the subsequent peace-implementation and peacekeeping missions, which are still ongoing.

The UNPROFOR mission was established under the UNSC Resolution 743, as a peacekeeping mission to Yugoslavia²⁰⁹. “Divisions in the Security Council and the lack of

²⁰⁶ Shrivastava/Agrawal (2003), p. 73.

²⁰⁷ Mulaj (2011), p. 147.

²⁰⁸ Shrivastava/Agrawal (2003), p. 77.

²⁰⁹ See *UNSC Resolution 743* (1992), URL:

[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/743\(1992\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/743(1992)) (retrieved 15.4.2017).

agreement as to strategy led to a long series of over thirty resolutions on UNPROFOR and the gradual expansion of its mandate²¹⁰. Eventually, UNPROFOR could use force under Chapter VII to secure humanitarian aid, protect the safe zones and secure the *Sarajevo International Airport*. By March 1995, when its mandate ended, UNPROFOR had reached the strength of 38,599 military personnel, but by that time it had also lost 167 men²¹¹.

The UNSC resolutions have been constantly broken by the conflict parties, with Serbs receiving most of criticism from media, states and the UNSC²¹². Despite reluctance to intervene, violations of UNSC resolutions caused a more active interventionism by NATO and on February 28, 1994 “it undertook the first military action in its history”²¹³. This first intervention happened in order to enforce a no-fly zone, established by the UNSC Resolution 781 (1992), which was violated 465 times “in the very first month”²¹⁴. *Operation Deny Flight* was NATO’s response to these violations. “The UN and NATO later expanded the operation to include CAS strikes against tanks, artillery, and military facilities and supplies throughout Bosnia – for instance, to defend the safe area of Gorazde”²¹⁵. As a response to Serbs entering the safe zones of Zepa and Srebrenica, where they massacred between 7,000 - 8,000 Bosniak men and boys²¹⁶, NATO starts *Operation Deliberate Force*. Between August 29 and September 14, 1995 some 60 NATO aircraft conduct air attacks on Serb targets with the aim to deter them from attacking UN safe zones²¹⁷. The intervention soon yields results and a ceasefire is signed on October 1995, followed by the signing of Dayton Peace Accords on December 14, 1995.

The third kind of intervention, which is still ongoing, are peace implementation and peacekeeping missions initially led by NATO, but now led by the EU. It started with *Implementation Force* (IFOR), then turned into *Stabilization Force* (SFOR) with the present

²¹⁰ Gray (2004), p. 218.

²¹¹ See United Nations Protection Force (1996) – “Profile”, in: *un.org*, URL: http://www.un.org/en/peacekeeping/missions/past/unprof_p.htm (retrieved 15.4.2017).

²¹² See for example UNSC Resolution 819 (1993), 1004 (1995), 1019 (1995).

²¹³ Trbovich (2008), p. 326.

²¹⁴ Shrivastava/Agrawal (2003), p. 75.

²¹⁵ Martel, William C. (2011) – *Victory in War – Foundations of Modern Strategy*, p. 263.

²¹⁶ See Shrivastava/Agrawal (2003), p. 77, also see Robinson, Piers (2000) – “The Policy-Media interaction Model: Measuring Media Power during Humanitarian Crisis”, in: *Journal of Peace Research*, Vol. 37:5, pp. 613-633, p. 618.

²¹⁷ See Williams (2011), p. 265.

mission called *European Union Force Althea* (EUFOR Althea) containing some 600 personnel still active in Bosnia²¹⁸.

Even though foreign troops have been in Bosnia since June 1992, Mulaj claims that “one can talk of humanitarian intervention in Bosnia – in Holzgrefe’s terms – only from 1993 onward when Western powers threatened to use force and eventually did”²¹⁹.

6.2.4. International Law Aspect

The conflict in Bosnia has several significant effects on international law. The first is the already mentioned dilemma of state sovereignty and self-determination²²⁰. By all accounts, Yugoslavia was a sovereign nation, but the right of self-determination was recognized for its federative republics. The same right however was not recognized to ethnic minorities in those republics, at least until Kosovar Albanians did not declare independence, which fuels another conflict.

The second interesting aspect is the legitimization of the use of force. In its interventions, NATO used the extensive number of UNSC resolutions, which have been repeatedly broken by conflict parties, predominantly by Serbs, to legitimize its actions. However, since Bosnia was an independent nation, it had legal grounds to invite other states to intervene for purpose of self-defense. Shrivastava and Agrawal point out that “the US rejected President Izetbegovic’s appeals for international military intervention”²²¹. By legitimizing the use of force through Chapter VII, and not through Bosnia’s right of self-defense, NATO countries indicated that they considered this to be a civil war, not an act of aggression.

Another indicator that the great powers saw the conflict as a civil war was the fact that the arms embargo was not lifted for the whole duration of the war. This was intensely debated, with some, including the USA, arguing that the arms embargo hampers the Bosnian ability to defend itself²²². Eventually, the US unilaterally stopped enforcing the arms embargo.

²¹⁸ About EUFOR (2016), in euforbih.org, URL: <http://www.euforbih.org/eufor/index.php/about-eufor/background> (retrieved 16.4.2017).

²¹⁹ Mulaj (2011), p. 146.

²²⁰ See Trbovich (2008), pp. 239-282.

²²¹ Shrivastava / Agrawal (2003), p. 74.

²²² See for example Mulaj (2011), p. 145, Western (2002), p. 128, Shrivastava / Agrawal (2003), p. 74.

The third aspect, similar to the conflict in Rwanda, was the creation of the of the special International Criminal Tribunal for the former Yugoslavia (ICTY)²²³. By 2004, 161 individuals have been indicted and all of them apprehended²²⁴. However, the establishment of the ICTY and its work did not have a desired effect for the reconciliation, with Bosniak side claiming that the Court was too lenient, while the Serb side claims that it indicted unproportionate number of Serbs, leaving others unindicted.

6.2.5. Power and Interest Aspect

As indicated above, the slowness of the international community to react to the war in Bosnia was partly due to the lack of coordination by the many actors, but also because they had different interests.

For the European Community, the post-Cold War period was an opportunity to spread and centralize and start a new era of peace rarely seen in Europe. In 1993, the EC becomes the European Union and new states start joining. Large EU states might have benefitted from the breakup of Yugoslavia by not having to worry about a new strong rival within the EU, which would have been the case if the whole Yugoslavia became a member. It is far easier to reform and absorb a multitude of smaller states than a large one. A more immediate concern for the EU was that the conflict might spread to the region and cause instability and a wave of refugees²²⁵. Considering the refugee crisis of 2015 these fears appear very justified. Therefore, the greatest interest for the EU states was to contain the conflict, which explains, for example, why they were unwilling to allow the lifting of the arms embargo²²⁶.

As for the USA, it was also reluctant to intervene, mostly for the lack of direct national interest, letting the EC take the lead²²⁷. “With the end of the Cold War, both the Horn of Africa and the Balkans had drastically diminished in strategic importance to the United States”²²⁸. As the conflict in Bosnia intensified, American media started questioning this stance of the USA government, with both leading newspapers, *New York Times* and *Washington Post*, calling for an

²²³ See *UNSC Resolution 827* (1993), URL:

[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/827\(1993\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/827(1993)) (retrieved 16.4.2017).

²²⁴ Office of the Prosecutor, in: icty.org, URL: <http://www.icty.org/en/about/office-of-the-prosecutor> (retrieved 16.4.2017).

²²⁵ See Williams (2011), p. 255.

²²⁶ See Shrivastava / Agrawal (2003), p. 74.

²²⁷ Mulaj (2011), p. 144.

²²⁸ Western (2002), p. 118.

intervention²²⁹. The situation in Bosnia became an issue during the 1992 presidential campaign, which incumbent President Bush uncharacteristically lost to Clinton. Although initially also skeptical towards intervention, due to the media pressure the liberal Clinton Administration started to warm up to the idea. Richard Holbrook, the American diplomat whose role was central in bringing the conflict to an end stated: “Let’s be clear: the reason the West finally, belatedly intervened was heavily related to media coverage”²³⁰. Robinson argues that “policy makers, uncertain of what to do and without a clearly defined policy line with which to counter critical media coverage, can be forced to intervene during a humanitarian crisis due to media-driven public pressure or the fear of *potential* negative public reaction to government inaction”²³¹. On a general note, USA’s decision to intervene in a foreign state is not only a question of fulfilling its self-interests abroad, but also a reflection of struggle for power among its political parties. If we consider the intense reporting of foreign media, then the question of USA’s reputation²³² also comes into play.

The war in Bosnia revealed rivalries among the Western states, particularly over the introduction of the *Rapid Reaction Force* (RRF), called for by the EU defense ministers. “The US was critical of the creation of RAF [sic.]. It believed that this would give the UK and France undue influence in formulating a policy on Bosnia”²³³. But the Western allies had one very important, arguably the most crucial, collective interest and that was preserving the credibility of NATO, especially since its role after the end of Cold War became somewhat unclear. Holbrooke was quoted as saying “keeping the Atlantic Alliance from coming apart over Bosnia was one of our greatest policy challenges”²³⁴.

A very interesting role was played by Russia, a traditional ally of the Serbs. The number of passed UNSC resolutions indicate that Russia was not categorically opposed to what the West was doing. This has been explained by Russian interests to get closer to the West after the Cold War ended²³⁵.

²²⁹ Ibid., p. 131.

²³⁰ Richard Holbrook (1998), quoted from Robinson (2000), p. 624.

²³¹ Robinson (2000), p. 614, italics his.

²³² See Guzman’s view on reputation in Chapter 3.3.3. of this paper.

²³³ Shrivastava/Agrawal (2003), p. 77.

²³⁴ Holbrooke (1999), quoted from Mulaj (2011), p. 146.

²³⁵ See Shrivastava/Agrawal (2003), p. 83.

China's stance was the most conservative one, arguing against the rash use of force, but it did not block any resolutions²³⁶. This indicates that China's most important interest was upholding the principles of international law.

6.2.6. Aftermath

The first thing to note is that, even though there is no more war in Bosnia, the conflict among the ethnic groups is far from concluded, as neither side is satisfied with the outcome of the war. The length and conflicting interpretations of the conflict have caused different narratives about the war, which in turn led to an utterly divided society. The Bosniak side continues blaming the international community for non-action, both during and after the war, while the Serbs created an 'all-against-one' myth, which has shaped their post-war policies.

For the concept of humanitarian interventions, the intervention in Bosnia might have provided some encouraging signs. First, there was no Vietnam scenario of tens of thousands of ground troops locked in a long war, and secondly, the operation indicated that a limited and planned air campaign might bring the sides to the negotiating table, as it did the Serbs in September 1995.

But probably the longest-lasting legacy of the Bosnian war, much like Rwandan genocide, was that it became a synonym of civilian casualties and thus a rallying cry to inspire humanitarian intervention. This has especially been the case with the massacre of Srebrenica, which has been declared a genocide by the ICJ²³⁷, ICTY²³⁸ as well as a number of states. Tragically, Srebrenica became a further stumbling block to reconciliation, because the Serb authorities, while accepting that it was a grave crime, stop short of calling it a genocide, but the Bosniaks would not accept any other classification.

6.3. Kosovo 1999

²³⁶ See Gray (2004), p. 218, also see Shrivastava/Agrawal (2003), p. 83.

²³⁷ See ICJ (2007) – *Case Concerning Application of Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina vs. Serbia and Montenegro)*, pp. 186-189, URL: <http://www.icj-cij.org/docket/files/91/13685.pdf> (retrieved 16.4.2017).

²³⁸ See ICTY (2015) – *Appeal Judgement Summary for Popović et al.*, p. 3, URL: http://www.icty.org/x/cases/popovic/acjug/en/150130_summary.pdf (retrieved 16.4.2017).

6.3.1. Conflict

Similarly to Bosnian war, the conflict in Kosovo was a part of the breakup of Yugoslavia, understood to be a continuation of old hatreds between the Serbs and the Albanians. Since 1974 Kosovo was an autonomous province within Yugoslavia with majority Albanian population and one of the country's poorest regions. After Tito's death in 1980, situation starts deteriorating and "Kosovo became a catalyst for the emergence of nationalism throughout the SFRY"²³⁹. The situation escalates after Serbia's president, Slobodan Milošević, repealed Kosovo's autonomy in 1989. This, combined with "Belgrade's implementation of certain discriminatory laws" is considered a starting point of the conflict²⁴⁰. The conflict remained silent during the first half of the 1990's, with Albanians expecting that their "peaceful resistance"²⁴¹ would be recognized. After the Bosnian war ended in 1995 and the Kosovar Albanian problem largely ignored, a militant group called *Kosovo Liberation Army* (KLA) intensifies its armed campaign to gain international attention. "There followed an escalating cycle of retaliatory violence between the KLA and the Federal Republic of Yugoslavia's (FRY's) police and military, resulting in thousands of deaths, hundreds of thousands of internally displaced persons and thousands of refugees leaving Kosovo"²⁴². Another indicator of a situation spinning out of control is the number of FRY's troops in Kosovo, rising from 22,000 in 1998 to 50,000 in 1999²⁴³.

After failed attempts to establish a lasting ceasefire, the *Contact Group*²⁴⁴ organizes talks at Rambouillet. In an unprecedented move, NATO issues an ultimatum to the conflict parties that it will use force should any party not attend or cause the break of the talks. The Albanians signed the treaty, but FRY walks out, stating that it cannot agree to the terms²⁴⁵. This leads 19 NATO countries to commence bombing campaign against FRY on March 24, 1999. Weather planned in advance, as suggested by Mulaj²⁴⁶, or as a consequence of the intervention²⁴⁷, the amount of

²³⁹ Hehir (2010), p. 202.

²⁴⁰ Ibid.

²⁴¹ Kulaj (2011), p. 149, also see Hehir (2010), p. 203.

²⁴² Hehir (2010), p. 203.

²⁴³ See Kulaj (2011), p. 148.

²⁴⁴ Consisting of USA, UK, France, Russia, Italy and Germany.

²⁴⁵ An often cited cause why FRY rejected the ultimatum was the „Appendix B(8)“ of the treaty which would have enabled NATO troops free passage through the whole territory of FRY as well as legal immunity. This point has been much discussed and criticized. See Hehir (2010), p. 206-207, also see Bilder, Richard B. (2008) – “The Implications of Kosovo to Human Rights Law”, in: Alston, Philip/MacDonald, Euan (Ed.) (2008) - *Human Rights, Intervention and the Use of Force*, pp. 139-179, p. 145.

²⁴⁶ See Mulaj (2011), p. 148.

²⁴⁷ See Bilder (2008), p. 155, also see Hehir (2010), p. 209.

atrocities and ethnic cleansing intensifies. Slowly gaining the upper hand amid heavy NATO bombardment, there comes to “efforts by the ethnic Albanian population to intimidate the remaining Serbs into leaving the province”²⁴⁸. The conflict formally ended when NATO stopped the bombardment on June 10, after the agreement was signed in Petersberg and FRY agreed to withdraw the troops and a 40,000 strong NATO-led *Kosovo Force* (KFOR) entered the province²⁴⁹.

6.3.2. Reaction

After the crisis in Kosovo escalated and FRY’s security forces started using extensive force to deal with KLA’s insurgency, media interest for the region reignited and reports of atrocities, such as the one in the village of Račak, caused that “international opinion turned sharply against Milošević and the momentum in favour of more robust international involvement grew”²⁵⁰. Richard Bilder writes that “the issue of Kosovo was highly emotional” and that the “the torrent of images of unending columns of refugees and of atrocities – was crucial in creating and maintaining public support, at least in the West”²⁵¹. Russian and Chinese media framed the conflict differently, criticizing what they saw as a unilateral show of force by NATO²⁵².

The media reporting demonstrates that the Western states were largely pro-intervention, especially President Clinton and UK prime minister Tony Blair²⁵³, while Russia and China were opposed to it. This also meant that unlike in Bosnia, the great powers could not find common course of action. Although there have been three UNSC resolutions in 1998, condemning the excessive use of force by the FRY, declaring the situation a threat to peace and stability and warning of a potential humanitarian catastrophe²⁵⁴, none of these resolutions provided a mandate for the use of force. In fact, three days after the intervention started, Russia drafts a UNSC resolution to condemn the attacks, which was rejected.

It is also important to note that once the NATO intervention started, there have been concerns about the efficiency of air strikes to stop the atrocities. There have been comments

²⁴⁸ Bilder (2008), p. 174.

²⁴⁹ See Robinson (2000), p. 626.

²⁵⁰ Hehir (2010), p. 206.

²⁵¹ Bilder (2008), pp. 142, 168.

²⁵² See Bilder (2008), pp. 158, 166.

²⁵³ See Mulaj (2011), p. 149, also see Bilder (2008), p. 143.

²⁵⁴ See Roberts, Anthea (2008) – “Legality Verses Legitimacy: Can Uses of Force be Illegal but Justified”, in: Alston, Philip/MacDonald, Euan (Ed.) (2008) – *Human Rights, Intervention and the Use of Force*, pp. 179-213, p. 181.

questioning the targeting of civilian targets or even suggesting a ground offensive should be conducted²⁵⁵.

6.3.3. Intervention

The intervention by 19 NATO states under the name *Operation Allied Force* commenced on March 24, 1999, and it was the very first intervention which was justified purely on humanitarian grounds²⁵⁶. During the 78-day campaign, the largest in NATO's history at the time, 829 aircraft from 14 NATO members, conducted more than 38,000 combat sorties, using more than 22,000 munitions²⁵⁷, although numbers slightly vary according to different authors. "The US flew over 60 per cent of all sorties and carried out over 80 per cent of all strike sorties"²⁵⁸. In order to avoid casualties on their side, NATO decided to conduct the bombardment at night from altitudes higher than 4,600m (15,000 ft)²⁵⁹, which severely decreased its efficiency. According to William, three types of targets were targeted: military facilities, political leadership and targets of civilian economy²⁶⁰. However, with static military targets soon eliminated, "the majority of bombs dropped were aimed at non-military infrastructure"²⁶¹. The strategy, which was both supported and criticized, was to induce hardships on FRY's population in order to weaken its support for Milošević. Early in the intervention, President Clinton declared that no ground forces will be used in the intervention, which was criticized as revealing strategy and allowing FRY to adapt²⁶².

The intervention ended on June 10, 1999, after FRY made an agreement with NATO in Petersberg, in part thanks to the Russian mediation. The estimations of the number of casualties vary. Serbian MOD declared in 2011 that it caused 631 military casualties, while there are estimates that up to 2,500 people were killed²⁶³. "The IICK estimates that NATO bombs killed 495 civilians while Human Rights Watch puts the figure at 527"²⁶⁴. The bombing operation reportedly cost

²⁵⁵ See Robinson (2000), p. 627.

²⁵⁶ See for example Bilder (2008), p. 143, Hehir (2010), p. 211, Mulaj (2011), p. 148.

²⁵⁷ See William (2011), p. 266.

²⁵⁸ Hehir (2010), p. 208.

²⁵⁹ See William (2011), p. 267, Hehir (2010), p. 209.

²⁶⁰ See William (2011), pp. 266-267.

²⁶¹ Hehir (2010), p. 211.

²⁶² Mulaj (2011), p. 150.

²⁶³ Ristic, Marija (2013) – "Tačan broj žrtava NATO bombardovanja još nepoznat" (The exact number of casualties of NATO bombardment still unknown), in: *Balkanska Tranziciona Pravda*, URL: <http://www.balkaninsight.com/rs/article/tacan-broj-zrtava-nato-bombardovanja-jos-nepoznat> (retrieved 6.5.2017) (in Serbian).

²⁶⁴ Hehir (2010), p. 209.

NATO 2,5 billion Pounds²⁶⁵, while it is estimated that it caused damage of at least 40 billion Dollars²⁶⁶, a damage from which present-day Serbia is yet to recover.

After the intervention, both sides declared themselves victorious, and there is still considerable debate about what were the achievements of the intervention. Some authors, like Mulaj, state that “NATO’s air strikes succeeded in reversing Serb-led ethnic cleansing of Kosovar Albanians”²⁶⁷, while other, like Hehir and Bilder took a more sceptic stance, considering that the bombing initially caused worsening of the conflict, as well as widening it to the whole territory of FRY. Both authors also point to the fact that the terms offered to FRY in Petersberg were considerably less demanding than Rambouillet²⁶⁸, with Bilder even suggesting it was Russian participation in Petersberg that by “helping NATO avoid ground invasion of Kosovo, really ‘pulled NATO chestnuts out of the fire’”²⁶⁹.

Another aspect of the intervention that came to be criticized was its ‘humanitarian’ nature. Although much of the munitions NATO used were precision-guided, it also used cluster bombs, which are banned by some nations, as well as munitions with depleted uranium, both of which caused civilian casualties²⁷⁰. Additionally, the fact that most of NATO’s targets were non-military facilities, including water supply and electrical grid, caused suffering of civilians throughout FRY. This seems to have been a part of strategy to apply pressure on Milošević into conceding²⁷¹.

In any case, by far the most important development after the intervention was the adoption of the UNSC Resolution 1244, which pulled out Serbian troops, transferred the administration of Kosovo to the UN-mandated mission, but still maintained formal sovereignty of FRY over Kosovo.

6.3.4. International Law Aspect

NATO intervention in FRY caused perhaps the most controversy because of its implications to international law. As described in previous chapters, use of force is legal in self-defence and under Chapter VII mandate of UNSC, both of which were lacking in this case. While NATO justified its intervention on humanitarian grounds, it also claimed that it had an ‘implied’ right to

²⁶⁵ BBC (1999) – “Kosovo war cost £30bn”, in: *news.bbc.co.uk*, URL: <http://news.bbc.co.uk/2/hi/europe/476134.stm> (retrieved 6.5.2017).

²⁶⁶ See Bilder (2008), p. 153.

²⁶⁷ Mulaj (2011), p. 149.

²⁶⁸ See Bilder (2008), p. 177, Hehir (2010), p. 210.

²⁶⁹ Bilder (2008), p. 166.

²⁷⁰ Hehir (2010), p. 217.

²⁷¹ Bilder (2008), pp. 153-159.

use force because FRY did not hold up to the three UNSC resolutions from 1998, which declared that the situation is a crisis to international peace and stability²⁷². However, protests by UNSC members Russia and China, as well as the fact that it is not customary to use force every time a UNSC resolution is broken, indicate weakness of this argumentation.

The natural question that ensued is whether this intervention represented a rule-making precedent or was it just an exception, due to the very specific situation. The question of permissible humanitarian intervention, which takes primacy over state sovereignty, has been one of the main debates in international law, especially since the “Independent International Commission on Kosovo found that NATO’s intervention was illegal based on existing international law but legitimate based on an emerging international moral consensus”²⁷³. However, probably aware of the dangers of such a radical change in the international regulations on the use of force, the intervening states were quick to point out that this is not forming a precedent²⁷⁴.

Another legal novelty during the intervention against FRY was the ICTY’s indictment of Milošević, which was the very first such indictment against an acting head of state. It has been argued that the indictment helped bring Milošević to negotiating table to negotiate a deal for himself²⁷⁵. It has also been suggested that the indictment extended legitimacy to NATO, because from that point on USA’s government and press started referring to Milošević as “an indicted war criminal”²⁷⁶. And while there is no indication that any one government influenced the ICTY’s decision to indict Milošević, Bilger mentions the fact that “US can control the Court’s action simply by supplying or refusing to supply the tribunal with information essential to an indictment”²⁷⁷.

6.3.5. Power and Interest Aspect

As noted above, NATO claimed that the intervention in FRY was purely of humanitarian nature and “that they were acting not in their own interests, but because they were morally compelled to do so”²⁷⁸. That this intention was genuine among many intervening actors is perhaps

²⁷² See Roberts (2008), p. 182, see also Hehir (2010), p. 213, this stance was also argued by Belgium in an ICJ case brought forward by FRY after the intervention. See Gray (2004), p. 43.

²⁷³ Roberts (2008), p. 182.

²⁷⁴ See statement by USA Secretary of State Madeleine Albright in Bilder (2008), p. 147, also see Gray (2004), p. 45.

²⁷⁵ See Mulaj (2011), p. 150.

²⁷⁶ Bilder (2008), p. 161.

²⁷⁷ Ibid.

²⁷⁸ Ibid., p. 146.

best demonstrated by the participation of Germany, whose post-war policy has been one of great restraint, especially with regards to use of force.

Again, the Western media played an immense role in their government's policy-making. For example, "between 1 April and 26 May, over 1,000 articles in the New York Times and the Washington Post made reference to Kosovo"²⁷⁹. The fact that the West was slow to react in Rwanda and Bosnia, and that during Bosnian war it was the Bosnian Serbs whose atrocities gained the most attention, probably influenced the speed and determination in which the public sought intervention against the Serbs in FRY. And while such intervention might not have been in a direct interest for the NATO states, it certainly was in the interests of their electable leaders to do what the public was asking of them. This intervention showed "the power of global civil society to influence foreign policy"²⁸⁰

Yet, despite all these claims, there was a number of observable non-humanitarian interests that added weight in favour of the intervention²⁸¹. FRY was one of the last places in Europe, and certainly the last state in the Balkans which has not implemented a liberal democratic system, with Milošević's authoritarian rule in clear contrast to the rest of Europe. Also, FRY was close to Russia, whose honeymoon with the West at the beginning of 1990s was long past. The intervention in 1999 and the subsequent overthrow of Milošević doubtlessly increased the Western influence in the Balkans.

Of course, as was the case with Bosnia, European NATO members had a great interest in ending the ethnic cleansing in order to stop a massive refugee flow. Ironically, the crippling of FRY's economy through bombardment and years of sanctions, caused an economic crisis, which in turn stimulated a mass migration towards Central and Western Europe, which is still ongoing.

As always, there are fiscal benefits to any armed conflict. As mentioned above, the intervention cost NATO states a combined 2,5 billion Pounds, which is not an insignificant amount for the respective countries' arms industries.

However, it is widely accepted that NATO states had immense interest in finding the new post-Cold War role for the Alliance as well as maintaining its credibility, especially after the clumsy ultimatum of Rambouillet. This is perhaps best demonstrated by the words of Wesley

²⁷⁹ Robinson (2000), p. 627, italics his.

²⁸⁰ Hehir (2010), p. 21.

²⁸¹ See Bilger (2008), pp. 150-151 and Mulaj (2011), p. 149.

Clarke, NATO's chief commander during the intervention, who stated: "it was a battle about the future of NATO, about the credibility of the United States as a force in world affairs. And the longer it went on the more clearly the nations of the west could see those issues"²⁸².

6.3.6. Aftermath

The most immediate aftermath of the NATO intervention in FRY is the subsequent fall of Milošević a little more than a year afterwards, and his eventual extradition to the ICTY, where he died before the conclusion of the process.

Despite provisions of the UNSC Resolution 1244, Kosovo unilaterally declares independence in 2008, which divides international community yet again, but still gaining recognition by majority of EU and NATO states. The intervention and the recognition of Kosovo's independence caused a deep mistrust between the Serbs and the West which is present to this day.

Following the intervention, there have been retaliatory incidents against the Serbs in Kosovo, which now populate the secluded north of the province as well as several enclaves. Despite regular EU-mediated talks between the sides, the relations between the Serbs and the Albanians have not improved over the years.

On a more general note, the intervention in FRY was a part of a series of conflicts which stimulated global discussion about the *Responsibility to Protect*, a potential principle which drew many actors from different areas of international society.

In a way that NATO certainly wanted to avoid, the intervention in FRY and the recognition of Kosovo's independence, motivated Russia to recognize the Georgian breakaway provinces of Abkhazia and South Ossetia and intervene in that country, as well as to annex Crimea.

6.4. Libya 2011

6.4.1. Conflict

The armed conflict in Libya began shortly after massive protests against the country's leader Muamar Gaddafi²⁸³ began in the eastern city of Benghazi on February 15, 2011. It was fought between the loosely based alliance of the opposition called *National Transitional Council*

²⁸² Quoted from Hehir (2010), p. 210.

²⁸³ In literature, Gaddafi is sometimes also referred to as Qaddafi or Kadafi.

(NTC) and the government. There are different versions of the causes of the conflict, with some claiming that it was caused by the government's violent crackdown of the protests²⁸⁴, while others insisting that the protesters were already "armed and violent from the first day of the uprising"²⁸⁵. A well-documented fact, on which commentators seem to agree, is that Gaddafi repeatedly threatened annihilation to the rebels, which probably contributed to the quick reaction by foreign states. Initially, "benefitting from surprise, the rebels made rapid progress"²⁸⁶, but they were quickly pushed back by consolidated government forces. By March 16, the government was on the verge of retaking the rebel stronghold Benghazi, which would have probably ended the rebellion. However, the very next day UNSC authorizes the use of force for protection of civilians, which NATO-led coalition uses to start the intervention against the government troops. This interference gave the rebels the upper hand and the government forces get pushed back. Capital Tripoli falls into rebel hands in August 2011, and in October, Gaddafi gets captured and executed. This ends the war with Gaddafi government, but the conflict among the rival groups is still ongoing. During the conflict, both sides refused negotiations when they had the upper hand.

There are different estimates about the number of casualties in the conflict, with USA government setting the number at 8,000, while the rebels claim that up to 30,000 people died²⁸⁷. Alan Kuperman suggests that "NATO intervention magnified the death toll in Libya by about 7 to 27 times"²⁸⁸.

Likewise, there are different viewpoints from which the causes of the conflict should be observed. The first one is the fact that Libya was not a unified country to begin with, with existing rivalries and grievances, such as the 1996 massacre at Abu Salim prison²⁸⁹. The second context is the one of *Arab Spring*, which commenced in neighboring Tunisia in December 2010 and "served as a direct catalyst"²⁹⁰ for the uprising. Perhaps more importantly, the context of Arab Spring is

²⁸⁴ See for example Hobson, Christopher (2016) – "Responding to Failure: The Responsibility to Protect in Libya", in: *Millennium: Journal of International Studies* Vol. 44:3, pp. 433 – 454, p. 442.

²⁸⁵ Kuperman, Alan J. (2013) – "NATO's intervention in Libya: A Humanitarian Success", in: Hehir, Aidan/Murray, Robert (Ed.) (2013), *Libya, the Responsibility to Protect and the Future of Humanitarian Intervention*, pp. 191-221, p. 193.

²⁸⁶ *Ibid.*, p. 200.

²⁸⁷ See *Ibid.*, p. 206.

²⁸⁸ *Ibid.*

²⁸⁹ See Hehir, Aidan (2013) – "Introduction: Libya and the Responsibility to Protect", in: Hehir, Aidan/Murray, Robert (Ed.) (2013), *Libya, the Responsibility to Protect and the Future of Humanitarian Intervention*, pp. 1-14, p. 3, see also Gazzini, Claudia (2011) – "Was the Libya Intervention Necessary?", in: *Middle East Report*, No. 261, pp. 2-9, p. 9.

²⁹⁰ Hehir (2013), p. 4.

how the uprising in Libya was interpreted abroad. The third, and the decisive one, was the long-standing animosity between Gaddafi and the West²⁹¹.

6.4.2. Reaction

Perhaps the most striking thing about the crisis in Libya was its unexpectedness and the speed with which it unfolded. It took 11 days for UNSC to impose a no-fly zone and an arms embargo²⁹² and barely more than a month for the situation to develop to full-blown military intervention. The quickest to act were Western states, particularly France. Allegedly influenced by prominent public intellectual Bernard-Henri Lévy who witnessed the protests in Benghazi, French President Nicolas Sarkozy met NTC and surprises everyone by declaring them the official representatives of Libya²⁹³. This move, whose legality is questionable, was quickly followed by other Western and some further states and at that point it was clear that the West wants Gaddafi gone.

The speed of unfolding events and the fact that Libyan crisis was framed as having the potential to become a new Rwanda or Srebrenica, probably contributed to traditionally skeptical China and Russia to abstain from UNSC Resolution 1973 which authorized the use of force in protection of civilians²⁹⁴. “In light of this reference to “protection of civilians” the NATO intervention in Libya is generally considered a humanitarian intervention”²⁹⁵. Brazil, Germany and India also abstained from the vote, indicating their skepticism.

The loudest proponents for the intervention were Western liberals, including NGOs, media outlets and scholars such as Marie-Anne Slaughter and Michael Ignatieff, who have worked on establishing a RtoP model do deal with issues of gross human rights violations, of which they thought Libya was the case²⁹⁶.

²⁹¹ See Keating, Tom (2013) – “The UN Security Council on Libya: Legitimation or Dissimulation?”, in: Hehir, Aidan/Murray, Robert (Ed.) (2013), *Libya, the Responsibility to Protect and the Future of Humanitarian Intervention*, pp. 162-190, p. 177.

²⁹² See *UNSC Resolution 1970* (2011), URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1970\(2011\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1970(2011)) (retrieved 20.4.2011).

²⁹³ See Gazzini (2011), p. 4. See also Erlanger, Steven (2011) – “By His Own Reckoning, One Man Made Libya a French Cause”, in: *New York Times*, URL: <http://www.nytimes.com/2011/04/02/world/africa/02levy.html> (retrieved 20.4.2017).

²⁹⁴ Hobson (2016), p. 447, also see *UNSC Resolution 1973* (2011), URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1973\(2011\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1973(2011)) (retrieved 20.4.2017).

²⁹⁵ Gazzini (2011), p. 5.

²⁹⁶ See Hobson (2016), pp. 446-447.

A surprisingly prominent role was played by small but very rich Qatar, which was credited with lobbying in the *Arab League* for Libya's exclusion and support of the intervention²⁹⁷

There have been voices calling for restraint, most notably the *International Crisis Group* (ICG) and the *African Union* (AU), which thought that Libya was a political problem in need of political solution²⁹⁸.

Once approved, the UNSC Resolution 1793 was "a pleasant surprise for many human security activists"²⁹⁹, but the ensuing intervention soon became criticized by many actors because of reasons which will be explained in the following chapter.

6.4.3. Intervention

Foreign intervention in Libya happened in two ways: support for the rebels and air campaign. Weeks before the UNSC would approve the Resolution 1973 there was military support for rebel groups. For example, Egypt was known to have supplied the rebels, while UK deployed military experts in early March to advise them³⁰⁰. After the intervention had started, the support for rebels became more overt. Qatari troops and weapons were on the ground, Italy unfroze government funds to the rebels³⁰¹, while France air-dropped weapons to the rebels³⁰². Needless to say, this was violating the arms embargo under Resolution 1970.

However, when we talk about intervention in Libya what is usually referred to is the air campaign called *Operation Unified Protector* by 18 mostly NATO states, with support from Sweden, Jordan, Qatar, Morocco and the UAE. "The operations were initially placed under US command, and later given over to NATO"³⁰³. "NATO had three official aims; police the arms embargo, patrol the no-fly zone and protect civilians. The third aim proved by far the most difficult to achieve and it was this which ultimately led to the major controversy surrounding NATO's prosecution of the campaign"³⁰⁴. The controversy Hehir is referring to is the fact that NATO's operation quickly moved from its original mandate into a campaign against the government with

²⁹⁷ See Gazzini (2011), p. 5.

²⁹⁸ See Zambakari, Christopher (2016) – "The Misguided and Mismanaged Intervention in Libya: Consequences for Peace", in: *African Security Review*, Vol. 25:1, pp. 44-62, p. 49.

²⁹⁹ Keating (2013), p. 173.

³⁰⁰ See Gazzini (2011), p. 5, Also see Kuperman (2013), p. 197.

³⁰¹ See Ibid.

³⁰² See Hehir (2013), p. 5.

³⁰³ Gazzini (2011), p. 5.

³⁰⁴ Hehir (2013), p. 5.

an apparent aim to remove Gaddafi from power. The fact that NATO wanted a regime change is visible in several aspects of the intervention: it targeted Gaddafi's facilities, even pro-Gaddafi cities were bombarded where there was no immediate danger for civilian population, while on the other hand NATO did little to prevent atrocities committed by rebels and did not press them into negotiations when Gaddafi was ready to talk³⁰⁵. This behavior did not concur with the principles of humanitarian intervention, which Operation Unified Protector was supposed to be, and it came to be criticized, as will be discussed later on.

There were however voices in favor of such course of action. One such was Michael Ignatieff who summarizes his opinion into a question: "how else were Libyans to be protected than by regime change?"³⁰⁶.

In any case, after his convoy was attacked by NATO aircrafts, Gaddafi was summarily executed by rebels on October 20, thus bringing the campaign to an end. The troublesome nature of the intervention as well as even more problematic way Gaddafi's demise were not helped by cynical comments, such as that of the USA Secretary of State Hilary Clinton who jokingly remarked "we came, we saw, he died"³⁰⁷.

6.4.4. International Law Aspect

The behavior of all the parties to the war in Libya raises some serious issues regarding international law. First, there is the question of interpretation of the UNSC resolutions on Libya. UNSC Resolution 1970 introduced the arms embargo, which has been repeatedly broken by NATO states and their allies, as they were supplying rebels with weapons. Far more problematic for international law and international relations in general was the way NATO interpreted its mandate under UNSC Resolution 1973 and conducted the intervention, which soon turned into regime change. "This was neither anticipated nor intended among those who abstained and left them feeling somewhat betrayed or hoodwinked"³⁰⁸.

While the formulation 'all means necessary' used in UNSC Resolution 1973 did provide states with the permission to use force, it did not warrant targeting and toppling an incumbent head of state. Indeed, the manner and arbitrariness of how Gaddafi was executed, led NATO states to

³⁰⁵ See Kuperman (2013), pp. 196-198.

³⁰⁶ Ignatieff, Michael (2012), quoted from Hobson (2016), p. 447.

³⁰⁷ Quoted from Hobson (2016), p. 443.

³⁰⁸ Keating (2013), p. 163.

quickly distance themselves, claiming that that was a case of people toppling a dictator. Gazzini points out to two aspects of NATO's distancing from Gaddafi's death. One was symbolic, in order to unite Libyan people in a sense of victory and achievement, and other legal, because NATO clearly lacked mandate to do such a thing³⁰⁹.

Unfortunately, there has been a large number of civilian casualties, for some of which no one was held accountable. As noted above, the government forces were reported to have shot first at the unarmed protesters, which could have amounted to crimes against humanity. "In order to reach this conclusion, the Security Council referred the case to the ICC"³¹⁰. ICC's reply was an indictment against Gaddafi, his son Sayf al-Islam and his chief of security, stating that their actions "may amount to crimes against humanity"³¹¹. While it would be speculative to doubt that ICC had honest intentions, the effects of the indictment were highly political, because, as it was the case with Milošević, this gave legitimacy to toppling him. Besides, *Human Rights Council* found that rebels were also responsible for crimes such as "unlawful killing, arbitrary arrest, torture, enforced disappearance, indiscriminate attacks and pillage"³¹². Hobson also points that *UN Human Rights Watch* and *Amnesty International* also raised concerns not only over crimes committed by the government forces, but by rebels as well³¹³.

6.4.5. Power and Interest Aspect

Despite the formulation of the UNSC Resolution 1973 and claims by the intervening states that they are acting out of humanitarian reasons, interests played a great role in the way how the intervention was conducted and what its results were.

First there was the person of Gaddafi who, during the 42 years of reign, managed to gain a considerable number of enemies, not least among the Western states. Among his 'list of achievements' Gazzini points that "in the past, he had ridiculed the moral authority of the UN (... and) mocked the ICC as the puppet of the West"³¹⁴, while Zambakari speaks of "Gaddafi's legacy in Africa"³¹⁵ which includes participation in many of the continent's conflicts. And although

³⁰⁹ Gazzini (2011), p. 3.

³¹⁰ Ibid, p. 8.

³¹¹ Ibid.

³¹² UN Human Rights Watch (2012), quoted from Hobson (2016), p. 448.

³¹³ Hobson (2016), p. 448.

³¹⁴ Gazzini (2011), p. 9.

³¹⁵ Zambakari (2016), p. 48.

Gaddafi's last decade has been marked by an improvement of relations to the West as well as more concern for human rights³¹⁶, in the eyes of West he still remained a dictator and a rival.

As mentioned, France was the forerunner of the intervention. Keating points out that France has a large population of North Africans, who called upon France to make a more active role in the Arab Spring³¹⁷. Beside the fact that France had an economic interest in the region, Keating argues that "French foreign policy under President Sarkozy had also developed a strong interest in deploying military force (...) as a way of asserting French power within the European Union"³¹⁸. To counter this, other European states wanted the intervention to be within the frame of NATO.

Uncharacteristically, in what will eventually become a legacy of the President Barack Obama, the participation of the USA remained restrained, considering the firepower it demonstrated in previous interventions. In fact, it has been suggested that Obama decided to get involved, only after persuaded by his Secretary of State Hilary Clinton. While it is unlikely that USA would stand by, while its allies are conducting a military intervention, the role of the liberal establishment surrounding Obama is very relevant. In this context, the name of Anne-Marie Slaughter, a prominent scholar and a former co-worker of Hilary Clinton keeps being mentioned. "Slaughter pushed strongly for the US to intervene, both publicly through prominent media outlets, and behind the scenes through personal email correspondence with her former boss, Hilary Clinton"³¹⁹. Slaughter considers that national interest is closely tied with values and that USA "must take societal elements in assessing its own national interests"³²⁰. This opinion is not very different from Joseph Nye's vision of national interests which have already been described above.

An intriguing point is the behavior of China and Russia, who have turned a blind eye to NATO's intervention by abstaining from the vote on UNSC Resolution 1973. Russia at the time was led by President Dmitry Medvedev, whose style differed from Vladimir Putin's and was more open to the West. "The Russian abstention could also be viewed in terms of both domestic politics and Russian-US relations alongside some commercial interests in Libya"³²¹.

The growing importance of China in international relations means that its role in the UN was also expanding. China's abstention can be viewed as result of its dilemma not to refuse RtoP

³¹⁶ See Hehir (2013), pp. 3-4.

³¹⁷ See Keating (2013), p. 178.

³¹⁸ Ibid.

³¹⁹ Hobson (2016), p. 444.

³²⁰ Keating (2013), p. 177.

³²¹ Keating (2013), p. 179.

principles, while being careful not to endanger the principle of sovereignty which still plays a crucial role for China³²².

6.4.6. Aftermath

Despite initial euphoria, Libya turned out to be an unsuccessful episode in 21st century international relations, with many negative consequences.

First of all, the country is still in the state of civil war, with rival groups fighting for power, coupled with a presence of terrorist groups such as the Islamic State. The lack of an effective central authority has also made Libya an intersection for thousands of African refugees on their way to Europe, often with tragic consequences.

Yet in the context of international relations “the intervention in Libya is one of the most serious challenges to the future of exercising of RtoP”³²³. This sentiment by Zambakari is shared by majority of experts in the field. Simply, the speed with which a humanitarian intervention turned into a regime change has made countries like Russia and China very skeptical about the whole concept and they will not be willing to repeat their quiet confirmation of another case like Libya. A direct consequence of this skepticism is the constant rejection of Western drafts for UNSC resolutions on Syria, whose long-running civil war has become one of the deadliest in recent history.

7. Effects and Consequences of Humanitarian Interventions

Before we continue to the last part of this paper in which I discuss the results of my research on humanitarian interventions in greater detail, I want to make some remarks about the cases which I just presented.

Probably the most evident feature of the analyzed cases is that those interventions were conducted by a group of states which I have referred to as the *West*. The term *West* is used as a convenient generalization, and that is why it is problematic, which is why I will dedicate more attention to it in the following chapter. But one thing is certain, post-Cold War humanitarian

³²² Ibid., pp. 179-181.

³²³ Zambakari (2016), p. 50.

interventions have all been conducted mostly by the Western states. This is not only visible by observing which states have participated in the interventions³²⁴, but also by the reactions of states who have been criticizing those interventions, such as Russia and China, which are regarded as West's rivals.

Another actor which has had a prominent role in humanitarian interventions was the UN. After the end of Cold War, UN was striving to establish a more active role at the world stage, which was an understandable move considering the assumption that after the Cold War there would be more international cooperation and that UN provides the logical choice of venue. And indeed, the UN was actively involved in Rwanda and Bosnia as a more or less independent actor. However, its role diminished, and apart from the always important institution of Security Council it had little involvement in Kosovo and Libya.

All of the cases show a great amount of critique, regardless if intervention took place or not, or what kind of intervention it was. This critique caused what Christopher Hobson names "the intervener's dilemma"³²⁵, namely the problem in which states get criticized if they do not interfere, like they did in Rwanda and Bosnia, but also if they do, like it was the case with Kosovo and Libya. But it must be stressed that much of the critique was directed at the manner in which the interventions were conducted, for example the bombing of FR Yugoslavia from 4,600 m or explicit support to the rebels in Libya with subsequent regime change.

Yet, this critique caused the debate on establishing a principled policy of humanitarian interventions. As the years progressed, each new crisis was treated as an individual case and thus every intervention was ad hoc. Realizing that this approach has legal and practical difficulties and that I could set unwanted precedents, some states and actors wanted to establish criteria for interventions and norms of behavior in these cases. For example, at the turn of the millennium Canada provided financial and diplomatic support for the *International Commission on Intervention and State Sovereignty* (ICISS), which introduced the much-discussed concept of *Responsibility to Protect* (RtoP). This concept found many friends, especially among liberals and at Kofi Annan's UN, because it viewed UN as the proper authority for authorizing interventions³²⁶.

³²⁴ States that are not regarded as Western, such as Turkey, Egypt or Qatar, have also participated in the interventions which I analyzed in the previous chapter.

³²⁵ Hobson (2016), p. 434.

³²⁶ Pingeot/Obenland (2014), p. 14.

Needless to say, many states, especially great powers, received this concept with skepticism thinking that it may limit their power. This brings us to another clearly visible and controversial aspect of humanitarian interventions: state self-interests. Despite all attempts to portray these cases as purely humanitarian endeavors, state interests play a key role in deciding whether to intervene or not. This is evident in the selectivity of the cases in which states decide to intervene and when not. Those states best placed to act in Rwanda and Bosnia were slow to intervene, because they saw no interests to do so. At least not until the media caught up with the story and created a public opinion favorable for the intervention.

The importance of the media is hard to overstate. Media plays a big role not only in discovering that there is a crisis, but also *how* this crisis is perceived. While the media was aware that something horrible was happening in Rwanda, there were few journalists on the spot, and more importantly, very little video footage. On the other hand, Libya happened in the middle of the Arab Spring, which was the top story at the time, making media conditions for an intervention almost instantly ripe.

The following pages will discuss these and other issues at greater length. The first question that I pose is why was it exactly the West that conducted most of humanitarian interventions. Once I have explained this, I will move to concrete interests the Western states had in conducting humanitarian interventions. Finally, I discuss the effect these interventions had on international relations in general.

7.1. Why are most Humanitarian Interventions Conducted by the West?

As I have described above, humanitarian interventions are not a new phenomenon. What is new however is the near exclusivity the Western states have acquired over humanitarian interventions.

But before this discussion can be continued, a digression should be made about what West actually is. The practicality of the concept is evident, and I am by no means the only one who uses this concept extensively. Yet, using it without reflection is problematic, because it depicts a large

number of states which although may share a similar political system, still have great differences in policy, history, culture, etc.

There are two major criteria which form the West - geography and political culture - and both are inconclusive. Geographically, one is tempted to say that the West belongs to the western hemisphere to which North America and Western Europe belong, but Australia and New Zealand also belong to the West, and arguably the whole European Union. In terms of political culture, the West is characterized by liberal democracy and free market economy, but again, this also includes many countries which are not West.

Perhaps the best way to understand the West is through history, because it was one of the sides in the East-West divide of the Cold War. This divide gave both blocs a strong sense of identity, because as with all dichotomies, they had an opposite side of which they were sure they were not a part of. After the Cold War ended it is safe to say that Eastern Bloc countries lost that strong sense of identity. Some of them joined the West, like many new EU states, and some like Russia formed a new identity, or better said, rediscovered the old one. But what effects did the end of Cold War have on the West?

Robert Kagan questions the continued existence of the West and points to the massive differences between USA and Europe, both in power and in way of approaching problems³²⁷. According to Kagan, USA's reaction to problems is usually applying hard power, which he thinks is caused by massive military power at USA's disposal. On the other hand, Europe's soft methods are due to fact that it faced the biggest danger during the Cold War and that it was in its interest to keep the tensions down.

Of course, the differences within the West are not only between USA and Europe, but within Europe itself. The cases which have been analyzed above also indicate that there is a difference between France and Germany for example. While France spearheaded the intervention in Libya and often acted unilaterally, Germany abstained from the vote in the Security Council.

Yet, despite all these differences, it would be a mistake to claim that the West does not exist. Various crises including many interventions and terrorism have remobilized Western states and created a new front which they can again be part of. As I have mentioned in the cases above,

³²⁷ See Kagan (2003), pp. 76-85.

authors often state that consolidation of NATO, the key Western alliance, was among the most important motivators for these interventions.

Alas, back to our discussion. The end of Cold War caused the unipolar moment in which the strength and influence of the West was unparalleled. This in turn influenced the opinion that there came an ‘end of history’ as Francis Fukuyama claimed, in which the West ‘won’ the ideological battle and that hence forth Western values are universal values. This universality is visible in the discourse on human rights, which were not considered universal by the Eastern bloc, as Manokha points out³²⁸, and are still not considered universal by many states. But the fact remains that West became the strongest and that it could implement human rights as universal. Following Kagan’s argument that the states who have power also tend to use it, and having in mind that the Western public is sensitive towards grave human rights violations, it is not hard to see why West has acquired such an interventionist character in the post-Cold War period.

7.2. Which Interests does the West Have for Conducting Humanitarian Interventions?

In order to answer this comprehensive question, I will divide the interests into internal and external, internal being those which are dependent on the internal political, economic or social situation and external being those interests that must be fulfilled abroad.

Internal politics play a major role in how foreign policy will look like. Western states are liberal democracies, and as such they have multi-party systems in which different political options compete for power. This means that every step the government takes will be scrutinized and criticized by the opposition. For example, if the government is reluctant to intervene, as was the Bush Administration in Bosnia in 1992, an alternative opinion appears which favors intervention, as was Clinton when challenging Bush in elections that year. I see this as a political equivalent of economic laws of supply and demand: one politician is not supplying the action for which there is a demand (Buch not wanting to intervene, despite increasing appeals of the public), so another politician appears which offers supply for that demand (Clinton indicating that he might be open to intervention). Therefore, it is misleading to talk about a single state interest, which is what many

³²⁸ See Manokha (2009), p. 436.

authors do. Rather, state interests are at least partially defined by the party in power, or by the circumstances in which the state finds itself.

In the previous chapter I already explained the difference between realism and idealism. Translated into national politics, especially in the context of the USA, this division becomes conservatives versus liberals.

It is very important to stress that during the above-mentioned interventions USA's government was in the hands of Democrats³²⁹, which is the liberal option in the USA. In their thinking, liberals are influenced by the powerful idea of Immanuel Kant about the 'democratic peace'. According to this theory, democratic states do not fight wars against each other because it is not in the interests of their citizens to wage expensive and destructive wars. Some liberals reshaped this idea into a mission of democratization in order to achieve peace. Indeed, Kant's eternal peace theory is the main idea behind the European Union, and it has proven to be very successful in that particular case. But whereas the expansion of the EU has been conducted peacefully, by promoting values and economic progress of the Union, some liberals took quite a belligerent character. A case in point is Suzanne Nossel, who criticized George W. Bush's unilateralism and advocated a different approach in international relations. While stressing that what she calls 'liberal internationalism' needs to be forwarded primarily through spreading American values and economic prosperity, she argues that "United States should maintain its ability to act unilaterally" and concludes that "a renewed liberal internationalist strategy recognizes that military power and humanitarian endeavors can be mutually reinforcing"³³⁰. Nossel never doubts the righteousness of liberal internationalism nor the superiority of American values, and she is by no means the first liberal author to do so. Another prominent influence on the liberal thought was John Stuart Mill, who differentiated between four stages of social development, with "the highest stage of development empirically with European, and especially British, culture and political organization"³³¹. Beate Jahn concludes that "Mill and contemporary liberals deny equal rights to nonliberal or noncivilized states on exactly the same grounds: they are defined as

³²⁹ Clinton Administration was in power during the interventions in Bosnia and Kosovo, while it was the Obama Administration in Libya. Although there are views that define the war in Iraq in 2003 as a humanitarian intervention, Hehir points out that this aspect has been „retrospectively inflated“ after no weapons of mass destruction have been found, which means that this war was fought in line with the 'Bush Doctrine' of unilateral preemptive strikes.

³³⁰ Nossel, Suzanne (2004), „Smart Power“, in: *Foreign Affairs*, March-April 2004.

³³¹ Jahn, Beate (2005) – „Kant, Mill and Illiberal Legacies in International Affairs“, in: *International Organization*, Vol. 59:1, pp. 177-207, p. 195.

aggressive and will benefit from the accelerated development of liberalism or civilization”³³². With this in mind, it is not surprising that some interventions, like the one in Libya, whose leader was neither liberal nor civilized in the Western sense of the word, ended with a quick regime change.

Opposed to idealistic liberals are realist conservatives. Although realists also use language of humanitarianism to justify some of their actions (such as the war in Iraq in 2003), they do not advocate using power to advance values or ideals, but primarily to gain security or expand power. “Interventions motivated by power and interest are more likely to be sustainable and are therefore more likely to be successful. All the conventional wisdom and all realistic doctrines of international affairs counsel against military involvement (...) out of purely altruistic motives”³³³.

The struggle between liberals and realists is conducted on several fronts. Many of the most prominent representatives of both sides are academics, and their discussions take place in the academic format. Regularly, some of these representatives become officials or advisers of officials. For example, Samantha Power was Ambassador of the USA to the UN, Marie-Anne Slaughter was an adviser to Secretary of State Hilary Clinton, Robert Cooper was an advisor of British Prime Minister Tony Blair while Joseph Nye served in various roles in the Clinton Administration. Once they receive those positions their academic influence transforms into real power to impact policy.

The forum in which discussions among realists and idealists have the strongest impact is the mainstream media. If I use the same supply-demand analogy from the beginning of this chapter, media could be seen as the main creator of demand for policy. In all the cases analyzed above media played a crucial role in deciding whether to intervene or not. Producing emotionally powerful images and framing the reports in certain manner are some of the ways in which media outlets can influence public opinion. Although one gets tempted to conclude that the power of the media is great and that it alone is responsible for decision-making, that is not the case. For example, although there are many critical reports and moving images about Israel’s treatment of Palestinians, Western states would never intervene in Israel because they have a clearly defined policy towards Israel, and media reports can be either countered or ignored. According to Piers Robinson, media has great influence in those cases where states do not have a clearly defined policy on the matter.

³³² *Ibid.*, p. 197.

³³³ Cooper (2004), p. 73.

In those cases, governments do not have prepared arguments to counter media reports and they do not strive to influence reporting to align it with the official policy³³⁴.

Media has the power to choose how to frame a certain conflict. Whereas there are outlets who offer in-depth analysis of conflicts and refrain from the normative tones, there are those who portray conflicts as struggles between the good and the evil. The analyzed cases showed that it was the Serbs in Bosnia and Kosovo, and Gaddafi's government forces in Libya who were portrayed as evil. This led to conclusions that the media has something of a predetermined bias towards a certain groups or leaders or that media reports are framed according to a dictate by those who might benefit from intervention or regime change. While it is impossible to argue that bias does not exist, because it does, this bias might not be predetermined or be a result of some dictate. In one of the previous chapters where I presented theories of power, I briefly introduced Foucault's concept of power through discourse, which stated that power is not owned by actors, but rather mediated, and that once established, discourse influences the actors promoting it. This model is very applicable to the media. Milošević and Gaddafi were both authoritative leaders, without much regard for human rights. Western media mediates the discourse of human rights and is itself influenced by it, which is why it is only logical that they are biased towards something that they perceive as outside of their 'correct' discourse.

There are some other important aspects about the media and news industry. Because democracies depend on freedom of the media, outlets are kept separated from the state in order to preserve their independence. The negative side effect is that they usually must finance themselves in the free market, which means that they often must make themselves interesting. As a result, many of the powerful news networks are essentially entertainment industries.

When it comes to the power of the media, a safe conclusion is that American media are the most influential. This is because of the strong cultural influence of the USA and the fact that English language is the modern lingua Franca. Joseph Nye recognizes media as one of the most important elements of the American "soft power"³³⁵.

³³⁴ See Robinson (2000), pp. 614-616.

³³⁵ Nye (2002), pp. 69-74.

Economic interests play a prominent role in the decision whether to intervene or not. Economy cannot be clearly classified as internal or external interest, because economy is globalized and dependent on many factors, both internal and external.

Internally, having a standing army is a huge economic task, because of its immense costs. Military ranks among the highest expenditures of every state, along with health care, social care, subventions, infrastructure and education. But whereas these expenses arguably justify themselves, military is justified through the existence of an external threat and through war. If the army is not used, then the people might ask why it is needed at all, if resources can be invested otherwise. Bluntly said, out of this reason alone interventions will take place from time to time. This is because the funds invested in the military are an important part of every state's economy. Industrial complexes provide weaponry, agriculture sustenance and the military is usually one of the biggest employers of every state.

On top of these 'regular' expenses, conducting wars costs additional money. I already mentioned that the intervention in FR Yugoslavia cost approximately 30 billion UK Pounds, with 2,5 billion alone to military costs. And this for a 78-day air intervention. Although one might consider these costs a waste of state funds, many companies and jobs depend on it.

As far as external economic factors are concerned we have market interests and resource interests. Western economies are free markets and their tendency is to expand constantly to accommodate the increasing capital. Former Yugoslavia and Libya were not free market economies before the interventions. Whereas it is hard to tell what Libya will look like after it has been consolidated as a state, all the former Yugoslav republics are now free market economies with varying degree of success. Opening new markets and perhaps creating a single global free market would certainly fit the liberal agenda.

Finally, resources are key to industrial economies. Perhaps one of the favorite points of critique of interventions in Libya and Iraq was that it was conducted because the massive oil reserves these two states have. But resources do not explain interventions in Bosnia and Kosovo, because the Balkans area is not particularly rich in sought-after resources. But resources do play a role in defining national interests and resources mean more than just oil.

Another mainly external state interest is gaining power in relation to other states. Power considerations have had perhaps the most important role in deciding whether to intervene or not.

In one of the previous chapters I have presented the factors of power according to Morgenthau. I believe that when placed in the context of humanitarian interventions these factors provide a solid explanation why powerful states act interventionist.

- Geography – although conquest has been prohibited by the UN Charter as well as largely eradicated from state behavior, there are indirect ways to ‘gain’ territory. I am referring to establishment of sphere of influence through a network of allied states which neutralizes the potential threat posed by those states and possibly creates a buffer zone between rivals. This factor might also explain why so many humanitarian interventions eventually ended with regime change. Looking at the geography of cases I presented above, it is evident that Bosnia, Kosovo and Libya have greater strategic value than distant Rwanda.
- Resources – already explained above. Bottom line is, if a great industrial power is faced with a choice of respecting another state’s sovereignty or acquiring an important resource, it will probably choose the latter. Admittedly, apart from Libya, resources probably did not play a large role in humanitarian interventions. Moreover, it is highly questionable if the Libyan oil production (which is dwarfed and easily compensated by the oil production of Saudi Arabia) played a crucial role in deciding to intervene.
- Military – unfortunately, when we talk about humanitarian interventions, we usually refer to military interventions. Being the key instrument of power according to Morgenthau, military has much to gain from conducting interventions by testing weaponry and providing valuable experience to soldiers and officers. Moreover, every intervention is a demonstration of force. Cases of Bosnia and Kosovo clearly demonstrated the clear superiority of USA over its allies, some of which like France and UK count as great powers themselves. This reaffirmed USA’s leadership over NATO and the West.
- National character and morale – winning a war is good for national morale. Of course, we should be mindful of the differences among states. For example, in the 20th century USA has established a very interventionist reputation and one would struggle to find a President who did not have at least couple of wars during his mandate. On the other hand, post-Second World War Germany and Japan became largely pacifist and their citizens are skeptical towards the very idea of conducting a war. But provided a state is

interventionist, waging a war can have very positive effects on internal politics. Margaret Thatcher's ratings were very low before the Falklands War, but afterwards she became the undisputed leader. Similar logic may apply to humanitarian interventions. Due to the very negative media portrayals of Serbs and Gaddafi, there was a feel-good sentiment about interventions in Bosnia, FR Yugoslavia and Libya. Prevailing against these adversaries gave the public an enthusiastic sense of achievement. An interesting point is made by Robert Cooper, when he discusses the fact that foreign policy is not only about self-interest. When faced with a dilemma whether to use force or whether to uphold international law, Cooper argues that "it is not simply a tactical question: it is also about the kind of world you want to live in and the kind of country you want to be"³³⁶. Thus, some decisions create "defining moments (...and) out of this new identity flows the national interest"³³⁷. It is quite possible that after the Cold War, when the West was unsure of its new role, humanitarian interventions provided such a defining moment which became a norm of behavior and a national interest of Western states.

- Government and diplomacy – interventions do not only provide the military with testing ground and experience, it does the same to the state's officials and diplomats. All the described cases created diplomatic crises which enabled intervening countries to gain valuable experience in politics and policy. For example, during the crises in Bosnia and Kosovo, chief USA diplomat Richard Holbrook established himself as one of the most prominent diplomats in the world. His experience, which he transferred through extensive writing, influenced a new generation of American diplomats.
- Culture and values – there are authors like Nye and Slaughter which have argued that spreading values is of vital national interest³³⁸. I have already described how the liberal authors approach the idea of 'democratic peace', which is founded on the values which are often described as Western. Indeed, it appears that some of these authors use the concepts of power and values interchangeably³³⁹. Be that as it may, it is a fact that humanitarian interventions are often followed by regime change, and usually in the

³³⁶ Cooper (2004), p. 131.

³³⁷ Ibid., p. 132.

³³⁸ See Nye (2002), p. 139, Hobson (2016), p. 444, Pingeot/Obenland (2014), pp. 28-29.

³³⁹ See Nossel (2004).

direction that favors intervening states. In the case of FR Yugoslavia, the regime of Slobodan Milošević was brought down by his own people, but the Western ‘soft power’ played a considerable role in consolidating the opposition.

7.3. How do the Humanitarian Interventions Influence International Relations?

Along with fight against terrorism, humanitarian interventions are probably the most debated issue in international relations. The intensity of this debate is illustrated by the media attention it attracts, the number of analysts writing about it, and through the wide range of implications it has on international relations as a whole. The implications are both institutional and political.

Institutionally, humanitarian interventions have affected international organizations such as the UN, and triggered discussions on some of the fundamental principles of international law such as sovereignty, use of force and self-determination.

Let us start with the UN. After the Cold War an idea emerged that the UN could receive a more powerful role in the international system, not just as a forum of states but as an executive body. That this was not a completely alien idea was seen in the fact that the UN played a prominent role in the crises in Rwanda and Bosnia, where it had thousands of soldiers on the ground. But these crises did a disservice to the UN, as it was unable to react quickly and overcome member states’ self-interests. Later examples like Kosovo, where UN was ignored altogether, and Libya, where the intervention was conducted by NATO, further diminished hopes that UN might outgrow its present form. Furthermore, great powers are generally skeptical of the UN because they see it as a possible limitation of their own power. They prefer to keep the power in their own hands and probably the biggest obstacle of reforming the UN into a more independent institution are the five permanent members of the Security Council. The Security Council itself received perhaps the most criticism. There are those who criticize it for inaction when great powers cannot agree how to act, but there are also those who criticize unilateral actions that go around the UNSC. Calls for reform of the UNSC, which increasingly no longer represents the power relations in the world, remain loud as ever.

Further, there is the issue of international law. In previous chapters I have explained that international law is not ‘proper’ law, considering that it has no central force behind it. This means that international norms can be disregarded by states and they often are, especially by great powers simply because there is no one to prevent them from doing so. However, even the great powers have an interest in preserving the system of international law, which is why they take great care to legitimize their actions using legal arguments. One of the fundamental principles of modern international law – sovereignty – is at the center of the debate on humanitarian interventions. The question if one state has the right to disregard another state’s sovereignty to alleviate a humanitarian crisis has produced volumes of opinions without a clear answer. There are those, like the above mentioned liberal internationalists who see sovereignty as responsibility of the state towards its people. If a state does not fulfill its responsibility of providing universal human rights, so they argue, it loses sovereignty, meaning that other states may intervene. But there is fierce resistance to this view. There are those, like Shashi Tharoor who question the very universality of human rights arguing that they are norms of the developed societies in the West³⁴⁰. If this argument is followed, then a conclusion could be made that interventions for the sake of human rights are Western interventionism, if not downright imperialism³⁴¹. On the other side, there are those who are concerned that relativizing the concept of sovereignty could open Pandora’s box. To this account, Henry Kissinger writes: “those who sneer at history obviously do not recall that the legal doctrine of national sovereignty and the principle of non-interference – enshrined in the UN Charter – emerged at the end of the devastating Thirty Years War”³⁴². If we disregard sovereignty, Kissinger implies, we risk returning to endless streaks of wars based on values, such as the wars for religion in the 17th century Europe.

But it is not the concept of sovereignty itself that is threatened, because great powers will seek to retain their sovereignty at any cost. It is rather that the universality of sovereignty is questioned. To reformulate, a state like China may disregard human rights of its citizens if it chooses or sees interest to do so, and it is highly unlikely that another great power will intervene to stop China’s actions. The same logic does not apply to a country like Libya. I believe that it is precisely this selectivity that is the hardest pill to swallow to peoples and states alike. If human

³⁴⁰ Tharoor, Shashi (1998).

³⁴¹ Cooper (2004), p. 48.

³⁴² Kissinger, Henry (1995), in: Cooper (2004), p. 60.

rights are international law, and if humanitarian interventions are a legal consequence of violating that law, then it should be applied to everyone. Law is only then law if it is principled, and not selective. Everything else is opportunism and weighing of self-interests.

This selectivity is even more evident in international judiciary bodies. Nicaragua Case showed that a great power like the USA may disregard a binding decision by the ICJ. The indictment of Muammar Gaddafi by the ICC, which was order by the UNSC is problematic if we consider the fact that three of five permanent members of the UNSC do not recognize the jurisdiction of this court for its citizens³⁴³. In cases of Libya and FR Yugoslavia, international tribunals have been used to lend legitimacy to interventions whose legality was shaky. This does not mean of course that Gaddafi and Milošević did not deserve to be tried for the atrocities they were responsible for. But again, selectivity presents the lasting problem of international law.

Selectivity is not only a problem for international law, but for international politics as well, which brings me to the political implications of humanitarian interventions. The impression of selectivity does not only cause bitterness among people and leaders of states, it influences state policies. Faced with the prospect of possible intervention, many states which feel threatened try to develop powerful deterrence. North Korea developed a nuclear bomb and Iran was allegedly on the way to do the same, while both counters have considerable conventional capabilities. Both states have troublesome human rights record and both were among those mentioned by George W. Bush in his ‘axis of evil’ speech, and USA continues to be hostile towards them.

After the Western states, Russia was probably the most interventionist state in recent decades. Russia intervened in Georgia, Ukraine and Syria, much to the dismay of the Western states. Doubtlessly, these interventions were conducted to fulfill Russian interests. Georgia and Ukraine are Russia’s neighbors with considerable number of Russian-speaking minorities, but both countries expressed desire to join NATO which is against Russian interest. In case of Syria, the only Russian base in the Mediterranean is in this country. Syrian war has also been used by Russia to demonstrate its military power. Yet in all the cases, Russia used Western arguments to legitimize its actions. It pointed to Kosovo when it recognized the Georgian breakaway regions of Abkhazia and South Ossetia and more recently when it annexed Crimea from Ukraine. In Syria, it argued

³⁴³ China, Russia and USA are not signatories of the Rome Statute.

that it was fighting on the side of the legitimate government against a terrorist insurgency, disregarding the Western claims that the Syrian government lost legitimacy.

In any case, the example of Russian interventionism is an obvious result of Western interventionism. West is persistent in its claims that the humanitarian interventions it was conducting form no precedents, but that they were exceptions. This (deliberately?) naïve stance sounds unconvincing because that is not the way international relations work. If one state expands its power in a certain way (as Western states clearly did through humanitarian interventions), then other states will do the same. Realist thinkers have spent volumes and volumes to argue that the best way to guarantee its security is for a state to maximize its power. Allowing other states to conduct interventions, allegedly on humanitarian grounds, and do nothing to counter the resulting gain of power of those states goes directly against that realist logic. Ironically perhaps, but the most prominent thinkers arguing such behavior were Americans.

By far the greatest impact of humanitarian interventions is felt in the targeted states. Conducting humanitarian interventions inevitably means taking a side in a conflict and supporting that side. But conflicts are never one-sided. In Rwanda, there were crimes committed by Tutsis against the Hutu, in Bosnia and Kosovo there were grave crimes against the Serbs and in Libya rebels also committed and continue to commit atrocities. The fact that these were the 'loosing' sides meant that their suffering is not as important. This of course leaves deep marks in historical narratives and influences future policy-making.

Many authors took issue with the fact that humanitarian interventions often lead to regime change. In fact, this does seem like a logical solution – the regime is the problem, so the problem can be fixed by removing the regime. But the case of Libya demonstrates that simply deposing the system leads to power vacuum too big to fill in a short period of time. As a result, infighting emerges which plagues the country for decades to come. This lesson should have been learned in Afghanistan and Iraq. In its formulation of RtoP policy, ICISS developed the idea of responsibility to rebuild, which would have addressed the issue of power vacuum. However, this idea was not adopted in the end document at the 2005 World Summit, meaning that intervening states can just leave after they have fulfilled their own goals. This is neither fair to the target states, nor does it agree with principles of human rights protection which humanitarian interventions set out to achieve.

8. Conclusion

Before I make my own concluding remarks, let me briefly return to the hypotheses from the beginning of this paper.

The first one claimed that *human rights and humanitarian interventions are used by certain states as legitimization to maximize their power*. In this paper, I have shown that every analyzed humanitarian intervention was also in some way connected to power gains or fulfillment of self-interest by intervening states. Having self-interests to intervene in a country that is violating human rights does not mean that a humanitarian intervention is not possible. But the fact remains that humanitarian interventions are selective and that power gains and self-interest do play a decisive role when deciding to intervene.

The second hypothesis was that *legitimization of the use of force is a historical constant with continually changing paradigms with present paradigm being human rights and humanitarian interventions*. None of us has lived in a world free of war, and we probably will not live in one in the foreseeable future. Wars are constant, and some of the theories of creation of state remind us that waging wars is one of the features of the state. The element that changes is our perception of war. Europeans for example can no longer imagine their countries waging religious wars, as they did before the establishment of the Westphalian system. This does not mean that Europeans are opposed to war altogether. Every state and every culture believes that there are just wars in certain circumstances. For Western states, those just wars are fight against terrorism and humanitarian interventions.

My third hypothesis was that *unlike state law, the system of international law enables states to be selective when implementing and enforcing it, which is especially the case in relation to great powers*. The system of international law does not only exempt great powers from respecting it, it also depends on great powers for its enforcement. Jean Bodin believed that the sovereign ruler must be above the law, because he is the one that guarantees it. A similar arrangement appears to exist in the international law, but instead of a single sovereign, we have several very powerful states, which are the only ones powerful enough to enforce international law. And although these states have great interest in upholding the international law system, there are always cases in which their other interests prevail. In such cases, they can afford to be selective and disregard international law, but they would never admit doing so.

Finally, the last hypothesis was that *human rights possess a significant amount of soft power potential*. There is a clear yes to this hypothesis. I was born and I grew up in a country that struggles with implementation of human rights, but I am still a passionate believer in those principles. Since I am not naturally predisposed to respect these principles, the only logical thing to assume is that I was influenced by the soft power of human rights through media, arts and politics. In fact, I am convinced that soft power would do a far better job in eradicating mass atrocities in the long run than humanitarian interventions do. Humanitarian interventions are violent and indiscriminate and they have caused a lot of harm to people and a lot of harm to the ideology of human rights. This presents us with an irony of humanitarian interventions undermining the very thing they set out to protect.

There are several other interesting points I wish to address. The question of sovereignty is one that is constantly present and there is no outlook of concluding it. To some states, or leaders of those states, sovereignty does serve as an excuse to get away with mass atrocities against their own people. Since we all live in one world and because we are able to share information like never before, many people eventually find out about those atrocities and there is a natural human reflex to help. We cannot simply conceal our responsibility towards other people behind a political technicality like sovereignty. But as the saying goes, the road to hell is paved with good intentions. There is a powerful reasoning behind the concept of sovereignty and that reasoning was also conceived to prevent wars and mass atrocities. By disregarding this concept, we risk being again pulled into the permanent war of competing truths and values, as it was the case in Europe during the Thirty Years War.

Sovereignty is fundamental to the international law as we know it. This does not mean that international law is forever dependent on sovereignty. The best way to prevent mass atrocities is to expand international law on that issue. The fundamentals are already there in the Universal Declaration on Human Rights and in many binding treaties. But the key point is avoiding selectivity, because it is the enemy of principle and as such the enemy of every law.

In the end, humanitarian interventions remain a highly emotional topic. During my research, I have come across some very normative and emotionally charged papers by both analysts and politicians. This does not surprise me. It is not easy focusing on a topic which involves so much human suffering and oftentimes this caused me personally a great deal of pain.

The last proper humanitarian intervention was conducted in Libya, and it did considerable damage not just to the country, but to the newborn concept of Responsibility to Protect. By all reckoning, the next humanitarian intervention should have been conducted in Syria, but Russian intervention prevented that from happening, which indicates that there is still no escaping great power politics. Many authors now declare RtoP dead, but all history moves in cycles and I have no doubt that, for better or worse, another moment will arise when new humanitarian interventions will be conducted.

9. Literature

- Allen, Karen (2016) – “Is this the end for the International Criminal Court?”; in: *BBC News*; URL: <http://www.bbc.com/news/world-africa-37750978> (retrieved 10.10.2016)
- Barnett, Michael/Duvall, Raymond (2005) – “Power in International Politics”; in: *International Organization*, Vol. 59:1, pp. 39-75
- BBC (1999) – “Kosovo war cost £30bn”; in: *news.bbc.co.uk*, URL: <http://news.bbc.co.uk/2/hi/europe/476134.stm> (retrieved 6.5.2017)
- Bilder, Richard B. (2008) – „The Implications of Kosovo for International Human Rights Law”; in: Alston, Philip/Macdonald, Euan (Ed.) (2008) – *Human rights, Intervention and the Use of Force*, New York: Oxford University Press
- Buchanan, Allen E. (2010) – *Human Rights, Legitimacy, and the Use of Force*, New York: Oxford University Press
- Carlin, George – “Soft Language”; Video available in: <https://www.youtube.com/watch?v=7n2PW1TqxQk> (retrieved 11.10.2016)
- Carroll, Rory (2004) – “US chose to ignore Rwandan genocide”, in: *The Guardian*; URL: <https://www.theguardian.com/world/2004/mar/31/usa.rwanda> (retrieved 13.4.2017)
- Charter of the United Nations* (1945); URL: <http://www.un.org/en/charter-united-nations/> (retrieved 31.1.2017)
- Clapham, Andrew (2012) – *Brierly's Law of Nations – An Introduction to the Role of International Law in International Relations*, Oxford: Oxford University Press
- Cooper, Robert (2004) – *The Breaking of Nations – Order and Chaos in the Twenty-first Century*, London: Atlantic Books
- Epstein, Charlotte (2008) – *The Power of Words in International Relations: Birth of an Anti-Whaling Discourse*, Cambridge: The MIT Press
- Erlanger, Steven (2011) – “By His Own Reckoning, One Man Made Libya a French Cause”, in: *New York Times*, URL: <http://www.nytimes.com/2011/04/02/world/africa/02levy.html> (retrieved 20.4.2017).
- Etzensdorfer, Irene/Janik, Ralph (2016) – *Staat, Krieg und Schutzverantwortung*, Wien: Facultas
- Filzmaier, Peter/Gewessler, Leonore/Höll, Otmar/Mangott, Gerhard (2006) – *Internationale Politik – Eine Einführung*, Wien: Facultas
- Gazzini, Claudia (2011) – “Was the Libya Intervention Necessary?”; in: *Middle East Report, No. 261, Illicit Crossings* (Winter 2011), pp. 2-9

Gearty, Conor (2008) – “Are Human Rights Truly Universal?”; in: <http://conorgearty.co.uk/>, URL: http://conorgearty.co.uk/wp-content/uploads/2016/01/Chapter_29_UniversalityFINAL.pdf (retrieved 30.4.2017)

Grant, John P. (2010) – *International Law*, Edinburgh: Edinburgh University Press (International Law Essentials)

Gray, Christine (2004) – *International Law and the Use of Force*, Oxford: Oxford University Press

Göthel, Dieter (2002) – *Die Vereinte Nationen – Eine Innensicht*, Berlin: Auswärtiges Amt

Guzman, Andrew T. (2008) – *How International Law Works – A Rational Choice Theory*, New York: Oxford University Press

Guzman, Andrew T./Meyer, Timothy L. (2010) – “International Soft Law”; in: *Journal of Legal Analysis*, Vol. 2:1: pp.171-225

Hague, Rob/Harrop, Martin (2004) – *Comparative Government and Politics – An Introduction*, Basingstoke/New York: Palgrave Macmillan (Comparative Government and Politics)

Hehir Aidan (2010) – *Humanitarian Intervention – An Introduction*, Basingstoke/New York: Palgrave Macmillan

Hehir, Aidan (2013) – “Introduction: Libya and the Responsibility to Protect”; in: Hehir, Aidan/Murray, Robert (Ed.) (2013), *Libya, the Responsibility to Protect and the Future of Humanitarian Intervention*, Basingstoke: Palgrave Macmillan, pp.1-14

Hobson, Christopher (2016) – “Responding to Failure: The Responsibility to Protect after Libya”; in: *Millennium: Journal of International Studies*, Vol. 44:3, pp. 433-454

Human Rights Watch (2016) – “China”; in: *World Report 2016*; URL: <https://www.hrw.org/world-report/2016/country-chapters/china-and-tibet> (retrieved 17.10.2016)

Human Rights Watch (2016) – “India”; in: *World Report 2016*; URL: <https://www.hrw.org/world-report/2016/country-chapters/india> (retrieved 17.10.2016)

Human Rights Watch (2016) – “United States”; in: *World Report 2016*; URL: <https://www.hrw.org/world-report/2016/country-chapters/united-states> (retrieved 2.11.2016)

ICC - *The States Parties to the Rome Statute*, URL: https://asp.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx (retrieved 2.2.2017)

ICJ (2007) – *Case Concerning Application of Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina vs. Serbia and Montenegro)*, pp.186-189; URL: <http://www.icj-cij.org/docket/files/91/13685.pdf> (retrieved 16.4.2017)

ICTY (2015) - *Appeal Judgement Summary for Popović et al.*, p.3; URL: http://www.icty.org/x/cases/popovic/acjug/en/150130_summary.pdf (retrieved 16.4.2017)

Jahn, Beate (2005) – “Kant, Mill, and Illiberal Legacies in International Affairs”; in: *International Organization*, Vol. 59:1, pp. 177-207

Kagan, Robert (2003) – *Of Paradise and Power: America and Europe in the New World Order*, New York: Alfred A. Knopf

Keating, Tom (2013) – “The UN Security Council on Libya: Legitimation or Dissimulation?”; in: Hehir, Aidan/Murray, Robert (Ed.) (2013), *Libya, the Responsibility to Protect and the Future of Humanitarian Intervention*, pp.162-190 Kennedy, Paul (1988) – *The Rise and Fall of Great Powers – Economic Change and Military Conflict from 1500 to 2000*, London: Unwin Hyman

Kuperman, Alan J. (2013) – “NATO’s intervention in Libya: A Humanitarian Success?”; in: Hehir, Aidan/Murray, Robert (Ed.) (2013), *Libya, the Responsibility to Protect and the Future of Humanitarian Intervention*, pp.191-221

Manokha, Ivan (2009) – „Faculty's Concept of Power in the Global Discourse of Human Rights“; in: *Global Society*, Vol. 23:4, pp.429-452 Martel, William C. (2011) – *Victory in War – Foundations of Modern Strategy*, Cambridge University Press, New York

McGreal, Chris (2007) – “France’s Shame?”; In: *The Guardian*; URL: <https://www.theguardian.com/world/2007/jan/11/rwanda.insideafrica> (retrieved 14.4.2017)

Mearsheimer, John (2001) – *The Tragedy of Great Power Politics*, New York: W.W. Norton & Company

Mezey, Naomi (2001) – “Law as Culture”; in: *Yale Journal of Law and the Humanities*, Vol. 13:35, pp. 35-67

Morgenthau, Hans J., Rev. by Thompson, Kenneth W. and Clinton, W. David (2006) - *Politics Among Nations: The Struggle for Power and Peace*, Boston: McGraw-Hill Education

Mulaj, Klejda (2011) – “Dilemmas of Reacting to Mass Atrocities: Humanitarian Intervention to End Violent Conflict in the Western Balkans”; in: *Democracy and Security*, Vol. 7:2, pp. 140-159

Multilateral Vienna Convention on the Law of Treaties (1969)

Murphy, Sean D. (2009) – “The Concept of International Law”; in: *Proceedings of the Annual Meeting (American Society of International Law)*, Vol.103, International Law As Law, pp.165-169

Nye, Joseph S. Jr. (2002) – *The Paradox of American Power – Why the World’s Only Superpower Can’t Go It Alone*, New York: Oxford University Press

Nossel, Suzanne (2004) – “Smart Power”; in *Foreign Affairs*, Vol. 83:2, p. 131

Pangle, Thomas L./Ahrens Dorf, Peter J. (1999) – *Justice Among Nations – On the Moral Basis of Power and Peace*, Lawrence: University Press of Kansas

PBS Frontline (2004) – *Ghosts of Rwanda*; Video available in:
<https://www.youtube.com/watch?v=VJAuyIRfYIM> (retrieved 13.4.2017)

Pisillo-Mazzeschi, Riccardo (1997) – “Treaty and custom: Reflections on the codification of international law”; in: *Commonwealth Law Bulletin*, Vol. 23:1-2, pp. 549-565

Pingeot, Lou/Obenland, Wolfgang (2014) – *In Whose Name? A Critical View of the Responsibility to Protect*, Bonn: Global Policy Forum/ New York: Rosa Luxemburg Stiftung – Office

Pflanz, Mike (2008) – “French leaders accused of complicity in Rwanda genocide”; in: *The Telegraph*; URL: <http://www.telegraph.co.uk/news/worldnews/2506150/France-accused-of-complicity-in-Rwanda-genocide.html> (retrieved 13.4.2017)

Ristic, Marija (2013) – “Tačan broj žrtava NATO bombardovanja još nepoznat” (The exact number of casualties of NATO bombardment still unknown); in: *Balkanska Tranziciona Pravda*, URL: <http://www.balkaninsight.com/rs/article/tacan-broj-zrtava-nato-bombardovanja-jos-nepoznat> (retrieved 6.5.2017) (in Serbian)

Roberts, Anthea (2008) – “Legality Verses Legitimacy: Can Uses of Force be Illegal but Justified?”; in: Alston, Philip/Macdonald, Euan (Ed.) (2008) – *Human rights, Intervention and the Use of Force*, New York: Oxford University Press

Robinson, Piers (2000) – “The Policy-Media Interaction Model: Measuring Media Power During Humanitarian Crisis”; in: *Journal of Peace Research*, Vol. 37:5, pp. 613-633

Schabas, William (2012) – “Genocide and Crimes against Humanity: Clarifying the Relationship”; in: Wilt, H.G./Vervliet, J./Sluiter, G.K./Houwink ten Cate, J.Th.M. (Ed.) (2012) - *The Genocide Convention – The Legacy of 60 years*, pp.3-14, Leiden/Boston: Martinus Nijhoff

Shaw, Malcolm N. (2003) – *International Law*, Cambridge: Cambridge University Press

Sheenan, Michael (1996) – *The Balance of Power – History and Theory*, London/New York: Routledge,

Sheikh, Kasim (2014) – “International Law”; in: *The Law Teacher*, Vol. 48:3, 380-382

Shelton, Dinah L. (2014) – *Advanced Introduction to International Human Rights Law*, Cheltenham/Northampton: Edward Elgar (Elgar Advanced Introductions)

Shrivastava, B.K./ Agrawal, Manmohan (2003) – “Politics of Intervention and the Bosnia-Herzegovina Conflict”; in: *International Studies*, Vol. 40:1, pp. 69-84

Sito-Sucic, Daria / Robinson Matt (2013) – “After years of toil, book names Bosnian war dead”; in: *Reuters*; URL: <http://www.reuters.com/article/us-bosnia-dead-idUSBRE91E0J220130215> (retrieved 15.4.2017)

Statute of the International Court of Justice (1945), URL: <http://www.icj-cij.org/documents/?p1=4&p2=2> (retrieved 28.1.2017)

Tharoor, Shashi (1998) – “Are Human Rights Universal?”; in: *World Policy Journal*, Volume XVI:4; URL: <http://www.worldpolicy.org/tharoor.html> (retrieved 16.10.2016)

The Convention on the Prevention and Punishment of the Crime of Genocide (1948)

Trbovich, Ana S. (2008) – *A Legal Geography of Yugoslavia’s Disintegration*, New York: Oxford University Press

UNSC Resolution 743 (1992); URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/743\(1992\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/743(1992)) (retrieved 15.4.2017)

UNSC Resolution 812 (1993); URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/812\(1993\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/812(1993)) (retrieved 13.4.2017)

UNSC Resolution 827 (1993), URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/827\(1993\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/827(1993)) (retrieved 16.4.2017)

UNSC Resolution 872 (1993); URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/872\(1993\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/872(1993)) (retrieved 13.4.2017)

UNSC Resolution 912 (1994); URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/912\(1994\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/912(1994)) (retrieved 14.4.2017)

UNSC Resolution 918 (1994); URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/918\(1994\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/918(1994)) (retrieved 14.4.2017)

UNSC Resolution 955 (1994); URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/955\(1994\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/955(1994)) (retrieved 14.4.2017)

UNSC Resolution 1970 (2011), URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1970\(2011\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1970(2011)) (retrieved 20.4.2011)

UNSC Resolution 1973 (2011), URL: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1973\(2011\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1973(2011)) (retrieved 20.4.2017)

United Nations - History of the Document, URL: <http://www.un.org/en/sections/universal-declaration/history-document/index.html> (retrieved 16.10.2016)

United Nations – Main Organs, URL: <http://www.un.org/en/sections/about-un/main-organs/index.html> (retrieved 31.1.2017)

United Nations – Member States, URL: <http://www.un.org/en/member-states/index.html> (retrieved 31.1.2017)

United Nations - The Foundation of International Human Rights Law, URL: <http://www.un.org/en/sections/universal-declaration/foundation-international-human-rights-law/index.html> (retrieved 16.10.2016)

United Nations Protection Force (1996) – “Profile”; In: *un.org*; URL: http://www.un.org/en/peacekeeping/missions/past/unprof_p.htm (retrieved 15.4.2017)

United Nations Security Council – Meetings Records, URL: <http://www.un.org/en/sc/meetings/records/2016.shtml> (retrieved 31.1.2017)

Western, Jon (2002) – “Sources of Humanitarian Intervention: Beliefs, Information, and Advocacy in the U.S. Decisions on Somalia and Bosnia”; in: *International Security*, Vol. 26:4, pp. 112-142

World Bank (2014) – *China – Overview*; URL: <http://www.worldbank.org/en/country/china/overview#3> (retrieved 17.10.2016)

World Bank (2017) - *World Development Indicators Database*; URL: <http://databank.worldbank.org/data/download/GDP.pdf> (retrieved 19.3.2017)

Zambakari, Christopher (2016) – “The misguided and mismanaged intervention in Libya: Consequences for peace”; in: *African Security Review*, Vol. 25:1, pp. 44-62

Abstract/Zusammenfassung

Abstract

This paper deals with the issue of humanitarian interventions in the post-Cold War period. Humanitarian interventions are understood as military interventions by certain state(s) to stop mass human right violations in another country. The point of interest of the paper is the connection of humanitarian interventions to international law and to the relations of power among states. The paper offers a compact overview of the historical and theoretical development of the concepts of state, sovereignty, self-determination, and human rights as well as the very complex concept of power. It also describes international law and main international institutions. The author argues that although humanitarian interventions are presented as purely altruistic, they are not conducted unless there are self-interests involved, from which the intervening state might benefit. To show this, four cases of humanitarian interventions are described: Rwanda, Bosnia and Herzegovina, Kosovo and Libya. After their short description, these cases are used to point the fact that humanitarian interventions are conducted by the Western states and to discuss why these states have interests to intervene.

Zusammenfassung

Die vorliegende Masterarbeit setzt sich mit dem Thema der humanitären Interventionen in der Phase nach dem Kalten Krieg auseinander. Unter humanitären Interventionen sind Militäreinsätze bestimmter Staaten zu verstehen, die es zum Ziel haben, grobe Menschenrechtsverletzungen in einem anderen Land zu beenden. Der Fokus der Arbeit liegt auf der Verbindung von humanitären Interventionen und Völkerrecht, sowie den Machtbeziehungen der Staaten untereinander. Die Arbeit stellt eine kompakte Übersicht über die historische und theoretische Entwicklung der Begriffe des Staates, der Souveränität, der Selbstbestimmung und der Menschenrechte dar, sowie das sehr komplexe Konzept der Macht. Weitergehend werden der Begriff des Völkerrechts und dessen Hauptinstitutionen vorgestellt und beschrieben. Der Autor argumentiert, dass, obwohl humanitäre Interventionen als ausschließlich altruistisch präsentiert werden, sie nicht durchgeführt werden, sofern keine Eigeninteressen des intervenierenden Staates vorhanden sind, von denen selbiger, bei der Durchführung der Intervention, profitieren könnte. Um diese formulierte These bekräftigen zu können, werden in der Arbeit vier Fallstudien humanitärer

Interventionen beschrieben: Ruanda, Bosnien und Herzegowina, Kosovo und Lybien. Nach deren kurzer Beschreibung werden die gewonnenen Kenntnisse genutzt, um die Tatsache zu diskutieren, dass humanitäre Interventionen von Weststaaten durchgeführt werden und um zu hinterfragen, welche Interessen sie zu diesen Eingriffen bewegen.