

International Political Theory and the Issue of Legitimate Intervention*

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Resumo

Este artigo tem por objectivo enunciar diferentes perspectivas sobre as teorias das Relações Internacionais, no que respeita ao tema da intervenção legítima. Por intervenção legítima o autor entende ser a forma de interferência coerciva ou pela força de uma parte ou partes externas na esfera de jurisdição soberana dos estados, por forma a alcançarem-se objectivos que se crêem legitimados pela sociedade internacional. Esta definição desafia os pressupostos partilhados pela maior parte dos académicos das Relações Internacionais, de que o respeito pela norma da não intervenção é uma prática normal na política mundial e consequentemente qualquer intervenção militar é considerada uma infracção à norma. Contrariamente a esta posição tradicional, a noção de intervenção legítima reconhece a norma da não intervenção, como instituição da sociedade internacional. Contudo a ideia de intervenção legítima também reconhece que o respeito pela norma da não intervenção, tem sido parte central da estrutura normativa da política mundial, pelo que os actos de intervenção devem ser justificados. Esta posição parece encerrar uma aparente contradição. Por um lado a intervenção é uma prática endémica no mundo da política, por outro a regra da não intervenção é uma norma central da sociedade internacional. Como é que as teorias das Relações Internacionais equacionam esta contradição? O presente artigo procura responder a esta questão avançando algumas formas possíveis de desenvolver a ideia de intervenção legítima.

Abstract

The aim of this article is to summarise the views of the different International Relations (IR) theories on the issue of legitimate intervention. By legitimate intervention, I mean coercive and forcible interference by an outside party or parties in the sphere of jurisdiction of a sovereign state, which seeks to pursue goals deemed to be legitimate by international society. This definition challenges the assumptions, shared by most IR scholarship, that the respect for the norm of non-intervention is the normal practice of world politics, and thereby that any kind of military intervention is an act of rule-breaking. Contrary to this conventional position, the notion of legitimate intervention assumes that military intervention is a central institution of international society. However, the idea of legitimate intervention also recognises that the respect for the norm of non-intervention, historically, has been a central part of the normative structure of world politics, hence acts of intervention ought to be justified. This points to an apparent contradiction. On the one hand, intervention is an endemic practice in world politics; but, on the other hand, the rule of non-intervention is a central norm of international society. How do IR theories address such a contradiction? The paper tries to answer this question and, in the final section, to suggest possible ways to develop the idea of legitimate intervention.

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My concern with the issue of intervention stems from, in Martin Wight's words, 'the truth of Talleyrand's sardonic remark': 'non-intervention is a term of metaphysics signifying almost the same thing as intervention'. In a more prosaic way, the former American Secretary of State, John Foster Dulles, in 1954 observed that 'the slogan of non-intervention...can plausibly be invoked and twisted to give immunity to what is in reality flagrant intervention'¹. This points to an apparent contradiction. On the one hand, it suggests that intervention is an endemic practice in world politics; but, on the other hand, the rule of non-intervention is recognised by most of international political theories as a central norm of international society. Wight refers to this contradiction when he says that 'in principle, every state is independent in the management of its own affairs...and foreign interference is a violation of its rights...In practice, intervention occurs...commonly [and]...adherents of every political belief will regard intervention as justified under certain circumstances'². How do International Relations (IR) theories address such a contradiction? A possible way to deal with this apparent contradiction is to develop the idea of legitimate intervention. The article tries to answer this question and, in this regard, it summarises the views of different IR theories on the issue of legitimate intervention. In the final section, the article suggests possible ways to further develop the idea of legitimate intervention.

The issue of legitimate intervention has been a central topic in the discussions of international political theory since the end of the Cold War. In the words of Stephen Krasner, 'more attention has been given to the conditions under which intervention should be considered legitimate'³. Quite strikingly, John Vincent anticipated the relevance of legitimate intervention back in 1974: 'The relevant question today...is not whether to intervene, but what kind of intervention and how much and how best to control it when it occurs'; and he added, 'a return to that pristine order of sovereign states each observing a rule of non-intervention, if indeed it ever did exist, is not in prospect'⁴. The issue of legitimate intervention is related with three questions. First of all, the *causes* question, or what are the causes that justify a military intervention? Secondly, the *who* question, that is, who is entitled to intervene? And, thirdly, the *political goals* question, what are the political goals of intervention? In the article, I discuss how realism, pluralism and solidarism treat

1 Martin Wight, *Power Politics*, (Edited by Hedley Bull and Carsten Holbraad, London: Leicester University Press, Paperback Edition, 1995), p. 199.

2 Wight, *Power Politics*, p. 191.

3 Stephen D. Krasner, 'Sovereignty and Intervention', in Gene M. Lyons and Michael Mastanduno (eds.), *Beyond Westphalia: State Sovereignty and International Intervention* (Baltimore: The Johns Hopkins University Press, 1995), p. 228.

4 R.J. Vincent, *Nonintervention and International Order* (Princeton: Princeton University Press, 1974), p. 389.

the idea of legitimate intervention and, in particular, answer these questions. Before I start my argument, let me briefly define intervention.

In this article, I adopt the definition of intervention offered by Hedley Bull: ‘forcible interference by an outside party or parties in the sphere of jurisdiction of a sovereign state’⁵. We can highlight three central points in this definition. First, the expression ‘forcible interference’ denotes the use of military force by the intervening parties; this first point refers thus to the type of activity. Secondly, regarding the number of outside political agents involved, the intervention may be unilateral or collective. Thirdly, the term sphere of jurisdiction, although may also refer to external political sovereignty, or the freedom to conduct foreign policy, in this paper only refers to the territorial integrity and to the exercise of internal political sovereignty; in other words, the target of intervention is the domestic politics of a sovereign state⁶.

Realism

The first point to note is that the issue of intervention is not addressed in a systematic way by the most important realist works. There is nothing really relevant in Hans Morgenthau’s *Politics Among Nations*. Likewise, neo-realist authors such as Kenneth Waltz and Robert Gilpin ignore the question of intervention in their major works. Since the end of the Cold War, Krasner has discussed intervention from a modified neo-realist perspective, which can be included in the broad realist tradition. The realist argument says that intervention is legitimate to protect national security and to maintain the international balance of power.

Ultimately, for realists, it is the anarchical condition of the international system that explains legitimate intervention. Self-help policies and the principle of non-intervention are contradictory. As Krasner puts it in a rather crude way, Anarchy necessarily implies self-help. There is no universal political authority. Each state decides its own policy, and there is no constraint on the options that can be considered, including intervention in the internal affairs of another state... Self-help implies that each state can do anything it chooses; non-intervention implies that there are some things that a state should not do⁷.

5 Hedley Bull, ‘Introduction’, in Hedley Bull (ed.), *Intervention in World Politics* (Oxford: Clarendon Press, 1984), pp. 1-7.

6 See the discussion in Stanley Hoffmann, ‘The Problem of Intervention’, in Bull (ed.), *Intervention*, pp. 7-28.; and in Vincent, *Nonintervention*, pp. 3-13.

7 Krasner, ‘Sovereignty and Intervention’, p. 232.

Thus, 'when self-help clashes with non-intervention, self-help prevails'⁸. In his historical work, Krasner seeks to demonstrate the accuracy of this view, and he concludes that 'intervention in the internal affairs of other states has been a pervasive characteristic of the sovereign state system from its very beginnings'⁹.

The concern for national security in the condition of anarchy constitutes the first realist argument for legitimate intervention. To justify the defence of national security, realists override the principle of non-intervention. In a state of war, self-help, which may lead to military interventions, is the only source of national security. In his discussion of realist thought, Michael Doyle observes that for realists states 'cannot abide by the rules of sovereign equality, sovereign non-intervention when security is at stake'¹⁰. Military interventions resulting from concerns with national security may be divided into two types. On the one hand, states intervene in the domestic affairs of their neighbours because they fear that developments within those states may affect their own security, either by undermining international stability or by threatening their own internal politics. This view, according to realists, explains the tolerance of religious pluralism imposed in 1648 by the Peace of Westphalia: 'The strong imposed constraints on the weak because they feared religious disorder in the center of Europe'¹¹.

The attempt to increase national power is the second type of interventions that stem from concerns with national security. Prussia's conquest of Silesia in 1740 illustrates this point. In December 1740, Frederick II, king of Prussia, invaded Silesia and added the province to his territories. Although Frederick offered an hereditary claim to Silesia, nobody in Europe believed him. The ultimate justification of Frederick's action was power considerations, in particular the attempt 'to secure for Prussia the status of a great power'¹². Revealingly, other European great powers accepted Prussia's military intervention as legitimate, which shows that the extension of sovereign power constituted the goal of European great powers. In Lord Acton's words: 'Frederick was much more widely applauded for his prompt success than detested or despised for his crime'. The episode led of course Montesquieu to observe 'the spirit of monarchy is war and aggrandizement' and

8 Krasner, 'Sovereignty and Intervention', p. 229.

9 Krasner, 'Sovereignty and Intervention', pp. 232-3.

10 Michael W. Doyle, *Ways of War and Peace* (New York: W.W. Norton, 1997), p. 392.

11 Krasner, 'Sovereignty and Intervention', p. 236.

12 Sharon Korman, *The Right of Conquest: The Acquisition of Territory by Force in International Law and Practice* (Oxford: Clarendon Press, 1996), p. 70.

Frederick himself to conclude that 'the jurisprudence of sovereigns is commonly the right of the stronger'¹³.

Intervention to preserve the balance of power constitutes the second realist argument to legitimise interference in the domestic affairs of sovereign states. The maintenance of an even distribution of power in the international system justifies military interventions. Another historical episode, the partition of Poland, which was in fact three partitions, the first in 1772, 1793 and 1795, between Austria, Prussia and Russia, illustrates this view. All the partitions, until the definitive one in 1795, involved the acquisition of territory by force by three European great powers, and were justified 'by reference to the balance of power'¹⁴. Indeed, Frederick II, the king of Prussia, affirmed that 'the balance of power between such close neighbours had to be maintained'. Catherine II, the ruler of Russia, referred to the partition as a way to keep the balance between great powers 'by means of equal acquisitions'; and Maria Theresa of Austria characterised the partition as a 'truly noble and impressive idea to set before Europe'¹⁵. Episodes like this one led Wight to affirm that 'intervention is excusable...when it is undertaken to preserve the balance of power.' Moreover, interventions in the name of the balance of power tend to involve territorial compensations¹⁶.

There are still two final observations worth noting. First, it is quite difficult to distinguish in practice interventions to guarantee national security and to preserve the balance of power. As Doyle says, 'security drives states then to focus on relative capabilities and a consequent search for predominance'¹⁷. Secondly, the preservation of the balance of power often serves as an excuse for expansionist policies by the great powers, normally at the expenses of the small states. It is in the relations between great powers and weak powers that intervention most frequently occurs. Again, it is quite difficult to distinguish predatory from security motives¹⁸.

From the discussion so far, we can conclude that for realism interventions are consistent with an analysis of world politics that emphasises the condition of anarchy and the primacy of national security through the acquisition of power. For realists, interventions tend to be prompted by security concerns and by the stability of the international system,

13 All citations from Korman, *The Right of Conquest*, pp. 72-3.

14 Korman, *The Right of Conquest*, p. 73. See also the discussion in Paul W. Schroeder, *The Transformation of European Politics 1763-1848* (Oxford: Clarendon Press, 1996), pp. 5-19, 46-52, 74-99, 136-50.

15 Quoted in Korman, *The Right of Conquest*, p. 77.

16 *Power Politics*, p. 196.

17 *Ways of War and Peace*, p. 390.

18 Jack Snyder and Robert Jervis, 'Civil War and the Security Dilemma', in Barbara F. Walter and Jack Snyder (eds.), *Civil Wars, Insecurity, and Intervention* (New York: Columbia University Press, 1999), p. 19.

defined as the existence of a balance of power between great powers. Returning to the questions of legitimate intervention, we can affirm that intervention is justified when national security, particularly of the great powers, and the balance of power are in risk. Regarding the interveners, realists accept the legitimacy of *unilateral* intervention. Finally, the *goals* of intervention are the protection of national security, the preservation of the balance of power and the acquisition of state power. Next section discusses how pluralists treat the issue of legitimate intervention.

English School Pluralism

In the discipline of International Relations, the English School (ES) was the first school of thought to seriously engage with the concept of intervention. In the 1950s and in the 1960s, Wight discussed it in his Lectures on *International Theory*, in *Power Politics*, and, in 'Western Values in International Relations'. In the 1970s, Vincent produced a monograph on the contribution of the principle of 'non-intervention' to international order, *Nonintervention and International Order*. And, towards the end of his life, in 1984, Bull edited a volume on *Intervention in World Politics*. Still in the 1980s, Vincent continued his work on intervention, focusing in particular on humanitarian intervention¹⁹. After the end of the Cold War, members who identify with the legacy of the ES, have produced some of the most valuable work on intervention within IR²⁰. As it is generally accepted, we can divide the ES thinking on intervention into the pluralist and the solidarist perspective.

Pluralists strongly defend the principle of non-intervention and accordingly offer a number of objections to intervention²¹. The concern for international order constitutes the first objection. Such a concern appears, for instance, in Wight's view that interventions are

19 R.J. Vincent, *Human Rights and International Relations* (Cambridge: Cambridge University Press, 1986); and 'Grotius, Human Rights, and Intervention', in Hedley Bull, Benedict Kingsbury and Adam Roberts (eds.), *Hugo Grotius and International Relations* (Oxford: Clarendon Press, 1992), pp. 241-56.

20 See in particular, Robert Jackson, *The Global Covenant: Human Conduct in a World of States* (Oxford: Oxford University Press, 2000), Chapters 10, 11 and 14; James Mayall, *World Politics: Progress and Its Limits* (Cambridge: Polity, 2000), Chapters 10 and 11; Adam Roberts, 'Humanitarian War: Military Intervention and Human Rights', *International Affairs* (69, 3, 1993), pp. 429-49, 'NATO's 'Humanitarian War' over Kosovo', *Survival* (41, 3, 1999), pp. 102-23; and Nick Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000).

21 Nicholas Wheeler discusses the pluralist objections to humanitarian intervention. See Nicholas J. Wheeler, 'Humanitarian Intervention and World Politics', in John Baylis and Steve Smith (eds.), *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 1997), pp. 394-5; and *Saving Strangers*, pp. 29-33.

likely to produce war crises²². More recently, Robert Jackson observed that ‘international order and stability’ are ‘more important’ than ‘minority rights and humanitarian protections’²³. For pluralists, it is difficult to arrive at an international consensus on the idea of legitimate intervention. In the absence of such a consensus, the practice of intervention weakens international order, which is founded on the respect for the rule of sovereignty. In this sense, intervention is often a political mistake. This point takes us to the second pluralist objection. Intervention violates the right of states to have their domestic sphere of jurisdiction respected, and ‘dictatorial interference abridges that right’²⁴. Thus, the rule of sovereignty gives states the right to enjoy political independence; and in this sense, by violating sovereign rights, intervention is both legally and morally wrong.

This second objection occupies a central place in pluralist thinking. Given the statist nature of international society, non-intervention is, in Vincent’s words, ‘a principle, a rule which states are obliged to adhere to in their relations with each other’. This is the legitimate behaviour for the ‘rule of non-intervention can be said to derive from and require respect for the principle of state sovereignty’. Thus, still according to Vincent, ‘the function of the principle of non-intervention in international relations might be said...to be one of protecting the principle of state sovereignty’²⁵. In this regard, pluralists argue that the respect for the norm of non-intervention should be the normal practice of world politics, and thereby any kind of military intervention is an act of rule-breaking. I shall call this assumption the *statist assumption*. As a result of such an assumption, for pluralist international political theory, legitimate interventions constitute always *exceptions to the rule of non-intervention*. I shall return to this point below. For the moment, we still need to consider two further pluralist objections to intervention.

The third pluralist objection is that intervention may serve as a weapon of great powers to political and territorial expansion. This is what Nick Wheeler calls ‘the problem of abuse’²⁶. Although Wheeler attributes this objection only to realists, we also find it in the work of pluralists. For instance, this objection appears implicitly in Wight’s work when he affirms, in a critical way, that ‘it is in the relations between great powers and weak powers that intervention most frequently occurs’²⁷. In the case of humanitarian interventions,

22 *Power Politics*, p. 193.

23 *The Global Covenant*, p. 291.

24 Bull, ‘Introduction’, p. 2.

25 *Nonintervention*, p. 14. See also the discussion in pp. 39-44, and 333-40.

26 Wheeler, ‘Humanitarian Intervention’, p. 394.

27 *Power Politics*, p. 194.

Stanley Hoffmann also expresses this objection: 'it is hard to know whether an intervention which starts as a humanitarian move does not later become self-serving'²⁸. The problem of self-interest is related with a fourth objection, the problem of selectivity, or what Wheeler calls the 'selectivity of response'²⁹. If interventions tend to follow the national interest of the intervening powers, then they are also selective; great powers only intervene when it is in their interest to do so. Vincent presented the problem in clear terms:

*there is no guarantee of the impartiality of the state which intervenes in the internal affairs of another. More likely, it intervenes for some interest of its own, the target state being the object of its will, rather than the arena for the realisation of some moral good*³⁰.

These objections demonstrate the pragmatic or prudential nature of the pluralist argument. On the one hand, it privileges the concern for international order, and in this sense the norm of non-intervention shall be respected because most of the times interventions disrupt international order. On the other hand, the consequences of interventions deeply affect states' security, so they only intervene when vital interests are at stake. In other words, interventions cannot avoid being partial and selective. However, despite these objections, pluralists also share a conception of legitimate intervention.

As it was observed above, given their strong defence of non-intervention, for pluralists, legitimate interventions are always exceptions to the rule of non-intervention. As Jackson puts it: 'Non-intervention is the norm and acts of intervention are what must be justified'³¹. It should be noted that pluralists share with realists the view that in extreme cases the defence of national security justifies military interventions³². Beyond the concern for national security, we can find in the pluralist work five exceptions to the principle of non-intervention. First, the defence of the principle of non-intervention itself, or what Vincent calls 'the legitimacy of counter intervention to uphold the principle of non-intervention'³³. This view is related with the doctrine of *ius ad bellum*, a central element of the just war paradigm, and with the system of collective security³⁴. Secondly,

28 'The Problem of Intervention', p. 24.

29 'Humanitarian Intervention', p. 394. Again, Wheeler attributes this objection to realists.

30 *Nonintervention*, p. 345.

31 *The Global Covenant*, p. 252.

32 Jackson, *The Global Covenant*, p. 252.

33 *Nonintervention*, p. 388.

34 See the discussion of Michael Walzer in *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (Second Edition, New York: Basic Books, 1992), pp. 58-63.

counter-intervention to assist a part in a civil war, when the other part is already being helped by a foreign power³⁵.

The third exception is invited intervention, solicited by the target state, or by the parties of the conflict³⁶. The classical example is the ‘practice of peace-keeping’, which emerged during the Cold War, and continued after the end of the bipolar conflict. In order to be legitimate, peace-keeping interventions must respect five conditions. It has to be a collective intervention, the parts have to agree, the objective is simply to maintain the peace signed by the parties, the military means are limited, and the intervention ought to be impartial³⁷. The fourth exception to the norm of non-intervention, which was often evoked during the process of de-colonisation, and was supported by the United Nations, concerns interventions to defend the principle of national self-determination. As Vincent remarked, ‘when the doctrine [of national self-determination] is used to mean anti-colonialism or anti-racism it accepts the interstate order and merely requires states to avoid undesirable forms of order within them’³⁸. Yet, pluralists such as Vincent and Mayall make an important qualification and argue that the respect for the principle of national self-determination is not absolute, otherwise it would undermine in a drastic way the norm of non-intervention³⁹. The last exception to non-intervention refers to a minimal humanitarian intervention. Pluralists offer three reasons that may justify humanitarian intervention: the ‘practice of genocide’, the starvation of the population⁴⁰, and gross violations of human rights⁴¹. However, pluralists do not defend, even in these extreme cases, the *obligation* of humanitarian intervention. The decision to proceed with a military intervention for humanitarian reasons must always consider political circumstances, or what Vincent called the ‘empire of circumstance’⁴². Moreover, pluralists have consistently demonstrated a scepticism regarding the general acceptance by members of international society of stronger conceptions of humanitarian intervention. Vincent concluded his discussion on human rights and intervention saying international society ‘is not yet as

35 See the discussion in Bull, ‘Introduction’, p. 2; in Jackson, *The Global Covenant*, p. 252; and in Walzer, *Just and Unjust Wars*, pp. 96-101.

36 See the discussion in Bull, ‘Introduction’, p. 2; and Jackson, *The Global Covenant*, pp. 258-9.

37 See James Mayall, ‘Introduction’, in James Mayall (ed.), *The New Interventionism 1991-1994* (Cambridge: Cambridge University Press, 1996), pp. 1-24.

38 *Nonintervention*, p. 347. See also the discussion in Walzer, *Just and Unjust Wars*, pp. 87-91.

39 Vincent, *Nonintervention*, p. 346; and Mayall, *World Politics*, pp. 123-33.

40 See Hoffmann, ‘The Problem of Intervention’, p. 24; Jackson, *The Global Covenant*, pp. 252-3; and Walzer, *Just and Unjust Wars*, pp. 101-8.

41 Vincent, *Nonintervention*, pp. 346-7.

42 Cited in Roberts, ‘Humanitarian War’, p. 449.

solidarist as' allowing a 'general licence for intervention'⁴³. Furthermore, this perception has not changed since the end of the Cold War.

If by 'new world order' is meant structural change in the nature of international relations to allow effective coercive intervention on the side of the victims in civil conflicts, then the first and most obvious conclusion is that no such change has occurred⁴⁴.

According to pluralists, to accept humanitarian intervention as legitimate would involve a transition from *societas* to *universitas*⁴⁵. It seems to me that this view is quite problematic, and I shall return to it below.

To conclude this section, we need to address the pluralist conception of legitimate intervention. The threat to international order is the main cause that justifies intervention. Indeed, it is the concern for international order that legitimises all exceptions to the rule of non-intervention. Even in the case of the last exception, humanitarian interventions, in their discussions, pluralists emphasise that they occur in those cases when violations of human rights threaten international peace and security, and not as a result of an international consensus on the respect for international norms of human rights⁴⁶. As for the 'who question', contrary to realists who accept the legitimacy of unilateral interventions, pluralists favour collective interventions. If it is carried out by a single state, it must have the authorisation of a collective body, which is normally the United Nations. Regarding the last point, the 'political goals question', pluralists argue that the restoration of international order is the ultimate goal of legitimate interventions. Of course, international order is defined in a rather narrow way, as the preservation of international stability and security, which concerns the nature of relations between sovereign states. The pluralist conception of international order does not include concerns for the 'good life' within sovereign states, such as respect for human rights, and democratic practices and institutions. Let me now discuss how solidarists treat these questions.

43 R.J. Vincent, *Human Rights and International Relations* (Cambridge: Cambridge University Press, 1986), p. 152. See also, 'Grotius'.

44 Mayall, 'Introduction', p. 18.

45 Jackson, *The Global Covenant*, pp. 251-2.

46 See the discussion in Jackson, *The Global Covenant*, pp. 249-93; and in Mayall, *World Politics*, pp. 134-48.

English School Solidarism

Regarding the solidarist treatment of the issue of intervention, the first point to note is that solidarists agree with pluralists that military interventions to uphold international order are legitimate. Any solidarist author would certainly agree with the four first exceptions to the principle of non-intervention discussed above in the section on pluralism. What distinguishes the two approaches is the question of humanitarian intervention. This is what explains why Wheeler reduces a solidarist theory of intervention to the issue of humanitarian intervention. In the same vein, one of the central points that divide pluralism and solidarism in the early Bull's and Wight's discussions is the questions of human rights and the standing of individuals in international society. Thus, this section concentrates on the legitimacy of humanitarian intervention.

How do solidarists treat the just causes of humanitarian intervention? Again, as in many cases about intervention, Vincent starts to provide the answer. Adhering to 'an absolute principle of non-intervention' involves the toleration of 'injustice, such as the abuse of human rights, within another state because to interfere against it would be to violate the principle of state sovereignty; the values associated with statehood would be deemed superior to the plea for humanitarian intervention'⁴⁷. This position raises three questions. The first asks whether humanitarian intervention is a *political*, a *legal* or a *moral* question. Vincent treated humanitarian intervention both as a legal and a moral question. In his text on 'Grotius, Human Rights and Intervention', he investigated whether the 'independent standing of individuals in international society' is established in international law, and whether the 'practice of states' supports such a legal status⁴⁸. On the other hand, Vincent also considers humanitarian intervention as a moral question: 'Offences against human rights are a matter of international concern...when outrageous conduct shocks the conscience of mankind'⁴⁹. The implications of the moral argument is to associate both human rights and humanitarian intervention to a 'cosmopolitanist morality'⁵⁰, to 'basic natural rights'⁵¹, and to a transition 'from international to world society'⁵².

47 Vincent, *Nonintervention*, p. 344.

48 P. 248.

49 'Grotius', p. 255.

50 Vincent, *Human Rights*, p. 118.

51 Vincent, *Human Rights*, p. 125, and discussion in pp. 19-27.

52 Vincent, 'Grotius', 253.

After the end of the Cold War, the legal and moral approach prevailed in the solidarist work. In his qualified solidarist position, Adam Roberts sees humanitarian intervention mainly as a legal question, which leads him to place his discussion in the context of the United Nations⁵³. According to Wheeler's strong solidarism, humanitarian intervention is above all a moral question. The just cause for humanitarian interventions is a 'supreme humanitarian emergency'⁵⁴. Such a cause creates a 'moral responsibility' to defend human rights⁵⁵, and the failure to do so reveals a disturbing moral indifference⁵⁶. The implication of Wheeler's position is to consider humanitarian intervention as a 'duty'⁵⁷ which is 'morally required'⁵⁸, and not a simply right. Interestingly, the solidarist response to the first question demonstrates three similarities with pluralism. First, pluralists also treat humanitarian intervention in moral terms. Secondly, humanitarian themes, in the pluralist argument, are also associated with a transition to world society. Finally, pluralists also consider humanitarian intervention to be a legal question. There are, it seems to me, two problems here. First, the implications of addressing humanitarian intervention in terms of legitimacy is to treat it as a *political* question. Such a treatment only appears briefly in the solidarist work. For instance, Vincent notes that the doctrines of human rights 'expose the internal regimes of all the members of international society to the legitimate appraisal of their peers'⁵⁹. The political element also appears in Roberts when he refers to the 'empire of circumstance'⁶⁰. The second problem is to rely on the transition from international society to world society. However, it should be noted that Roberts and Wheeler abandoned such a view, and accept that humanitarian intervention can be accepted by a society of states. This view is now an exclusive of pluralists such as Jackson and Mayall.

The second question addresses the issue of sovereign statehood. What is the relation between the principle of state sovereignty and humanitarian intervention. The answers to this question are related with the responses to the first question, discussed above. For Vincent, humanitarian intervention constitutes a violation of the norm of non-intervention, but it is *morally* accepted. Roberts accepts the legitimacy of humanitarian intervention if it is the result of a *legal* consensus among members of international society. Wheeler goes

53 See 'Humanitarian War', and 'NATO's Humanitarian War'.

54 *Saving Strangers*, p. 34.

55 *Saving Strangers*, p. 39.

56 *Saving Strangers*, p. 1.

57 *Saving Strangers*, p. 13.

58 *Saving Strangers*, p. 51.

59 *Human Rights*, p. 152.

60 'Humanitarian War', p. 449.

further and does not treat humanitarian intervention as a violation of state sovereignty. His strong moral position leads him to argue that states which violate human rights lose the claim to have its sovereignty respected⁶¹. These points take us to third question, which in my view is crucial. Is humanitarian intervention an *exception* to the principle of non-intervention or an *institution* of international society? For Vincent and Roberts, it is an exception, and this approximates them to the pluralist position. Again, Wheeler attempts to go further, but in the end his position is unclear.

On the one hand, Wheeler seems to claim that humanitarian interventions are not exceptions to the rule of non-intervention, but practices of international society which seek to create a more just international order. For instance, in the very first page of his book, he says that the 'subject' of his book is the 'extent to which humanitarian intervention has become a legitimate practice in international society'; but then in the following page he refers to humanitarian intervention as a 'legitimate exception to the rules of sovereignty [and] non-intervention'⁶². Later, trying to overcome the conflict between pluralism and solidarism, he treats humanitarian intervention again as a 'practice', only to revert to the view of 'the exceptional nature' of humanitarian intervention⁶³. It is fundamental to clarify this confusion regarding whether humanitarian intervention is a legitimate institution of international society or only an exception to the norm of non-intervention. It cannot be simultaneously an *institution*, or a *practice*, and an *exception*. By definition, institutions do not have an exceptional nature; and exceptions are not legitimate, but perhaps only accepted, practices. This is still more problematic given that Wheeler sees humanitarian intervention as a duty. How can a duty be also an exception? However, this problem should not conceal all the merits of Wheeler's work. In particular, I would like to emphasise two, which are to me fundamental. First, Wheeler offers the starting point to develop an understanding of humanitarian intervention as a legitimate institution of international society, and in this regard his discussion of 'legitimacy' is very helpful. Secondly, Wheeler attempts to overcome the pluralist-solidarist divide, which is a crucial condition to develop a conception of legitimate intervention.

We still need to address two further points before the concluding section. First, regarding the 'who question', solidarists are divided. Roberts observes that to be legitimate, humanitarian intervention needs to be collective-authorised, even if that does not mean an explicit authorisation of the Security Council. In this regard, for him, the question of

61 *Saving Strangers*, pp. 12-3, and p. 38.

62 *Saving Strangers*, pp. 1-2.

63 *Saving Strangers*, p. 11, and p. 34.

international consensus is vital⁶⁴. On the contrary, Wheeler accepts, in exceptional cases, unilateral humanitarian interventions, which accords with his strong moral position⁶⁵. As for the political goals question, like pluralists, solidarists also demonstrate a concern to restore international order. Yet, in opposition to pluralists, Vincent, Roberts and Wheeler do not define international order simply as interstate order, but include in their definition domestic standards of good governance and a cosmopolitan conception of moral obligations.

Towards a Further Development of the Idea of 'Legitimate Intervention'

Beyond the conceptual interest itself, there is an historical urgency in clarifying the notion of legitimate intervention after the end of the Cold War, which has been marked by a growth of military interventions. As Hoffmann observed, well before the end of the Cold War, 'if one cannot control intervention, one can at least speculate...If interventions, like wars, are here to stay, perhaps all one can do is pontificate... to write guidelines distinguishing between what is legitimate and what is not'⁶⁶. Although it may sound strange, the starting point to develop a conception of legitimate intervention is to recognise that since the end of the Cold War, most of military interventions at the same time were humanitarian, but were not only humanitarian. This is particularly clear in the cases of Somalia, Bosnia, Kosovo, East Timor, and now Afghanistan. They were and are humanitarian in the sense that attempted, and attempt, to stop gross violations of human rights. But, on the other hand, they were more than mere humanitarian interventions. They all, even in the case of Somalia, which failed, tried, and still try, to build emerging states or to rebuild failed states. This demonstrates that respect for human rights requires more than a simple humanitarian intervention, it demands the creation of legitimate sovereign states. Such a political goal leads us to consider two central questions.

First, we need to discuss how intervention touches upon the principle of sovereignty. A conception of absolute sovereignty results into the absolute defence of the norm of non-intervention, and thus intervention is an exception to the rule; pluralists tend to adopt this conception of sovereignty. On the other hand, a qualified, or a principled, conception of sovereignty results into the acceptance that intervention may be a legitimate practice and institution. This last point is related to the principle of governmental legitimacy. As

64 See 'NATO's Humanitarian War'.

65 *Saving Strangers*, pp. 16-7.

66 'The Problem of Intervention', p. 23.

Hoffmann asks, 'is there at any given moment a prevailing principle of domestic legitimacy?'⁶⁷ In other words, do international society accept that standards of civilisation also apply to the domestic order of sovereign states? These questions suggest that, after the Cold War, we cannot discuss legitimate interventions, and in particular humanitarian interventions, without addressing the issues of failed states and international trusteeship⁶⁸.

In turn, this obliges us to address a second question, once raised by Bull: 'how does interventionary activity...relate to the particular character of the international political system and its prevailing rules?'⁶⁹ Bull's question seems to suggest that intervention is a bridge between the international and the domestic principles of political order. Here, the example of national self-determination is helpful. During the process of de-colonisation, interventions that promoted the principle of national self-determination were deemed to be legitimate. It was possibly with these questions in mind that Vincent referred to the 'doctrine which teaches that order between states is to be maintained by the preservation of legitimate governments within them'⁷⁰. These two questions demonstrate that, more than a moral or a legal question, legitimate intervention should be treated as a political question. Moreover, intervention should also be seen as an international institution of change and reform. Again, this is particularly clear since the end of the Cold War.

Therefore, by legitimate intervention, I mean coercive and forcible interference by an outside party or parties in the sphere of jurisdiction of a sovereign state, which seeks to pursue goals deemed to be legitimate by international society. This definition challenges the assumptions, shared, as we saw, by most IR scholarship, that the respect for the norm of non-intervention is the normal practice of world politics, and thereby that any kind of military intervention is an act of exception. Contrary to this conventional position, the notion of legitimate intervention assumes that military intervention is structural in its nature. It is an inescapable attribute and institution of international society.

67 'The Problem of Intervention', p. 12.

68 See the discussion in Jackson, *The Global Covenant*, pp. 290-6.

69 'Introduction', p. 5.

70 *Nonintervention*, p. 340.