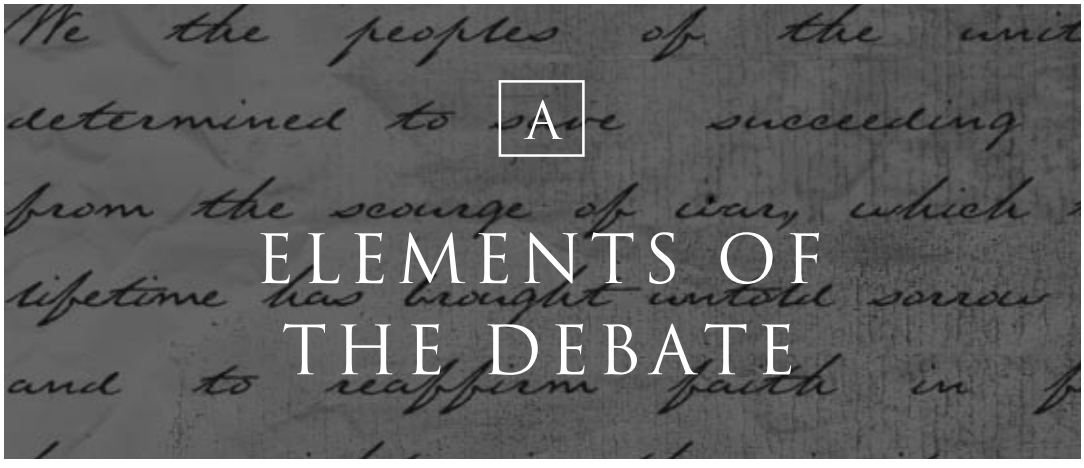
PART I

RESEARCH ESSAYS



A ELEMENTS OF THE DEBATE

Sovereignty, intervention, and prevention are three essential elements of the contemporary debate on the use of coercive means to secure humanitarian objectives. Each is covered by a separate essay in Section A, and particular attention is devoted to the relationship between them. Two of them, state sovereignty and intervention, are often assumed to be irreconcilable and contradictory. A fundamental question to be addressed in the pages that follow, then, is the extent and manner in which these two concepts are actually in tension.

Essay 1, Sovereignty, approaches the concept of sovereignty from the perspective of law and politics. By setting out the historical origins of the concept in international law and in state practice, it demonstrates that sovereignty remains a cornerstone of contemporary international relations but that the actual exercise of state sovereignty has always been more constrained and porous than the stark legal definition would imply. The analysis illuminates the changing nature of the concept of sovereignty. Four challenges have appeared to the traditional and static conception of sovereignty: the increased salience of self-determination and the willingness to redraw borders, the ever-widening definition of threats to international peace and security, the recurring collapse of state authority, and the heightened importance attached to popular sovereignty.

Essay 2, Intervention, places the concept of intervention in historical context and examines it in light of both legal definitions and state practice. The norm of noninterference in internal affairs has lost ground. Activities that decades ago would have been conceived as interference are now widely acknowledged, if not accepted, as part of day-to-day politics. Nevertheless, the norm of nonintervention, where intervention is understood as the employment of coercive measures without the consent of the respective state, remains remarkably robust. Three specific dimensions of nonconsensual coercion are examined – military enforcement, sanctions and embargoes, and international criminal prosecution – before concluding with an overview of the contemporary debate on humanitarian intervention.

Essay 3, Prevention, deals with prevention as an integral part of this debate. Successful preventive efforts may obviate the need for coercion or at least reduce the need for robust military interventions and the human and financial costs that they entail. In the wake of a series of crises in the late 1990s – particularly Rwanda, East Timor, Kosovo, Liberia, and Sierra Leone – the United Nations and many member states have concluded that greater priority should be given to prevention. Beyond their instrumental benefits, genuine preventive measures also increase the ultimate legitimacy of intervention when prevention fails. The text reviews the growing field of conflict prevention, identifies the various activities and

initiatives included under the broad rubric of prevention, assesses the various conceptual distinctions along both thematic and temporal lines, and illuminates the challenges that at present appear to result in many words but little action.

1. STATE SOVEREIGNTY

State sovereignty has, for the past several hundred years, been a defining principle of interstate relations and a foundation of world order. The concept lies at the heart of both customary international law and the United Nations (UN) Charter and remains both an essential component of the maintenance of international peace and security and a defence of weak states against the strong. At the same time, the concept has never been as inviolable, either in law or in practice, as a formal legal definition might imply. According to former Secretary-General Boutros Boutros-Ghali, "The time of absolute sovereignty … has passed; its theory was never matched by reality."[1]

Empirically, sovereignty has routinely been violated by the powerful. In today's globalizing world, it is generally recognized that cultural, environmental, and economic influences neither respect borders nor require an entry visa. The concept of state sovereignty is well entrenched in legal and political discourse. At the same time, territorial boundaries have come under stress and have diminished in significance as a result of contemporary international relations. Not only have technology and communications made borders permeable, but the political dimensions of internal disorder and suffering have also often resulted in greater international disorder.[2] Consequently, perspectives on the range and role of state sovereignty have, particularly over the past decade, evolved quickly and substantially.

The purpose of this essay is to set out the scope and significance of state sovereignty as a foundation on which to explore contemporary debates on intervention. Students and scholars are aware of the enormous and contentious literature on this subject. As one scholar has summarized,

> Few subjects in international law and international relations are as sensitive as the notion of sovereignty. Steinberger refers to it in the *Encyclopedia of Public International Law* as "the most glittering and controversial notion in the history, doctrine and practice of international law." On the other hand, Henkin seeks to banish it from out vocabulary and Lauterpacth calls it a "word which has an emotive quality lacking meaningful specific content," while Verzijl notes that any discussion on this subject risks degenerating into a Tower of Babel. More affirmatively, Brownlie sees sovereignty as "the basic constitutional doctrine of the law of nations" and Alan James sees it as "the one and only organising principle in respect of the dry surface of the globe, all that surface now … being divided among single entities of a sovereign, or constitutionally independent kind." As noted by Falk, "There is little neutral ground when it comes to sovereignty."[3]

Nevertheless, a quick review of the basics is useful for less specialized readers. The analysis begins with a review of the origins of the concept and its role in the evolution of state practice. This is followed by a discussion of the legal meaning of sovereignty and of its

counterpart principle, nonintervention in domestic affairs. Together they comprise the fundamental bedrock of the contemporary international order. The widely acknowledged limits of state sovereignty are then examined, before turning to four contemporary challenges.

MEANING AND PURPOSE OF SOVEREIGNTY

State sovereignty denotes the competence, independence, and legal equality of states. The concept is normally used to encompass all matters in which each state is permitted by international law to decide and act without intrusions from other sovereign states. These matters include the choice of political, economic, social, and cultural systems and the formulation of foreign policy. The scope of the freedom of choice of states in these matters is not unlimited; it depends on developments in international law (including agreements made voluntarily) and international relations.

The concept of sovereign rule dates back centuries in the context of regulated relationships and legal traditions among such disparate territorial entities as Egypt, China, and the Holy Roman Empire. However, the present foundations of international law with regard to sovereignty were shaped by agreements concluded by European states as part of the Treaties of Westphalia in 1648.[4] After almost 30 years of war, the supremacy of the sovereign authority of the state was established within a system of independent and equal units, as a way of establishing peace and order in Europe.[5] The core elements of state sovereignty were codified in the 1933 Montevideo Convention on the Rights and Duties of States. They include three main requirements: a permanent population, a defined territory, and a functioning government. An important component of sovereignty has always been an adequate display of the authority of states to act over their territory to the exclusion of other states.

The post-1945 system of international order enshrined in the UN Charter inherited this basic model. Following decolonization, what had been a restrictive and eurocentric (that is, Western) order became global. There were no longer "insiders" and "outsiders" because virtually every person on Earth lived within a sovereign state. At the same time, the multiplication of numbers did not diminish the controversial character of sovereignty.

In accordance with Article 2 (1) of the UN Charter, the world organization is based on the principle of the sovereign equality of all member states. While they are equal in relation to one another, their status of legal equality as a mark of sovereignty is also the basis on which intergovernmental organizations are established and endowed with capacity to act between and within states to the extent permitted by the framework of an organization. In 1949 the International Court of Justice (ICJ) observed that "between independent States, respect for territorial sovereignty is an essential foundation of international relations."[6] Thirty years later, the ICJ referred to "the fundamental principle of state sovereignty on which the whole of international law rests."[7]

As a hallmark of statehood, territorial sovereignty underlies the system of international order in relations among states. An act of aggression is unlawful, not only because it undermines international order, but also because states have exercised their sovereignty to outlaw war. In addition, the failure or weakening of state capacity that brings about a political vacuum within states leads to human tragedies and international and regional insecurity. Repressive, aggressive, or collapsed states may result in threats to international peace and security.

The principle of noninterference in affairs that are within the domestic jurisdiction of states is the anchor to state sovereignty within the system of international relations and obligations. Jurisdiction broadly refers to the power, authority, and competence of a state to

govern persons and property within its territory. It is labelled "prescriptive" and "enforcement." Prescriptive jurisdiction relates to the power of a state to make or prescribe law within and outside its territory, and enforcement jurisdiction is about the power of the state to implement the law within its territory. Jurisdiction exercised by states is then the corollary of their sovereignty. Jurisdiction is clearly founded on territorial sovereignty but extends beyond it. Jurisdiction is *prima facie* exclusive over a state's territory and population, and the general duty of nonintervention in domestic affairs protects both the territorial sovereignty and the domestic jurisdiction of states on an equal basis.

Within the Charter of the UN, there is an explicit prohibition on the world organization from interfering in the domestic affairs of member states. What may be the Charter's most frequently cited provision, Article 2 (7), provides that "[n]othing contained in the present Charter shall authorise the United Nations to intervene in matters that are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter."

In sum, sovereignty is a key constitutional safeguard of international order. Despite the pluralization of international relations through the proliferation of nonstate actors – evidenced by an accelerated rate of economic globalization, democratization, and privatization worldwide – the state remains the fundamental guarantor of human rights locally, as well as the building block for collectively ensuring international order.

The equality in legal status of sovereignty also offers protection for weaker states in the face of pressure from the more powerful. This sentiment was captured by Algerian President Boueteflika, who, as President of the Organization for African Unity (OAU), addressed the UN General Assembly in 1999, immediately after the Secretary-General, and called sovereignty "our final defense against the rules of an unjust world."[8]

LIMITS OF SOVEREIGNTY

There are important and widely accepted limits to state sovereignty and to domestic jurisdiction in international law. First, the Charter highlights the tension between the sovereignty, independence, and equality of individual states, on the one hand, and collective international obligations for the maintenance of international peace and security, on the other.[9] According to Chapter VII, sovereignty is not a barrier to action taken by the Security Council as part of measures in response to "a threat to the peace, a breach of the peace or an act of aggression." In other words, the sovereignty of states, as recognized in the UN Charter, yields to the demands of international peace and security. And the status of sovereign equality only holds effectively for each state when there is stability, peace, and order among states.

Second, state sovereignty may be limited by customary and treaty obligations in international relations and law. States are legally responsible for the performance of their international obligations, and state sovereignty therefore cannot be an excuse for their nonperformance. Obligations assumed by states by virtue of their membership in the UN and the corresponding powers of the world organization presuppose a restriction of the sovereignty of member states to the extent of their obligations under the Charter.

Specifically, Article 1 (2) stipulates that "[a]ll Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter." Furthermore, under "Purposes and Principles," this same article obliges member states to achieve international cooperation in solving 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. This article further recognizes the UN as a centre for harmonizing the actions of states in the attainment of these common ends. Thus, the Charter elevates the solution of economic, social, cultural, and humanitarian problems, as well as human rights, to the international sphere. By definition, these matters cannot be said to be exclusively domestic, and solutions cannot be located exclusively within the sovereignty of states.

Sovereignty therefore carries with it primary responsibilities for states to protect persons and property and to discharge the functions of government adequately within their territories. The quality and range of responsibilities for governance have brought about significant changes in state sovereignty since 1945. In particular, since the signing of the UN Charter, there has been an expanding network of obligations in the field of human rights. These create a dense set of state obligations to protect persons and property, as well as to regulate political and economic affairs. Sovereignty is incapable, then, of completely shielding internal violations of human rights that contradict international obligations.

Similarly, Article 2 (7) of the Charter is also subject to widely accepted limits. In the first place, this article is concerned chiefly with the limits of the UN as an organization. In the second place, the words "*essentially* within the domestic jurisdiction of States" refer to those matters that are not regulated by international law. As the ICJ has concluded, "[T]he question whether a certain matter is or is not solely within the domestic jurisdiction of a State is an essentially relative question; it depends on the development of international relations."[10] The ICJ has further concluded that it hardly seems conceivable that terms like "domestic jurisdiction" were intended to have a fixed content, regardless of the subsequent evolution of international law.[11]

Sovereignty has been eroded by contemporary economic, cultural, and environmental factors. Interference in what would previously have been regarded as internal affairs – by other states, the private sector, and nonstate actors – has become routine. However, the preoccupation here is not these routine matters but the potential tension when the norm of state sovereignty and egregious human suffering coexist. As Kofi Annan suggested, in his opening remarks at the 1999 General Assembly, "States bent on criminal behaviour [should] know that frontiers are not the absolute defence."[12] In this respect, events in the last decade have broken new ground.

EMERGING CHALLENGES TO SOVEREIGNTY

The limits on sovereignty discussed above are widely accepted. They originate in the Charter itself, in authoritative legal interpretations of that document, and in the broader body of international law that has been agreed on by states. In recent decades, and particularly since the end of the Cold War, four more radical challenges to the notion of state sovereignty have emerged: continuing demands for self-determination, a broadened conception of international peace and security, the collapse of state authority, and the increasing importance of popular sovereignty.

In many ways, a central contemporary difficulty arises from the softening of two norms that had been virtually unchallenged during the Cold War, the sanctity of borders and the illegitimacy of secession. For almost half a century, collective self-determination was limited to the initial process of decolonization. Existing borders were sacrosanct, and it was unthinkable that an area of a state would secede, even with the consent of the original state. The OAU's Charter was clear that colonial borders, although it is generally agreed that they

were arbitrarily drawn, still had to be respected, or chaos would ensue. *Uti possidetis, ita possideatis* (as you possess, so may you possess) was accepted as the necessary trade-off for a modicum of international order.

At the end of the Cold War, however, these relatively clear waters became muddied. First, the Soviet Union became a "former superpower." Russia inherited the Soviet Union's legal status, including a permanent seat on the Security Council, but 14 other new states were created. Shortly thereafter, Yugoslavia broke up into 6 independent states. Later in the decade, Eritrea seceded from Ethiopia.

That weakening of the norms relating to borders and secessions is creating new tensions. Contemporary politics in developing countries is deeply conditioned by the legacy of colonialism. As European states ruled so many Asian and African countries without their consent, respect for state sovereignty is the preemptive norm *par excellence* of ex-colonial states. In light of history, it is difficult for representatives of developing countries to take at face value altruistic claims by the West. What may appear as narrow legalism – for instance, that Security Council authorization is a prerequisite for intervention – often appears in the South as a necessary buttress against new forms of imperialism.

The second challenge is the broadening interpretation of threats to international peace and security, the Charter-enshrined licence to override the principle of nonintervention. It arises from the fact that the Charter's collective system of international peace and security was crafted on the experience of the Second World War, some of which is of doubtful contemporary relevance. The focus was principally on the external unlawful use of sovereignty by states in committing acts of aggression. Collective efforts by the UN to deal with internal problems of peace and security, and gross violations of human rights, including genocide, have therefore run against the grain of the claim to sovereign status as set out in the Charter.

State actions approved or authorized after the Cold War's end by the Security Council have routinely broadened the notion of what is considered a threat to international peace and security. This process actually began during the Cold War with the Security Council's coercive decisions in the form of economic sanctions and arms and oil embargoes against apartheid in Southern Rhodesia and South Africa. In both cases, the Security Council described the recourse to Chapter VII action as a response to "threats to international peace and security." However, what clearly motivated state decision making was the human costs resulting from aberrant domestic human rights policies of white-minority regimes. An affront to civilization was packaged as a threat to international peace and security in order to permit action.

The evolution of the definition of a threat to international peace and security accelerated in the 1990s. For instance, while recalling Article 2 (7) of the Charter, the Security Council, in Resolution 688 (1991), nonetheless condemned "the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas."[13] The Security Council has repeatedly condemned attacks on civilians, in Bosnia and Herzegovina, in Sierra Leone, and in Kosovo, which constitute grave violations of international law. It has reaffirmed that persons who commit or order the commission of grave breaches of the Geneva Conventions and the Additional Protocols are individually responsible in respect of such breaches.[14] Similarly, the establishment of international tribunals with criminal jurisdiction and the negotiation of the Rome Statute on the International Criminal Court signal that atrocities committed against human beings by their own governments – including war crimes, crimes against humanity, and the perpetration of genocide – may trump claims of sovereignty.[15]

The main interventions of the 1990s were justified, at least in part, on humanitarian grounds, though again the humanitarian dimensions were framed as threats to international peace and security. In most cases, the dire humanitarian situation was explicitly mentioned in the Security Council's authorization – the most extreme case being Somalia, where "humanitarian" appeared 18 times in Resolution 794 (1992). In a session devoted to Africa in January 2000, the AIDS pandemic was also framed as falling within the Security Council's mandate. In short, the range of interpretations of international peace and security – the concept that defines the Security Council's mandate – has been substantially broadened, albeit not without controversy.

The third challenge to traditional interpretations of state sovereignty has arisen because of the incapacity of certain states to effectively exercise authority over their territories and populations. In some cases, sovereignty is a legal fiction not matched by an actual political capacity. They are, in the words of one analyst, "quasi-states."[16] And as mentioned earlier, the display of actual control over territory is a prominent dimension of sovereign status. Some commentators have even argued that failed states violate the substantive UN membership requirement in Charter Article 4 that they "are able to carry out" their obligations.

This perspective is important in light of the growing awareness that state capacity and authority are essential conditions for the protection of fundamental rights. These conditions do not invoke nostalgia for repressive national-security states, but they recognize that a modicum of state authority and capacity is a prerequisite for the maintenance of domestic and international order and justice.

The absence or disappearance of a functioning government can lead to the same kinds of human catastrophe as the presence of a repressive state or the outbreak of a deadly civil war. Resounding features of these so-called failed states are anarchy, chronic disorder, and civil war waged without regard for the laws of armed conflict. These features, individually or collectively, inhibit or prevent a state from acting with authority over its entire territory. The failure of state sovereignty is most obviously evidenced by the lack of control where territorial sovereignty is effectively contested by force internally. In this situation, insurgents may occupy and control large portions of the territory, inhibiting the state from carrying out its responsibility to protect lives and property and maintain public security.

The political vacuum resulting from these circumstances leads to nonstate actors' taking matters into their own hands, the massive flight of refugees, and the forced displacement of populations. These issues also create consequences of concern to other states, international organizations, and civil society. In lending support to the intervention by the Economic Community of West African States in Liberia, Zimbabwe went so far as to take the position that "when there is no government in being and there is just chaos in the country," domestic affairs should be qualified as meaning "affairs within a peaceful environment."[17]

The grave humanitarian consequences of the failure of state capacity has led the Security Council to override state sovereignty by determining that internal disorder may pose a threat to international peace and security. In one case in particular, Somalia, the complete absence of state capacity prompted the Security Council to authorize a Chapter VII intervention.

The fourth challenge to traditional state sovereignty emerges from the changing balance between states and people as the source of legitimacy and authority. The older version of the rule of the law of states is being tempered by the rule of law based on the rights of individuals. And a broader concept of sovereignty, encompassing both the rights and the responsibilities of states, is now being more widely advocated.

One formulation has been proposed by Kofi Annan in his widely cited article in *The Economist* on the "two concepts of sovereignty," which helped launch the intense debate on the legitimacy of intervention on humanitarian grounds. In it he argued that one concept of sovereignty is oriented around states and the other around people:

> State sovereignty, in its most basic sense, is being redefined – not least by the forces of globalization and international co-operation. States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty – by which I mean the fundamental freedom of each individual, enshrined in the Charter of the UN and subsequent international treaties – has been enhanced by a renewed and spreading consciousness of individual rights. When we read the Charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them.

For Annan and others, sovereignty is not becoming less relevant; it remains the ordering principle of international affairs. However, "it is the peoples' sovereignty rather than the sovereign's sovereignty."[18]

Another way of approaching the increasing importance of popular sovereignty is the notion of "sovereignty as responsibility," most explicitly formulated by Francis M. Deng, the Representative of the Secretary-General on Internally Displaced Persons. This doctrine stipulates that when states are unable to provide life-supporting protection and assistance for their citizens, they are expected to request and accept outside offers of aid.[19] Should they refuse or deliberately obstruct access to their displaced or other affected populations and thereby put large numbers at risk, there is an international responsibility to respond. Sovereignty then means accountability to two separate constituencies: internally, to one's own population; and internationally, to the community of responsible states and in the form of compliance with human rights and humanitarian agreements. Proponents of this view argue that sovereignty is not absolute but contingent. When a government massively abuses the fundamental rights of its citizens, its sovereignty is temporarily suspended.

A third variant on this theme revolves around the concept of human security. Security has traditionally been conceived in terms of the relations between states, but for a growing number of states the security of individuals is becoming a foreign policy priority in its own right. According to a group of states participating in the Human Security Network, "[H]uman security means freedom from pervasive threats to people's rights, their safety or even their lives."[20] Though the state remains the principal provider of security, it is seen in instrumental terms – as a means to an end, rather than an end in itself. In the face of repressive or weak states, advocates of human security argue that international actors have a responsibility to come to the aid of populations at risk. Ultimately, "peace and security – national, regional and international – are possible only if they are derived from peoples' security."[21]

These approaches all see the basis for sovereignty shifting from the absolute rights of state leaders to respect for the popular will and internal forms of governance based on international standards of democracy and human rights.[22] Their advocates suggest that on a scale of values the sovereignty of a state does not stand higher than the human rights of its inhabitants.[23]

Some observers charge that humanitarian intervention is simply the latest phase of Eurocentric domination. Human rights are the contemporary Western values being imposed in place of Christianity and the "standard of civilization"[24] in the 19th and early 20th century.

Nevertheless, from many quarters the view is emerging that sovereignty is no longer sacrosanct.[25] Sovereignty as the supreme power of a state has always been limited, originally by divine law, respect for religious practices, and natural law; and subsequently, limitations have resulted from the consent-based system of the law of nations.[26] "The doctrine of national sovereignty in its absolute and unqualified form, which gave rulers protection against attack from without while engaged within in the most brutal assault on their own citizens," writes Ramesh Thakur, "has gone with the wind."[27]

NOTES

1 Boutros Boutros-Ghali, *An Agenda for Peace* (New York: United Nations, 1992), para. 17.

2 Mohammed Ayoob, "The New-Old Disorder in the Third World," *Global Governance* 1, no. 1 (Winter 1995), pp. 59–78.

3 Nico Schrijver, "The Changing Nature of State Sovereignty," *The British Year Book of International Law 1999* (Oxford: Clarendon Press, 2000), pp. 69–70.

4 Francis Hinsley, *Sovereignty* (London: Basic Books, 1966), p. 126; Francis Abiew, *The Evolution of the Doctrine and Practice of Humanitarian Intervention* (The Hague: Kluwer, 1999), pp. 26–27; Louis Henkin, *International Law: Politics and Values* (London: Martinus Nijhoff, 1995), pp. 9–10; and W. Michael Reisman, "Sovereignty and Human Rights in Contemporary International Law," *American Journal of International Law* 84 (1990), p. 867.

5 Stephen D. Krasner, "Compromising Westphalia," *International Security* 20 (Winter 1995–1996), p. 115.

6 ICJ Reports, 1949, p. 4.

7 ICJ Reports, 1986, para. 263.

8 Quoted by Shashi Tharoor and Sam Daws, "Humanitarian Intervention: Getting Past the Reefs," *World Policy Journal* XVIII, no. 2 (Summer 2001), p. 25.

9 Christopher M. Ryan, "Sovereignty, Intervention, and the Law: A Tenuous Relationship of Competing Principles," *Millennium: Journal of International Studies* 26 (1997), p. 77; and Samuel M. Makinda, "Sovereignty and International Security: Challenges for the United Nations," *Global Governance* 2, no. 2 (May–August 1996), p. 149.

10 Emphasis added. This is an interpretation similar to that of the Permanent Court of International Justice in its Advisory Opinion concerning the *Tunis and Morocco Nationality Decrees* (1923), Series B, no. 4, p. 4.

11 *Aegean Sea Case*, in ICJ Reports, 1978, p. 32.

12 Kofi A. Annan, "Secretary-General's Speech to the 54th Session of the General Assembly," September 20, 1999.

13 This resolution was adopted in the framework of "consequences which threaten international peace and security in the region." It was criticized by the states that abstained (China and India) and voted against (Cuba, Yemen, and Zimbabwe) for being concerned with a domestic issue.

14 Statement by the President of the Security Council, October 30, 1992, UN Document S/24744.

15 Theodore Meron, "International Criminalization of Internal Atrocities," *American Journal of International Law* 89 (July 1995), p. 554; and Louis Henkin, "Kosovo and the Law of Humanitarian Intervention," *American Journal of International Law* 93 (1999), p. 824.

16 Robert H. Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World* (Cambridge: Cambridge University Press, 1990). See also Christopher Clapham, *Africa and the International System: The Politics of State Survival* (Cambridge: Cambridge University Press, 1996); I. William Zartman, ed., *Collapsed States* (Boulder: Lynne Rienner, 1995); and Kal J. Holsti, *The State, War, and the State of War* (Cambridge: Cambridge University Press, 1996). The debate began in earnest following Gerald B. Helman and Steven Ratner, "Saving Failed States," *Foreign Policy*, no. 89 (Winter 1992–1993), pp. 3–20.

17 Statement by President Robert Mugabe of Zimbabwe, quoted by Lori F. Damrosch, ed., *Reinforcing Restraint: Collective Intervention in Internal Conflicts* (New York: Council on Foreign Relations, 1993), p. 364.

18 Kofi Annan, "Two Concepts of Sovereignty," *The Economist* 352 (September 18, 1999), pp. 49–50.

19 Francis Deng, *Protecting the Dispossessed* (Washington, DC: Brookings Institution, 1993); and Abiew, *The Evolution of the Doctrine and Practice*, pp. 1–2.

20 Knut Vollebaek, "A Perspective on Human Security: Chairman's Summary," presented at 1st Ministerial Meeting of the Human Security Network, Lysøen, Norway, May 20, 1999. At that time, participants of the network included Austria, Canada, Chile, Ireland, Jordan, The Netherlands, Norway, Slovenia, Switzerland, and Thailand.

21 Lloyd Axworthy, "Human Security and Global Governance: Putting People First," *Global Governance* 7, no. 1 (January–March 2001), p. 23.

22 Reisman, "Sovereignty and Human Rights in Contemporary International Law," pp. 867–69.

23 Henkin, "Kosovo and the Law of Humanitarian Intervention," p. 824.

24 See Robert Jackson, *The Global Covenant: Human Conduct in a World of States* (Oxford: Oxford University Press, 2000), especially chapter 10, "Armed Intervention for Humanity," and chapter 11, "Failed States: Interantional Trusteeship." See also Mohammed Ayoob, "Humanitarian Intervention and International Society," *Global Governance* 7, no. 3 (July–September 2001), pp. 225-230.

25 Jarat Chopra and Thomas G. Weiss, "Sovereignty Is No Longer Sacrosanct: Codifying Humanitarian Intervention," *Ethics and International Affairs* 6 (1992), p. 95.

26 Charles E. Merriam, *History of the Theory of Sovereignty since Rousseau* (New York: Columbia University Press, 1958), p. 11.

27 Ramesh Thakur, "Global Norms and International Humanitarian Law: An Asian Perspective," *International Review of the Red Cross* 83, no. 841 (March 2001), p. 35.

2. INTERVENTION

Intervention means various forms of nonconsensual action that are often thought to directly challenge the principle of state sovereignty. With the exception of the subsequent examination of prevention, the remainder of this volume focuses on various aspects and instances of intervention. What follows is thus not an exhaustive account of the notion, but rather the conceptual foundation for subsequent analyses.

Many commentators would prefer to eliminate the "h" word, the modifier "humanitarian," before "intervention." Civilian humanitarians dislike the association with the use of military force, viewing "humanitarian intervention" as an oxymoron. Former colonies recall the disingenuous application of the term for purposes that were anything except humanitarian. And many observers do not want the high ground automatically occupied by those who claim a humanitarian justification for going to war without a serious scrutiny of the specific merits of the case or prejudging whether a particular intervention is defensible or not. "Of course military intervention may be undertaken for humanitarian motives," cautions UN Secretary-General Kofi Annan, but "let's get right away from using the term 'humanitarian' to describe military operations."[14]

Such concerns are understandable and may serve some diplomatic or analytical purposes. However, "humanitarian intervention" is used throughout this volume because the term is employed in virtually all academic and policy literature. Semantics aside, truth in packaging requires an accurate short-hand description for military coercion to protect civilians. It made no sense to insert either "so-called" throughout the text or to use scare quotes around the term. Human suffering and the need to provide humanitarian relief to affected populations are prominent in the support of publics and politicians who back the use of military force to support humanitarian objectives – and they almost always employ "humanitarian intervention" in their arguments.

For many audiences, "humanitarian" thus retains great resonance.[15] The definition of "humanitarian," as a justification for intervention, is a high threshold of suffering. It refers to the threat or actual occurrence of large scale loss of life (including, of course, genocide), massive forced migrations, and widespread abuses of human rights. Acts that shock the conscience and elicit a basic humanitarian impulse remain politically powerful.

The specific objectives are to explore the meaning and evolution of the concept, the implications of the United Nations (UN) Charter, and nonmilitary forms of intervention and to summarize the various dimensions of the contemporary intervention debate.

MEANING OF INTERVENTION

The actual meaning of the term "intervention" can be derived from the contexts in which it occurs, in addition to the purposes for which it is invoked. Actions do not amount to intervention if they are based on a genuine request from, or with the unqualified consent of, the target state. Consent, if it is to be valid in law, should emanate from the legal government of a sovereign state and be freely given. Forms of interference that fall short of coercion in the internal affairs of a state also do not amount to intervention. In fact, a central purpose of foreign policy is to persuade other states, friend and foe alike, to enact changes in behaviour that are consistent with foreign policy objectives.

Of course, wider definitions of intervention have always existed. In a world of asymmetrical power, economic activities and foreign direct investment are considered by some observers as types of "intervention." And with interdependence and globalization rising over the last few decades, anxiety levels among many governmental officials have increased because there are substantial new vulnerabilities about which they can do virtually nothing. Heightened state sensitivities to economic and cultural influences across borders have also meant even greater sensitivities to human rights pressures that occur without the assent of governments. Moreover, there are gray areas regarding "consent" – for economic as well as military measures. Some observers note, for instance, that a request for military intervention may involve so much arm-twisting, including economic pressure from Washington-based financial institutions, as to effectively constitute coercion.

Various terms have been coined in thinking about the problem of what amounts to coerced consent, including "coercive inducement."[1] Intervention may be better framed, in effect, as a matter of factual intrusiveness, rather than merely an absence of consent, to ensure that a so-called request is not actually spurious. As for many definitions, it may be more useful to think of consent as a continuum, rather than as an absolute concept.

Notwithstanding these realities, the actual expression of consent is a critical dividing line in this volume, both legally and conceptually. And given the legacy of colonialism, it is not surprising that it is the benchmark against which developing countries measure international action.

Obviously the use of armed force against another state without its consent constitutes intervention, but so too does the use of such nonmilitary measures as political and economic sanctions, arms embargoes, and international criminal prosecution. Intervention is a concept with a distinct character.[2] This character lies in the use of "forcible" or "non-forcible" measures against a state, without its consent, solely on account of its internal or external behaviour. Although intervention has most frequently been employed for the preservation of the vital interests – legitimately or illegitimately perceived – of intervening states,[3] there is also a long history of intervention justified on the grounds of grave human suffering.

THE CONCEPT OF HUMANITARIAN INTERVENTION

References to humanitarian intervention first began to appear in the international legal literature after 1840.[4] Two interventions in particular were most directly responsible: the intervention in Greece by England, France, and Russia in 1827 to stop Turkish massacres and suppression of populations associated with insurgents; and the intervention by France in Syria in 1860 to protect Maronite Christians.[5] In fact, there were at least five prominent interventions undertaken by European powers against the Ottoman Empire from 1827 to 1908.[6] By the 1920s, the rationale for intervention had broadened to include the protection of nationals abroad.[7]

Intervention was invoked against a state's abuse of its sovereignty by brutal and cruel treatment of those within its power, both nationals and nonnationals. Such a state was regarded as having made itself liable to action by any state or states that were prepared to intervene. One writer, in 1921, depicted humanitarian intervention as "the reliance upon force for the justifiable purpose of protecting the inhabitants of another state from the treatment which is so arbitrary and persistently abusive as to exceed the limits of that authority within which the sovereign is presumed to act with reason and justice."[8]

Intervention was surrounded by controversy, however, and many looked, and continue to look, askance at the earliest cases of so-called humanitarian intervention.[9] Critics argued that the humanitarian justifications were usually a pretext for intervention motivated by strategic, economic, or political interests. Furthermore, there can be no doubt that even when objectives were less objectionable, the paternalism of intervening powers – which were self-appointed custodians of morality and human conscience, as well as the guarantors of international order and security – undermined the credibility of the enterprise.[10]

One noted legal authority concluded in 1963 that "no genuine case of humanitarian intervention has occurred with the possible exception of the occupation of Syria in 1860 and 1861."[11] The scale of the atrocities in that case may well have warranted intervention – more than 11,000 Maronite Christians were killed and 100,000 were made homeless in a single four-week period. But by the time the 12,000 European troops had been deployed, the violence was largely over, and after undertaking some relief activities the troops withdrew.

At the end of the 19th century, many legal commentators held that a doctrine of humanitarian intervention existed in customary international law, though a considerable number of scholars disagreed. Contemporary legal scholars disagree on the significance of these conclusions. Some argue that the doctrine was clearly established in state practice prior to 1945 and that it is the parameters, not the existence, of the doctrine that are open to debate. Others reject this claim, noting the inconsistency of state practice, particularly in the 20th century, and the substantial number of scholars who had earlier rejected the proposition. What is clear is that this notion of intervention evolved substantially before the appearance of an international system with institutions responsible for maintaining international order and protecting human rights.

The first restrictions on recourse to war were developed in the Kellogg-Briand Pact in 1928. Later, the system crystallized into its current form, under the UN Charter. Since 1945, the threat or use of force against the territorial integrity and political independence of states is prohibited by Article 2 (4), with exceptions granted for the collective use of force under Chapter VII and for individual or collective self-defence in the event of an armed attack in Article 51. Although the prohibition seems clear, questions about the legality of humanitarian intervention remained. In 1946, for example, an eminent legal scholar continued to argue that intervention is legally permissible when a state is guilty of cruelties against its nationals in a way that denied their fundamental human rights and shocked the conscience of humankind.[12]

MILITARY INTERVENTION AND THE UN CHARTER

The advent of the UN Charter fundamentally affected earlier interpretations of the legality of intervention. Not only did the Charter set out the circumstances under which intervention was permissible, it also changed the terms of debate by employing the term "the threat or use of force" instead of "intervention."

As "intervention" had been used, historically, as a synonym for the threat or use of force, the question was and remains: Did the Charter's prohibition on the unilateral threat or use of force prohibit intervention altogether, or was intervention subsumed by the system of the collective use of force? Even more controversial: Was there an interpretation of the term "intervention" that would place this concept outside the frame of the Charter's prohibition on the use of force against the territorial integrity and political independence of a state? Does the Charter prohibit the use of force without the authorization of the Security Council, even when exceptional circumstances arise?

As the Charter explicitly permits the use of force in self-defence and enables the Security Council to authorize force to confront threats to international peace and security, a recurring aspect of debate has been the use of force to protect human rights. The 1990s were not the beginnings of the dispute. Various interpretations of the legality of humanitarian intervention were fiercely debated, particularly beginning in the late 1960s.[13]

The ideological competition of the Cold War lent a particular character to interventions during that period. With much of the world aligned with one of the two superpowers, there was considerable pressure from both sides to intervene in both internal and international armed conflicts. The deadlock in the Security Council and the existence of the veto also increased the likelihood that interventions would either not occur at all or be undertaken in the absence of a Council mandate. In fact, interventions during the Cold War were far more likely to be undertaken by a single state (for example, the United States [US] in Vietnam, the Soviet Union in Afghanistan, and South Africa and Cuba in Angola), whether directly or by proxy, than they were to be multilateral.

On two occasions during this period, the International Court of Justice (ICJ) ruled on cases that involved assessing the legality of interventions for which humanitarian purposes had been declared: the United Kingdom in the Corfu Channel and the US in Nicaragua. In both cases, the ICJ adhered to the position that the principle of nonintervention involves the right of every sovereign state to conduct its affairs without outside interference and that international law requires territorial integrity to be respected. The ICJ rejected intervention that impedes a state from conducting those matters that each state is permitted, by the principle of sovereignty, to decide freely – namely, its political, economic, social, and cultural system and the formulation of its foreign policy.

More specifically, in the case of *Nicaragua vs. United States*, the ICJ reiterated the attributes of humanitarian aid or assistance, that might also be applicable to military intervention for humanitarian purposes. If the provision of humanitarian assistance is to escape condemnation as an intervention in the internal affairs of a state, the ICJ took the view that it must be "limited to the purposes hallowed in practice, namely to prevent and alleviate human suffering, and to protect life and health and to ensure respect for the human being without discrimination to all in need" and that it be "linked as closely as possible under the circumstances to the UN Charter in order to further gain legitimacy." These criteria should be applicable in extreme situations where the need to "prevent and alleviate human suffering, and to protect life and health and to ensure respect for the human being" constitutes a humanitarian crisis threatening international or regional peace and security. The ICJ rejected the notion of the use of force to ensure the protection of human rights: "[W]here human rights are protected by international conventions, that protection takes the form of such arrangements for monitoring or ensuring the respect for human rights as are provided for in the conventions themselves … . In any event … the use of force could not be the appropriate method to monitor or ensure such respect."[16]

Such a conclusion, however, does not appear to be definitive. The protection of human rights by international conventions presupposes a stable and orderly system of monitoring and ensuring respect for human rights based on those conventions. Cases may arise where the existing arrangements are inappropriate for protecting human rights, owing to the nature and scale of the violations. Furthermore, in extreme situations, where the Security Council is unable to act, political and moral imperatives may leave no choice but "to act outside the law."[17]

Further clarification of the meaning of intervention in the context of the Charter can be drawn from UN negotiations over the past decade. The end of the Cold War was seen by many as the rebirth of the UN, and it bore witness to an urge for intervention to sort out problems of civil strife.[18] Throughout the 1990s there was an unpredictable and diverse pattern of interventions by the UN, stretching from Iraq to Bosnia, Somalia to Haiti, Kosovo to East Timor.

Within the General Assembly, the tensions between intervention and state sovereignty initially focused on the delivery of humanitarian assistance.[19] Already in 1988, Resolution 43/131 was a contentious milestone acknowledging that nongovernmental organizations (NGOs) had a role to play in responding to the effects of deadly conflicts. The resolution maintained that humanitarian aid could and should be provided to affected populations in need of access to "essential" supplies. By implication, states were obliged to grant such access. A number of governments, however, objected on the grounds that NGOs might urge states to interfere in what the dissenters considered to be strictly domestic affairs.

Three years later, in the wake of the intervention in northern Iraq, the General Assembly passed Resolution 46/182. Somewhat surprisingly, in light of the actual intervention that had preceded it, this resolution gives weight, first and foremost, to the consent of the state inhabited by severely affected populations. The most relevant section reads, "The sovereignty, territorial integrity and national unity of states must be fully respected in accordance with the Charter of the UN. In this context, humanitarian assistance should be provided with the consent of the affected country and in principle on the basis of an appeal by the affected country." Though the implications of the resolution were wide-ranging, the debate preceding its adoption in the General Assembly focused largely on the issue of military intervention for humanitarian purposes and the accompanying clash with state sovereignty. Already in these debates, the views of developing and developed countries were polarized, and the ensuing negotiated text represented a delicate balance.

The result of this consensus is open to interpretation. Consent may reflect less the wishes of a government than severe international pressure, as was arguably the case with Indonesia over East Timor in 1999. Moreover, the government of a state requesting assistance may be disputed, as was arguably the case with the government-in-exile of Jean-Bertrand Aristide over Haiti in 1994. Behind the consensus is an assumption that the state concerned has a government with effective territorial control, allowing it to offer or refuse consent. Where no such government exists, the requirement for consent, by definition, cannot be met, as was the case in Somalia in 1992. Furthermore, some observers point out that the phrase "in principle" may, in practice, mean that consent may be subordinate to the necessity to provide assistance in the face of an overwhelming human tragedy, or indeed that consent should come from citizens, rather than governments.

NONMILITARY INTERVENTIONS

The bulk of the contemporary policy and academic literature about intervention is concerned with the application of military force to pursue humanitarian objectives. But the present analysis would be incomplete without also introducing nonmilitary intervention, both sanctions and criminal prosecution.

Sanctions

International economic and political sanctions, as well as embargoes of various types, became widespread in the 1990s. They are the main element of "nonmilitary" interventions designed to impose a course of conduct – including a change of policy – on a state, by banning or restricting that state's economic, military, or political relations. Sanctions are a punitive countermeasure against illegal acts, whether they be criminal (for example, alleged acts of aggression) or civil (for example, alleged breaches of international obligations).

Economic sanctions include trade and commercial restrictions and sometimes embargoes on imports and exports, shipping, flights, investment, or assistance and the seizure of a state's assets abroad. Political sanctions include embargoes on arms, denial of military assistance and training, restraint on the means and extent of a state's level of armament, the nonrecognition of illegal acts perpetrated by a state, and the refusal of entry of political leaders into the territories of other states.[20]

An analysis of the use of sanctions under the auspices of the UN Charter in the 1945–1990 and post-Cold War periods indicates three broad trends. First, there was a combination of unilateral and collective sanctions during the Cold War by individual states and by the UN, chiefly in the process of decolonization – specified in Charter Chapters XI–XIII and elsewhere[21] – against Portugal (in relation to Angola and Mozambique before 1975), Rhodesia's Unilateral Declaration of Independence, in 1965, and South Africa's illegal presence in Namibia,[22] as well as its practice of apartheid between 1975 and 1979.[23] Only in the clearest of cases was it possible for the Security Council to reach decisions on the collective use of sanctions. Consequently, many "nonbinding" resolutions on sanctions were passed by the General Assembly during debates on decolonization.

Second, there is increasing use in the 1990s of unilateral and collective sanctions in the context of diplomatic efforts to coerce state behaviour with respect to maintaining international peace and security under Chapter VII. Compliance with sanctions regimes is often voluntary at the outset in order to generate consensus and only later do they sometimes become mandatory under Chapter VII.

The third discernible element is the use of sanctions as a means of intervening in aid of democracy, not only by the UN but more emphatically by the British Commonwealth, the European Union (EU), the Organization of American States (OAS), and other regional organizations. The Haiti case is central because both the General Assembly and the OAS condemned the 1991 military coup that overthrew the elected government. The Security Council subsequently prohibited specified commercial passenger flights destined for Haiti and denied entry of the Haitian military and others to territories of UN member states. The Security Council also imposed embargoes on the supply of arms and petroleum to the Union for the Total Liberation of Angola, a rebel organization fighting the government of Angola in breach of the Lusaka Peace Agreement and UN-supervised elections.[24] The Economic Community of West African States also launched an "economic blockade" against the junta in Sierra Leone in 1997.

The Commonwealth Ministerial Action Group[25] intervened on the authority of the Harare Declaration of 1991, by imposing economic and political sanctions on military governments that had thwarted democracy or overthrown democratically elected governments in Nigeria, Pakistan, and Fiji. Commonwealth membership of these states was also suspended. The Commonwealth is unusual among regional arrangements in its capacity and willingness to suspend or expel member states if they act in serious breach of the standards of human rights. But the sanctions imposed on Nigeria were mirrored by the EU, which restricted member states from granting visas to members of the Nigerian military government and security forces, alongside other measures.[26]

A central difficulty with sanctions is assessing their impact and effectiveness on the objectives for which they are imposed. Research suggests little real impact over what is often a very long time.[27] Moreover, it is methodologically difficult to disaggregate the impact of sanctions from other measures.[28] The Security Council establishes a sanctions committee to review each episode of sanctions, but there is rarely sufficient data to enable sound assessments.

Sanctions tend, more often than not, to harm the economic and social well-being of the general population, rather than that of the political leadership against whom the coercive measures are imposed.[29] "Smart sanctions," which target elites through such measures as freezing foreign assets and preventing travel, have had, to date, more impact on theorizing than Security Council practice.[30] Concern about the plight of civilians has meant, in almost every case endorsed by the Security Council, humanitarian exceptions for food and medical supplies to alleviate the plight and suffering of the population. Yet, these exemptions cannot compensate for the massive economic dislocations, and the UN remains ill-equipped to oversee them.[31]

The dramatic suffering caused by economic sanctions – the plight of innocent civilians deteriorates with little discernable policy change from repressive regimes – suggests that sanctions and embargoes may not be an intervention tool of preference in the future. Former UN Secretary-General Boutros-Ghali captured the troubling tensions between dramatic civilian pain and elusive political gain in his 1995 *Supplement to An Agenda for Peace*. Sanctions are a "blunt instrument" that inflict suffering on vulnerable groups, complicate the work of humanitarian agencies, cause long-term damage to the productive capacity of target nations, and generate severe effects on neighbouring countries. Although he stopped short of rejecting sanctions, he urged reforms in their implementation.[32] Paradoxically, the logic of the Charter to use forcible measures only as a last resort may be inappropriate to foster humanitarian objectives. Rather than gradually ratcheting up to more interventionist measures, it is plausible that an earlier resort to military force may be more "humane" than extended and extensive sanctions.[33]

International Criminal Prosecution

After almost a half-century since the war crimes tribunals in Nuremberg and Tokyo following the Second World War, the 1990s have witnessed the renewed use of international criminal prosecution as a form of nonmilitary intervention. Basic principles for prosecution under international criminal law were set out in the late 1940s – that violations of the laws of war were subject to penal sanctions, that superiors' orders do not release an individual from responsibility, and that certain acts constitute crimes against humanity. Yet, almost no progress was made over the intervening 45 years. The 1990s have witnessed a series of almost revolutionary changes. Not only are war criminals and human rights abusers occasionally being brought to account, but a series of transformations in international criminal law suggests that this form of intervention may become more routine. The pursuit of indicted criminals is slow

and time-consuming, and hence it is hardly an effective intervention instrument on the edge of the abyss of a humanitarian crisis in the same way that military intervention may be. In fact, a case can be made that international criminal prosecution may better be framed as an effective instrument for prevention through deterrence and eventually as a contribution to post-conflict reconciliation. At the same time, the use of this tool effectively requires moving beyond consent, and the consequences are important for humanitarian action.

The establishment of the ad hoc war crimes tribunals for the former Yugoslavia in 1993 and Rwanda in 1994 were major innovations. Despite initial scepticism and considerable criticism about the pace, both tribunals have convicted senior officials and made progress in setting the record straight. They have also contributed to the development of international criminal jurisprudence. They have clearly established that criminal liability exists for war crimes during internal armed conflicts and that crimes against humanity extend beyond periods of armed conflict, and rape is now legally considered an aspect of genocide.

Considerable erosion has also taken place in the rules relating to the immunity of leaders. Until recently it was commonly accepted that leading officials (including those retired) could not be tried in courts in another country for acts committed in their own country while in office.[34] The capture in 1989 and subsequent conviction by the US of former Panamanian General Manuel Noriega was the first major crack in that particular bastion of international law. More recently, the House of Lords – acting as Britain's highest court in the third Pinochet case – established a very strong precedent for no longer treating government officials as having absolute protection under the rules of the sovereign immunity of states.[35]

The arrest and trial in Senegal of the former president of Chad, Hissène Habré, suggests that the reach of this type of thinking is expanding to other continents. This followed the new legal ground broken by the Arusha Tribunal, which convicted Jean Kambanda, the former Prime Minister of Rwanda, the first head of government to be convicted of genocide and crimes against humanity. In March 2001, Biljana Plavsic, the former president of the Republika Srpska, voluntarily surrendered herself to the Tribunal in The Hague after being indicted for genocide and complicity in genocide. The indictment of a sitting head of state for war crimes, the Federal Republic of Yugoslavia's President Slobodan Milosevic, for his direction of efforts in Kosovo is yet another precedent.

Moving from the heads of state, some commentators saw as even more exceptional the conviction in spring of 2001 in Belgium of Rwandan nuns charged with complicity in the 1994 genocide. These developments begin to form a pattern that suggests the emergence of universal jurisdiction for egregious human rights abuses. "The notion that heads of state and senior public officials should have the same standing as outlaws before the bar of justice is quite new," writes former US Secretary of State Henry A. Kissinger, himself accused by some of being a "war criminal" for his role in the Vietnam War. Speaking for many who caution against this general trend, he argues that "[t]he danger lies in pushing the effort to extremes that risk substituting the tyranny of judges for that of governments; historically, the dictatorship of the virtuous has often led to inquisitions and even witch-hunts."[36]

While still waiting to enter into force, the Rome Statute will undoubtedly lead to the creation of a permanent tribunal, the International Criminal Court (ICC). The court will have jurisdiction over three crimes – genocide, crimes against humanity, and war crimes – and has provided definitions for each. As well as having a deterrent effect, indictments, some argue, may also serve as a disincentive to leaders who would be left with no reason to compromise. This was not the problem that some expected, however, when the indictment of Milosevic was made public during the North Atlantic Treaty Organization (NATO) air campaign.

The Rome Statute has also formalized in international law many of the precedents set out by the ad hoc tribunals. One of the more important aspects of the ICC is that it may answer partially the allegation that international justice is always of the victors' sort. The statute allows for criminal proceedings to be initiated, not only by states and the Security Council, but also by the ICC prosecutor independently.

CONTEMPORARY DEBATE

Intervention has long been one of the most controversial issues for diplomats, lawyers, and academics. In the post-Cold War era, and particularly since the NATO intervention in Kosovo, state practice and scholarly analyses have sharpened the cutting edges of these long-standing controversies.[37] Two senior UN officials have summarized: "To its proponents, it marks the coming of age of the imperative of action in the face of human rights abuses, over the citadels of state sovereignty. To its detractors, it is an oxymoron, a pretext for military intervention often devoid of legal sanction, selectively deployed and achieving only ambiguous ends. As some put it, there can be nothing humanitarian about a bomb."[38]

In broad brush strokes, two overarching positions have emerged about humanitarian intervention. Among the members of the trans-Atlantic community, there appears to be a general consensus on the legitimacy of humanitarian intervention in extreme circumstances, even in the absence of Security Council authorization. Although some of the five permanent members of the Security Council (P-5) share this view, all agree that matters pertaining to the use of force should be in the hands of the great powers and thus they jealously guard their vetoes. Among developing countries, the predominant view is a deep-seated scepticism toward humanitarian intervention because it seems to be yet another rationalization for unwanted interference. The dichotomy in views is exacerbated to the extent that the Third World has been relegated to the role of norm-takers, while developed countries act as norm-enforcers.

The essence of the contemporary debate stems from two basic questions: Does a right of humanitarian intervention exist? And if so, whose right is it?[39] The broader contours of the debate revolve around the following more specific questions:

- Are self-defence and Security Council-authorized enforcement under Chapter VII the only legitimate exceptions to the UN Charter's prohibition on the use of force, or is there an independent right of humanitarian intervention based in either natural law or emerging state practice?
- Should the Security Council retain the legitimacy to make decisions on intervention, given that its composition, and the veto held by the P-5, is unrepresentative of the distribution of power and population in today's world?
- Are there limitations on expanding the meaning of "international peace and security" to include humanitarian crises, or is the Security Council entitled to define the scope of its own mandate?
- Is the most pressing challenge to develop barriers to limit the possible abuse of the right to intervene on humanitarian grounds, or is it to ensure that interventions widely believed necessary to stop mass atrocities are actually undertaken?
- Is sovereignty best conceived mainly as a barrier to unwarranted external interference and the foundation of a stable world order, or does it also imply a responsibility to both domestic populations and an international constituency?

- ❑ Are the inconsistency and selectivity of international action to stop mass atrocities evidence of its illegitimacy (as a result of hidden agendas and biases from interests and media coverage), or is it the result of choices that must be made when the capacity does not exist to intervene everywhere it is warranted?
- ❑ Will developing criteria for humanitarian intervention be more likely to stop illegitimate interventions, or simply provide a further rationale for inaction; and if developed, is it desirable that such criteria remain ad hoc, or should they be formalized through negotiations?
- ❑ Does military intervention inevitably do more harm than good, or are the consequences generally positive, despite the inevitable failings and shortcomings?
- ❑ Is the priority during an intervention to provide the greatest protection possible to populations at risk, or is it to minimize casualties among the intervening armies, to ensure that fragile domestic support for interventions is maintained?
- ❑ Does the long-term legitimacy of an intervention require the early withdrawal of forces to demonstrate a lack of ulterior motives, or does legitimacy in some cases require the establishment of protectorates even where these may facilitate secessionism?

NOTES

1 Kofi Annan, "Peace Operations and the United Nations: Preparing for the Next Century," unpublished paper, February 1996, pp. 4–5. This is the starting point for Donald C.F. Daniel and Bradd C. Hayes, with Chantal de Jonge Oudraat, *Coercive Inducement and the Containment of International Crises* (Washington, DC: US Institute of Peace, 1999).

2 Robert Jennings and Arthur Watts, eds., *Oppenheim's International Law* (London: Longmans, 1996), pp. 428–434; and Ian Brownlie, *International Law and the Use of Force by States* (Oxford: Clarendon Press, 1963), pp. 44–45. It is worth noting that some analysts include both "solicited" (that is, consensual) and "unsolicited" military force in their definitions of intervention. See, for example, Martin Wright, *Power Politics* (Harmondsworth: Penguin, 1979), chapter 11.

3 For a recent overview, see Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 2000).

4 Augustus Stapleton, *Intervention and Non-Intervention* (London: Murray, 1866); *The Foreign Policy of Great Britain from 1790 to 1865* (London: Murray, 1866); Ellery Stowell, *Intervention in International Law* (Washington, DC: J. Bryne, 1921); and Brownlie, *International Law and the Use of Force by States*.

5 France's intervention was approved subsequently by European countries and Turkey. See Stowell, *Intervention in International Law*, pp. 126, 489.

6 The others were the intervention by Austria, France, Italy, Prussia, and Russia in 1866–1968 to protect the Christian population in Crete; Russian intervention in the Balkans in 1875–1978 in support of insurrectionist Christians; and interference by European powers from 1903 to 1908 in favour of the oppressed Christian Macedonian community. See Danish Institute of International Affairs, *Humanitarian Intervention: Legal and Political Aspects* (Copenhagen: Danish Institute of International Affairs, 1999), p. 79.

7 Brownlie, *International Law and the Use of Force by States*, pp. 338–339.

8 Stowell, *Intervention in International Law*, p. 53.

9 Dino Kritsiotis, "Reappraising Policy Objections to Humanitarian Intervention," *Michigan Journal of International Law* 19 (1998), p. 1005.

10 This legacy continues to colour the intervention debate, for, as Ramesh Thakur points out, developing countries "are neither amused nor mindful at being lectured on universal human values by those who failed to practice the same during European colonialism and now urge them to cooperate in promoting 'global' human rights norms." Ramesh Thakur, "Global Norms and International Humanitarian Law: An Asian Perspective," *International Review of the Red Cross* 83, no. 841 (March 2001), p. 31.

11 Brownlie, *International Law and the Use of Force by States*, p. 340.

12 Hersch Lauterpacht, "The Grotian Tradition in International Law," *British Year Book of International Law* 23 (1946), p. 1.

13 See, for example, Richard Lillich, *Humanitarian Intervention and the United Nations* (Charlottesville: University Press of Virginia, 1973).

14 Kofi Annan, "Opening Remarks," Humanitarian Action: A Symposium," November 20, 2000, *International Peace Academy Conference Report* (New York: International Peace Academy, 2001), p. 11.

15 One searches in vain for a solid definition of "humanitarian" in international law. The International Court of Justice was provided an opportunity in the case of Nicaragua against the United States, but it declined to define the term. It engaged in a tautology of sorts by stating that humanitarian action is what the International Committee of the Red Cross does. The *Oxford English Dictionary* (Oxford: Oxford University Press, 1933) is not of much help, by stating that humanitarian is "having regard to the interests of human-ity or mankind at large; relating to, or advocating, or practising humanity or human action." A second definition notes that the term is "often contemptuous or hostile."

16 International Court of Justice, *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v United States)*, June 27, 1986, paras. 267–268 and 243.

17 Bruno Simma, *The Charter of the United Nations: A Commentary* (Oxford: Oxford University Press, 1995), p. 7.

18 *Report of the Secretary General on the Work of the Organization, Supplement to An Agenda for Peace: Position Paper of the Secretary General on the Occasion of the Fiftieth Anniversary of the United Nations*, UN Document S/24111 (1992); and *Supplement to An Agenda for Peace*, A/50/60, S/1995/1. See also Stephen J. Stedman, "The New Interventionists," *Foreign Affairs* 72, no. 1 (1993), pp. 1–16; Thomas G. Weiss, "Whither the United Nations," *The Washington Quarterly* 17, no. 1 (1993), pp. 109–128; and *Report of the Advisory Committee on Problems of International Public Law*, Report no. 15, June 18, 1992, The Hague.

19 Thomas G. Weiss, "Military–Civilian Humanitarians: The Age of Innocence is Over," *International Peace Keeping* 2, no. 2 (Summer 1995), pp. 157–174.

20 W. Michael Reisman and Douglas L. Sterick, "The Applicability of International Law Standards to the UN Economic Sanctions Programmes," *European Journal of International Law* 9 (1998), p. 86.

21 In relation to decolonization, the regime of the Charter develops standards for the conduct of colonial states in 1945 by establishing a framework for decolonization, based on the right to self-determination and the rights and duties of the Mandatory powers with regard to the protection of the inhabitants of Trust and Mandated territories. See "Declaration on the Granting of Independence to Colonial Countries and Peoples," General Assembly Resolution 1514 (XV), December 14, 1960.

22 See *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276, ICJ Report* (1970), p. 16.

23 See for example, General Assembly Resolution 204 (XX) of November 11, 1965, and Security Council Resolution 216 (1965) of November 12, 1965. For detail, see *United Nations Action in the Field of Human Rights* (New York: United Nations, 1983), pp. 16–38.

24 Reisman and Sterick, "The Applicability of International Law Standards to the UN Economic Sanctions Programmes," p. 124.

25 Commonwealth Heads of Government Meeting, *The Auckland Communiqué*, November 1995, p. 5.

26 EU Decisions 95/515/CFSP OJL 298/1995; 95/544/CFSP OJL 309/1995; and Toby King, "Human Rights in European Foreign Policy: Success or Failure for Post-modern Diplomacy," *European Journal of International Law* 10, no. 2 (1999), pp. 313–337.

27 Gary C. Hufbauer, Jeffery J. Schott, and Kimberly Ann Elliott, *Economic Sanctions Reconsidered: History and Current Policy*, 2nd ed. (Washington, DC: Institute for International Economics, 1990). Despite appearing as an alternative to the use of force, they are often meant to "punish" a target. See Kim Richard Nossal, "International Sanctions as International Punishment," *International Organization* 43, no. 2 (Spring 1989), pp. 301–323. See also Robert A. Pape, "Why Economic Sanctions Do Not Work," *International Security* 22, no. 2 (Fall 1997), pp. 90–136.

28 For a discussion of these and other circumstances associated with the increased use of sanctions, see David Cortright and George A. Lopez, eds., *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World?* (Boulder: Westview Press, 1995); and Margaret P. Doxey, *International Sanctions in Contemporary Perspective*, 2nd ed. (New York: St. Martin's Press, 1996).

29 See, for example, Ramesh Thakur, "Sanctions: A Triumph of Hope Eternal over Experience Unlimited," *Global Dialogue* 2, no. 3 (Summer 2000), pp. 129–141. In fact, the entire issue is devoted to this topic.

30 David Cortright and George A. Lopez, eds., *The Sanctions Decade. Assessing UN Strategies in the 1990s* (Boulder: Lynne Rienner, 2000).

31 See, for example, Paul Conlon, "The UN's Questionable Sanctions Practice," *Aussenpolitik* [German foreign affairs review] 46, no. 4 (1995), pp. 327–338.

32 Boutros Boutros-Ghali, *Supplement to An Agenda for Peace* (New York: United Nations, 1995), paras. 66–76.

33 For the humanitarian issues, see Thomas G. Weiss, David Cortright, George A. Lopez, and Larry Minear, eds., *Political Gain and Civilian Pain: The Humanitarian Impacts of Economic Sanctions* (Lanham: Rowman & Littlefield, 1997); and Larry Minear, David Cortright, Julia Wagler, George A. Lopez, and Thomas G. Weiss, *Towards More Humane and Effective Sanctions Management* (New York: UN Department of Humanitarian Affairs, 1997).

34 The International Law Commission between 1977 and 1986 produced a "Draft Convention on the Jurisdictional Immunities of States and Their Property," which sought to change the then existing rules, including allowing legal actions against officials who committed crimes. However, the draft rules still required a nexus between where the crime was committed and the court in which the action was brought. More generally, moves to negotiate the draft Convention into existence failed.

35 The Pinochet case illustrates the limits on sovereign immunity in regard to crimes committed while in office. However, it does not affect serving heads of state or serving diplomats. It remains an as yet untested possibility that the 1949 Geneva Conventions and Additional Protocols of 1977 on humanitarian law in armed conflict, which are regarded as being *jus cogens*, could provide sufficient authority for an armed intervention to enforce them. Common Article I of the Conventions states that "[t]he High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances." See Geoffrey Robertson, *Crimes against Humanity: The Struggle for Global Justice* (London: Penguin, 1999), p. 398.

36 Henry A. Kissinger, "The Pitfalls of Universal Jurisdiction," *Foreign Affairs* 80, no. 4 (July–August 2001), pp. 86–87.

37 Adam Roberts, "Humanitarian War: Military Intervention and Human Rights," *Journal of International Affairs* 69, no. 4 (1993), pp. 429–449; "The Road to Hell: A Critique of Humanitarian Intervention," *Harvard International Review* 16 (1993), pp. 10–13 and 63–65; Rosalyn Higgins, "The New UN in Former Yugoslavia," *Journal of International Affairs* 69, no. 4 (1993), pp. 465–483; Richard Falk, "The Complexities of Humanitarian Intervention: A New World Order Challenge," *Michigan Journal of International Law* 17, no. 491 (1996), pp. 491–513; Christopher Greenwood, "Is There a Right of Humanitarian Intervention?" *The World Today* 49 (1993), p. 40; Thomas G. Weiss, "Intervention: Whither the United Nations," *The Washington Quarterly* 17, no. 1 (1993), pp. 109–128; and Thomas G. Weiss, "Triage: Humanitarian Interventions in a New Era," *World Policy Journal* 11 (1994), pp. 59–68.

38 Shashi Tharoor and Sam Daws, "Humanitarian Intervention: Getting Past the Reefs," *World Policy Journal* XVIII, no. 2 (Summer 2001), p. 21.

39 Christopher Greenwood, "Is There a Right of Humanitarian Intervention?," *The World Today* 49 (1993), p. 40.

3. PREVENTION

The appeal of conflict prevention – as a policy, strategy, and paradigm – is enhanced by the widespread consensus that intervention is problematic and costly. Successful preventive measures could spare at-risk populations from the scourge of war, displacement, and death; save the international system the cost, risk, and political controversy of peace operations and direct humanitarian intervention; and shield the community of states from the "spill-over" and "spill-in" effects of intrastate wars, including refugee flows, arms trafficking, transnational criminality, and the spread of disease. Preventive strategies are appealing both from the point of view of a liberal humanitarian ethos and that of a *Realpolitik*, national-security logic. Hence, it is treated as central to the sovereignty versus intervention debate and not as an afterthought. The focus here is on forestalling the human costs from violence and war, or, in the words of the Carnegie Commission, to "prevent extremely deadly conflicts."

Not surprisingly, conflict prevention as a general principle has been repeatedly endorsed in international fora, national-security documents, and academic analyses. "There is near-universal agreement that prevention is preferable to cure," notes the United Nations (UN) Secretary-General Kofi Annan, "and that strategies of prevention must address the root causes of conflicts, not simply their violent symptoms."[1]

Yet, in practice, conflict prevention has remained underdeveloped, undervalued, ephemeral, and largely elusive. A wealth of theoretical and applied research has been generated since the 1950s, and a promising array of international, regional, and nongovernmental mechanisms for conflict prevention, focused particularly on intrastate conflict, were established or expanded in the 1990s.[2] But many seemingly avoidable intrastate conflicts have inspired only token international efforts at prevention. Moreover, when sustained measures have been undertaken, results have been mixed. There are only a few unambiguous examples of successful preventive diplomacy in the post-Cold War era, while the catalogue of failed preventive action and missed opportunities is lengthy.

Part of the problem has been the gap between rhetorical support and tangible commitments. As the 2000 *Report of the Panel on United Nations Peace Operations* points out, when it comes to improving UN preventive diplomatic and military capacity, there remains a "gap between verbal postures and financial and political support for prevention."[3]

A fundamental resource constraint is the declining levels of foreign assistance for economic development. Virtually all observers of war and conflict concur that underdevelopment, poverty, and resource scarcity are among the root causes of conflict.

For some observers, calls coming mainly from the affluent West for more robust rules of intervention ring somewhat hollow when set against the weakening commitment to economic development in poor countries. As to priorities, the main concern in policy-making and scholarly debates in the West has overwhelmingly appeared to be reaction to humanitarian catastrophes, especially by military intervention, rather than on efforts to ensure that such disasters did not occur in the first place. At the same time, the lack of certainty among developmentalists about what works and what does not gives pause as to the precise link between enhanced economic and social development and a reduction in violent conflict.

Prevention is sometimes invoked as a solution to the sovereignty versus intervention dilemma. According to this logic, if proactive measures could be taken to defuse tensions before they reach the point of armed violence, then the most nettlesome questions relating to the debate about international intervention versus state sovereignty could be finessed. Many measures in the "toolbox" depicted in Table 3.1 are, in actuality, relatively nonintrusive. The "structural" preventive measures to address the root causes of poverty and many armed conflicts, for instance, work best with the full consent and participation of host governments. Targeted development assistance, promotion of private investment, training and capacity building programmes for governments and civil society are relatively uncontroversial.

The same could be said for such direct prevention efforts as offers of mediation or good offices. But other direct tools commonly cited in the literature are far more intrusive: sanctions, war crimes tribunals, human rights monitoring, arms embargoes, aid conditionality, preventive deployment of peacekeeping forces, and threat of force. These arrows in the quiver of conflict prevention unquestionably move into the debate over intervention and state sovereignty. It is one of the reasons why many countries have become leery about the "continuum" of prevention.

TABLE 3.1
STRUCTURAL AND DIRECT PREVENTION OPTIONS

	Consensual	Nonconsensual
Structural "Root Cause" Prevention	Poverty alleviation	
	Economic growth and investment	
	Democratic development	
	Training and capacity building	
	Security sector reform	
Direct Prevention	Good offices and special envoys	Diplomatic sanctions
	Economic incentives	Economic sanction
	Mediation and arbitration	War crimes tribunals
	Preventive deployment	Arms embargoes
		Threat of military force

There are numerous criticisms of conflict prevention – that some violent conflicts are simply inevitable, that some actions can produce "compromises that kill,"[4] that the entire concept has been "oversold,"[5] or that in some instances it stands in the way of "just wars," wherein armed resistance against oppression is justified. But even if one subscribes to these arguments, it still stands to reason that improving conflict prevention at every level – conceptually, operationally, and strategically – is urgent and essential. The following pages assess the "state of the art" of conflict prevention in theory and practice, with special attention to its place in the debate over intervention and state sovereignty.

RECENT DEVELOPMENTS

Conflict prevention is by no means new to international diplomacy; the Concert of Europe, the League of Nations, and the UN were all established with the explicit intent to construct collective measures for the prevention and removal of threats to peace. Indeed, Chapter VI of the UN Charter contains a catalogue of many consensual direct prevention devices that are linked to "the pacific settlement of disputes." But prevention has garnered greater attention in the post-Cold War era. Reasons for the ascendance of conflict prevention to the "front burner" of international diplomacy include the improved capacity for cooperative action in the UN Security Council after the end of the Cold War; alarm at the number of dangerous intrastate wars and collapsed states; sobering international experiences with belated intervention into complex political emergencies; revolutionary advances in information technology, which have made it more difficult for leaders to ignore violent crises in distant lands; and growing, organized public pressure on states and international organizations to intervene to prevent or halt genocide, war crimes, and deadly conflicts.

The shift in emphasis toward prevention prominently manifested itself in 1992, when Secretary-General Boutros Boutros-Ghali released *An Agenda for Peace* in response to the Security Council's request for recommendations to improve the UN's capacity for preventive diplomacy, peacekeeping, peace enforcement, and peace building. This document identified preventive diplomacy as "the most desirable and efficient" option for managing conflicts and identified several essential capacities on the part of the international community – confidence-building measures, early-warning and fact-finding capabilities, and rapid preventive deployment capacity.[6] Frustration and setbacks with UN peace operations in the years following the release of *An Agenda for Peace* reinforced the original emphasis on conflict prevention. The declining enthusiasm for UN peace operations in the *Supplement* published only three years later by the UN made prevention seem even more attractive.[7]

In recent years, the UN has continually underscored the importance of conflict prevention.[8] This increased emphasis has not, however, been matched by an equal commitment by member states to build UN preventive capacities. Between 1992 and 1993, initial measures were undertaken toward internal restructuring to improve its preventive capacities, but UN resources dedicated to preventive diplomacy remain dwarfed by the resources dedicated to efforts after wars and especially to peacekeeping. In 1996, Norway established a Fund for Preventive Action for use by the Secretary-General to support the work of special envoys and special representatives in emerging conflicts. More recently, the UN Executive Committee on Peace and Security created an Inter-agency/Interdepartmental Framework for Coordination in an effort to improve the UN system's ability to predict and prevent conflict, but that effort has "not accumulated knowledge in a structured way and does no strategic planning."[9]

The UN may not always be the most appropriate instrument. While the world organization remains the centerpiece for discussions of improved international capacity for conflict prevention, prospects for strengthening the role of regional organizations are also being explored. The Organization of African Unity, for instance, established in 1993 a Mechanism

for Conflict Prevention, Management, and Settlement, with support from external donors. The Economic Community of West African States established a Mechanism for Conflict Prevention, Management, Resolution, Peace and Security in 2000. The Organization for Security and Co-operation in Europe (OSCE) has developed a number of innovative internal mechanisms and practices designed to prevent conflict in Europe.

Two of the most powerful political actors in the post-Cold War period, the European Union (EU) and the United States (US), have also embraced conflict prevention as a priority. In Washington, the first Bush administration affirmed that "the most desirable and efficient security strategy is to address the root causes of instability and to ease tensions before they result in conflict," a view that informed the subsequent decision to insert US troops as part of a preventive UN military presence in Macedonia. The Clinton administration placed crisis prevention at the centre of its national-security strategy. The 1994 *National Security Strategy of Engagement and Enlargement* emphasized preventive diplomacy via support for democracy, development aid, overseas military presence, and diplomatic mediation "in order to help resolve problems, reduce tensions, and defuse conflicts before they become crises."[10] This position informed the decision to assist the African Crisis Response Initiative and the Greater Horn of Africa Initiative and led to the establishment of the Secretary of State's Preventive Action Initiative.

Meanwhile, conflict prevention has come to enjoy a central place in discussions about the future of European foreign policy. Indeed, nowhere else is conflict prevention explored with such seriousness of purpose (with the exceptions of Canada and Australia), and nowhere else has it been institutionalized as deeply. The OSCE was founded to foster conflict prevention on the continent. Several European states have trained and earmarked rapid-response peacekeeping forces, and a number have played leading mediating roles in preventive diplomacy. And the EU itself is under great pressure to restructure to better execute preventive diplomacy.[11] In 2001, Sweden used its EU presidency to promote this capacity. Innumerable workshops and conferences, many sponsored by nongovernmental organizations (NGOs), are helping to drive this agenda and explore the technical reforms needed in the European Commission to harness its funds and power toward conflict prevention.[12] Many European states are major proponents in their own right.

Particularly impressive has been the post-Cold War explosion in the growth, activities, and capacity of international NGOs devoted to various aspects of conflict prevention. Illustrative examples include lobbying, coordinating, and advocacy; public education on conflict prevention; sponsorship of conflict prevention research; analysis of conflict prevention concepts, techniques, tools, and trends; direct engagement in early warning of conflict; local capacity building in conflict prevention; dissemination of information among NGOs; training of development NGO staff in peace building; and direct mediation or provision of good offices in incipient crises. These types of organizations exist in the South (for example, Inter-Africa Group and Nairobi Peace Initiative), as well as in the North (for example, the Carter Center and Communita St. Egidio).

In addition, a growing number of development NGOs, such as Oxfam, are reshaping their aid programmes in order to more explicitly address peace building and conflict prevention as integral themes of relief and development assistance.[13] This greater sensitivity on the part of some relief and development agencies to conflict prevention is welcome and much-needed. In the recent past, relief agencies tended to adopt a narrower, apolitical view of humanitarian action. Widespread indifference to, and ignorance of, the role that aid resources play in local conflicts has led to cases of relief and development resources actually fueling, rather than defusing, armed conflict.[14] In the context of war and scarcity, aid becomes a

precious resource. The nature and extent of its distribution is, therefore, loaded with political ramifications. The fact that NGOs are now acknowledging the "do no harm" principle in their emergency efforts is a step toward harnessing their considerable resources as a force for prevention.

Collectively, international NGOs are becoming better organized and funded. They have been emboldened by such recent successes as the anti-land mine campaign and the Jubilee 2000 movement to forgive Third World debt. The "soft power" of NGOs in this and other fields is often exaggerated, but it is clear that they are becoming a driving force in the campaign to improve global capacities to prevent deadly conflicts.

Complementing this expansion of governmental and nongovernmental programmes and projects devoted to conflict prevention is the explosion of academic and policy research on the topic since the end of the Cold War. The quality of this body of research is variable. On the one hand, it has helped to provide a more sophisticated set of conceptual tools. On the other hand, this mushrooming research has also created considerable confusion over terminology.

SCOPE OF CONFLICT PREVENTION

One of the first obstacles to strengthening preventive strategies is reaching consensus on the scope and definition of the concept. Some definitions are so expansive as to include virtually all development work and post-conflict peace building; others insist on a very narrow definition. The result is conceptual confusion and muddled strategies. Coming to some consensus about how conflict prevention is defined is an unavoidable point of departure, as the definition establishes the parameters of strategies.

Though there is no universal agreement on the precise causes of deadly conflict, observers do agree that it is useful to differentiate between precipitating versus underlying causes of armed conflict. There is a growing and widespread recognition that armed conflicts cannot be understood without reference to such "root" causes as poverty, political repression, and uneven distribution of resources. Ignoring these underlying factors, critics charge, amounts to addressing the symptoms, rather the causes, of deadly conflict, an accusation that has been frequently leveled at UN peacekeeping and peace enforcement operations.[15]

Diplomats, activists, and analysts who take seriously the view that deadly conflicts have structural causes are thus drawn toward preventive strategies that address underlying causes of conflict. "Every step taken towards reducing poverty and achieving broad-based economic growth," argues Kofi Annan, "is a step toward conflict prevention."[16] Preventive strategies must therefore work "to promote human rights, to protect minority rights and to institute political arrangements in which all groups are represented." Advocates applaud the trend of viewing humanitarian and development work through a "conflict prevention lens" as an example of a more integrated, holistic approach to development and peace building.[17] Critics, however, suspect that development agencies are merely pouring old wine into new bottles in order to attract donor funding. They also point out that decades of development assistance and investment have still not shed much light on what kinds of efforts truly lessen the propensity to lethal violence. War is clearly an enemy of development, but the links between development and prevention are still only partially understood.

There is an obvious logic to the argument that root causes should be addressed if deadly conflict is to be prevented and that preventive diplomacy that waits until conflict is imminent stands a much lower chance of success. Yet, it is not universally accepted that broadening the definition of conflict prevention to include development and governance issues is appropriate. An overly elastic definition equates prevention with correction of all social inequities.

Critics argue that this holistic approach effectively amounts to defining prevention out of existence. Taking such a broad approach may divert attention away from the behavioural origins of violent conflict that are ultimately political. Too heavy an emphasis on structural causes of conflict is also empirically inaccurate – social inequities and resource scarcity do not in fact always lead to deadly conflict, and they can in some instances produce healthy nonviolent conflict that catalyzes positive social change. Protests in democratic societies are an obvious example, but even armed struggle for self-determination against a repressive regime may remain within acceptable bounds of violence.

Definitions of conflict prevention can also include post-conflict activities, including assistance and diplomatic efforts. From this perspective, armed conflicts themselves typically feature "windows of opportunity" for effective responses to prevent the conflict from cascading to a new, more destructive, and more intractable level. Conflict prevention would then include efforts to forestall armed hostilities from getting worse, as well as preventing armed violence in the first place. Boutros-Ghali advocated this vision in *An Agenda for Peace* by defining it as "action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur."[18] This view was confirmed by the UN Security Council, which "recognizes that early warning, preventive diplomacy, preventive deployment, preventive disarmament, and post-conflict peace building are interdependent and complementary components of a comprehensive conflict prevention strategy."[19]

The Carnegie Commission on Preventing Deadly Conflict distinguishes between "structural prevention," which encompasses "strategies to address the root causes of deadly conflict," and "operational prevention," described as "early engagement to help create conditions in which responsible authorities can resolve tensions before they lead to violence."[20] Likewise, the findings of the Krusenberg Seminar on Preventing Violent Conflict distinguish between "upstream" and "downstream" conflict prevention efforts. In this continuum, or "ladder," of measures, upstream prevention refers to "long-term structural measures," while downstream initiatives are "short-term, crisis management actions."[21]

There appears to be a growing consensus on a broad but not unlimited understanding of strategies – what the G-8 Miyazaki Initiative for Conflict Prevention terms "chronological comprehensiveness."[22] Such an approach would include both structural prevention and post-conflict peace building. But care should be taken to distinguish among different types of prevention along a temporal scale:

- "structural prevention" (ongoing efforts that target issues of economic development, human rights, arms trafficking, and governance and that help build international regimes or a "culture of prevention");
- "early prevention" (initiatives generated as soon as early warnings indicate a serious dispute in the context of uneasy stability);
- "late prevention" (crisis diplomacy when serious armed conflicts appear imminent or have begun); and
- "post-conflict peace building" (initiatives designed to prevent a recurrence of armed conflict).

To be effective and comprehensive, a strategy must integrate these different types of prevention and differentiate between the measures appropriate for each stage of a conflict. Of these types, early prevention is likely to be the most useful, yet it is also least developed or employed. Six prerequisites for effective prevention are outlined in the following sections:

conflict analysis, early warning, operational capacity, strategy, institutional capacity, and political will. Each of them constitutes a link in the "chain" of prevention, which is only as strong as the weakest of the links.

CONFLICT ANALYSIS

By definition, preventive action is founded on, and proceeds from, accurate prediction of conflict. To be effective, it is also necessary to address effectively the root causes of an emerging or imminent lethal conflict. If either of these levels of analysis is flawed, then preventive measures will either miss key warning signs (and hence miss opportunities for early action) or will correctly foresee violent conflicts but misread their nature (and hence apply the wrong tools).

One need not be directly involved in the art of political analysis in any of the world's troubled war zones to appreciate that human predictive capacities are modest. Many of the most dramatic political events over the past decade – from the fall of the Berlin Wall, to the Iraqi invasion of Kuwait, to the Ethiopian–Eritrean War (to mention but a few) – were not foreseen by intelligence agencies, international institutions, scholars, or policy analysts.

A number of distinct problems weaken analytic capacities to predict violent conflict. First is the multiplicity of variables associated with structural causes of conflict and the complexities of their interactions. The Carnegie Commission's final report provides a typical list:

> Many factors and conditions make societies prone to warfare: weak, corrupt, or collapsed states; illegitimate or repressive regimes; acute discrimination against ethnic or other social groups; poorly managed religious, cultural, or ethnic differences; politically active religious communities that promote hostile and divisive messages; political and economic legacies of colonialism or the Cold War; sudden economic or political shifts; widespread illiteracy, disease, and disability; lack of resources such as water and arable land; large stores of weapons and ammunition; and threatening regional relationships.[23]

These factors were certainly in play in countries such as Somalia and Liberia, but they are also present in any number of other countries where armed conflict does not appear on the horizon. Predictive models predicated on systemic variables thus tend to see trouble everywhere.[24]

Second, there is the perennial problem of securing accurate information on which to base analysis and action. Even in relatively peaceful and open settings, key indicators of "systemic causes" of conflict, such as declining gross national product per capita or unemployment, are often inaccurate or crude. Moreover, access to reliable information worsens in direct relationship to the deterioration of local politics; rising insecurity and polarized politics hamper independent information-gathering and politicize the views of local informants. This is an especially sensitive problem in "imminent conflicts," where the type of "estimative intelligence" needed tends to shift from early-warning modeling to field analysis by country experts in governments, the UN, NGOs, or academia. Close, field-based assessments, which can at their best anticipate "triggering," or precipitating, causes of conflict, are most difficult to achieve precisely when they are most needed. The existing body of literature thus catalogues underlying factors and permissive conditions, "but it is weak when it comes to identifying the catalytic factors – the triggers or proximate causes – of internal conflicts."[25]

Third, the predictive value of our models of "systemic causes of conflict" progressively diminishes as conflicts move from emerging to imminent. At that point, precipitating causes become paramount, and precipitating causes are much more likely to be driven by capricious decisions and unforeseeable, random events that defy prediction. Moreover, as crises mount, decision makers invariably encounter fiercely competing interpretations of events, both from local actors and from external analysts. The considerable energies being devoted to improving the capacity to predict violent conflict will no doubt yield some fruit. But it is important not to overstate the ability to predict.

That said, genuine advances have been made in understanding some dimensions of contemporary conflict, and analysts are therefore in a better position to diagnose conflicts accurately. Understanding the nature of ethnic conflict and the manner in which ethnic identity can be mobilized by power-seeking elites, for instance, is much more sophisticated and has at least in academic circles laid to rest "primordialist" interpretations of ethnopolitics.[26] The Carnegie Commission summarizes:

> To label a conflict simply as an ethnic war can lead to misguided policy choices by fostering a wrong impression that ethnic, cultural, or religious differences inevitably result in violent conflict and that differences therefore must be suppressed … as violence almost invariably results from the deliberately violent response of determined leaders and their groups to a wide range of social, economic, and political conditions that provide the environment for violent conflict, but usually do not independently spawn violence.[27]

Similar advances have been made in our comprehension of resource-driven conflict, the politics of warlordism, the role of "conflict constituencies" and spoilers, and the role of foreign aid and globalization in internal conflict.[28] This more sophisticated understanding of the economic motives and forces behind many intrastate conflicts in turn helps to improve and expand strategies of prevention. They include expanding preventive policies into the realm of global trade. Commerce is coming under the growing scrutiny of broader efforts to prevent and manage conflict. For instance, prevention-based analysis considers how global trade in oil, timber, or conflict diamonds fuels local conflicts.[29]

This increased capacity to diagnose emerging conflicts, however, seemingly has not yet widely penetrated policy making circles. Decision makers often fall back on more stereotypical (and fatalistic) explanations for "intractable" conflicts. NGO officials – particularly those working on development – also are not immune from embracing crude and inaccurate theories about disputes and identity politics. The gap between scholarly and popular understanding of intrastate conflict (especially conflicts with ethnic dimensions) should be closed. Strengthening this particular link in the chain of prevention is partly a matter of education and dissemination.

Another important way in which diagnoses of conflicts can be improved is through greater involvement of regional actors and neighbouring states with intimate local knowledge. Although emerging conflicts tend to share a number of characteristics, each is also unique in some ways. Regional actors are usually better placed to understand local dynamics, although they also have shortcomings, not least of which is that they are often not disinterested in the outcomes of deadly conflicts.

EARLY WARNING

The capacity to predict and diagnose emerging conflicts should be housed in some type of early-warning system. Good analysis is ultimately wasted if it does not get into the hands of decision makers. And in recent years, considerable emphasis has been placed on the need for a conflict early warning system that can better guarantee that political actors will hear the alarms.

The idea of a global early-warning system for conflict is not at all new. Decades ago, Kenneth Boulding called for a global network of "social data stations" to monitor and warn about emerging conflict conditions.[30] The idea gained strength for humanitarian issues in the 1970s in response to the spread and recurrence of famines and overwhelming refugee flows.[31] International agencies and donors trying to cope with these humanitarian emergencies sought to build early-warning systems in order to more effectively respond to crises and when possible act to avert them. The ensuing success of early-warning systems for food security led to the call in the 1990s to establish comparable early-warning systems for conflict prevention.[32]

Monitoring for conflict prevention is not, in fact, as doable as monitoring food security – crop yields, rainfall, and market prices for foodstuffs are much more amenable to precise measurement, both on the ground and from satellites. But the parallel was compelling enough to stimulate discussions of developing early-warning systems for conflict prevention and response.

To date, early warning of deadly conflict has been essentially ad hoc and unstructured. A wide range of players have been involved, including embassies and intelligence agencies, UN peacekeeping forces, relief and development NGOs, human rights groups, the International Committee of the Red Cross (ICRC), faith groups, academics, and the media. Quality is variable, and coordination among groups has been rudimentary or nonexistent. Moreover, UN specialized agencies and development NGOs have the advantage of a grass-roots presence in countries, but they lack both the expertise and human resources to be consistently accurate and engaged.

UN headquarters is often identified as the logical place to centralize early warning. Efforts have been made for more than two decades to improve the world organization's information-gathering and analytical capacities. However, the difficulties involved in the UN's establishment of the Office for Research and the Collection of Information in the 1980s should be kept in mind. Although billed as a clearinghouse for conflict early warning, it was unceremoniously dismantled in 1992.

One of the particular strengths of the Secretary-General is his special mandate under Article 99 of the UN Charter to "bring to the attention of the Security Council any matter that in his opinion may threaten the maintenance of international peace and security." The secretariat possesses, in other words, a formidable capacity as a "bully pulpit" to alert the world of impending conflicts, either loudly or discreetly. But efforts to improve the organization's early-warning capacity have so far fallen short. In addition, the value of the oft-discussed Article 99 may be overstated. Security Council inaction seldom takes such a form that the Secretary-General's forcing debate would result in effective action. Furthermore, one should not overestimate the intelligence-gathering and analytical capacities of major powers, particularly in parts of the world where they no longer perceive strategic interests.

The most organized and comprehensive early-warning capacities are currently housed within intelligence bodies of individual governments. The most powerful states – those with the resources and interests to follow events closely around the world – usually (but not

always) possess somewhat better access to key political indicators and intelligence than the UN, NGOs, and other nonstate actors. Efforts to build a better early-warning system by harnessing this preexisting governmental capacity is an idea worth pursuing, but realism is in order about the extent to which states are willing to divulge information that may compromise their own intelligence network. Though one should not overestimate the intelligence capacity of the major powers, even in parts of the world where they no longer perceive major strategic interests.

Dissatisfaction with this situation has prompted the rise of a new type of NGO, one dedicated exclusively to conflict early warning. Organizations such as International Crisis Group and International Alert monitor and report on areas of the world where conflict appears to be emerging, and they are aggressive in alerting governments and the media if they believe preventive action is urgently required. Their work is complemented by the monitoring and reporting capacity of international and national human rights organizations such as Amnesty International and Human Rights Watch. These organizations, which previously devoted most of their energies to reporting on human rights violations against individuals and groups, have made a conscious effort to expand their work to include early warning about conflicts that could result in massive violations of human rights or even genocide. The impressive growth of such human rights centres in the post-Cold War period gives this set of actors an increasingly powerful network for sharing information and lobbying. Still, it is taking time for these organizations to learn how better to coordinate among themselves, mobilize constituents globally, work with the media, and move governments.

All this falls well short of a system of early warning. Some, including Kofi Annan, have concluded that "loose, creative … global policy networks" are adequate foundations on which to build effective international cooperation, and he praises them for being "non-hierarchical." But even this relatively optimistic assessment of these networks is tempered. "Our involvement with global policy networks," he concludes, "has been extensive but largely unplanned. We need a more focused and systematic approach."[33]

In sum, a "network" of early warning is not a "system." Networks are patchy and less than comprehensive in coverage, informal in their information-sharing, and variable in the quality of their participants, and typically they have no central clearinghouse. These are potentially fatal shortcomings. The *Report of the Panel on United Nations Peace Operations* is one of many that reiterates the call for that clearinghouse role to be played by the UN, noting "the need to have more effective collection and assessment at UN headquarters, including an enhanced conflict early-warning system that can detect and recognize the threat or risk of conflict or genocide."[34] This report also makes very detailed proposals for building an early-warning capacity within the UN Secretariat.

A further suggestion is to meld the UN Secretary-General's agenda-setting power with the growing information-gathering and assessment capacity of NGOs. The development of stronger and more routinized coordination of the network of NGOs, UN agencies, and the Secretariat would go some way toward redressing the weakness of the UN's intelligence-gathering and the NGO's difficulty in "making noise" effectively.

Even an improved early-warning system will face a range of bureaucratic and political obstacles. One is the commonly cited problem of "information overload." Policy makers are confronted with so many reports and information that it is difficult for warnings to make themselves adequately "loud" and difficult for decision makers to discern high-quality warnings from flawed analyses. That is, early warning has three components: having the information, transmitting it to policy makers, and making sure that the latter act. The third component is clearly the most formidable. The very crisis-driven nature of decision making

in the UN and in government ministries also works against considered attention to warnings about crises that have yet to occur. Reward systems in governmental and international agencies are not designed to recognize "nonevents," such as a prevented conflict; indeed, officials drawn into preventive actions often believe they are "being set up for failure."[35]

In addition, early warning often forces policy makers to make hard choices. Yet, these same people are inclined to delay making choices for as long as possible because of the short-term nature of political rewards. In such a case, additional information or warning may not prompt additional action. Were an effective early-warning system in place inside the UN Secretariat, political sensitivities about emerging conflicts in members states would create precisely these kinds of "unpalatable decisions." And as the UN's own hard-hitting report on the Rwanda debacle demonstrates, this could result in the Secretariat's downplaying reports and ignoring warnings.[36]

Despite all these obstacles, however, the present ad hoc system of early warning has still managed to provide adequate signals of impending trouble to anyone inclined to watch closely. For example, governments, members of the UN system, and numerous NGOs rang alarm bells in late 1993 and early 1994 about the impending bloodbath in Rwanda. While existing capacities can and should be strengthened, early warning is far from the weakest link in the chain. Information about deadly conflicts is a necessary but far from sufficient condition for effective prevention.

OPERATIONAL CAPACITY

No other aspect of the debate has received as much useful attention as the toolbox of preventive methods. Dozens of studies and reports, informed by decades of diplomatic experience and empirical observation, have generated lengthy lists of tools appropriate for various types of situations, produced careful assessments of the strengths and weaknesses of these tools, and explored the experience of using specific tools in detail.[37] The attention is due to their obvious importance in the execution of preventive diplomacy.

There is no shortage of tools, and various reports list dozens to hundreds. Furthermore, much has been learned about their effective use. Analysts stress that these measures have both strengths and drawbacks, which are in turn affected by the degree to which tools are properly matched to the type and stage of emerging conflicts. When preventive tools are used half-heartedly, they can actually precipitate rather than forestall conflict, by emboldening the warring factions.

The most successful use of these instruments is as part of a multilateral initiative and when preventive measures are taken early – before parties to an emerging conflict mobilize political followings or armed forces. Success is also improved when several different tools are employed to address different dimensions of a conflict and when they are chosen to match different levels in the chronology of a conflict, an approach known as a "ladder of prevention."

One problem is that the successful use of preventive tools requires almost surgical precision in application and timing, yet many of the decision making bodies that approve or mandate action wield them as blunt instruments. The poor contemporary track record of economic sanctions imposed by the US, for instance, is due in part to the fact that Congress mandates them, giving diplomacy very little flexibility. The EU and the Security Council face comparable problems on this score in that resolutions are passed for many reasons, but rarely with the impact on diplomacy in the forefront of concerns. Committee decision-making processes are simply incompatible with skillful and refined diplomatic use of preventive measures.

Although a comprehensive review cannot be included here, several of the more prominent preventive measures – whether especially effective, innovative, or controversial – are highlighted below, under the categories of structural and direct tools.

Structural or "Root Cause" Prevention Tools

Ample evidence suggests that bad governance – lack of the rule of law, flawed justice systems, corruption, human rights abuses, and poor accountability, transparency, minority rights, and democracy – are important contributing factors to violent conflicts. Consequently, major emphasis over the last decade has been placed on "good governance" as a central goal of development assistance and public investments.[38] Development aid has shifted toward technical assistance for judicial and police reform, municipalities, political decentralization, civil society, and a range of other programmes that fall under the umbrella of good governance. It has gained top billing as a development goal, in part because it is seen as a pillar of conflict prevention. Good governance has become an institutionalized objective in both development assistance and investment programmes and, in that sense, is now less of a tool than an ongoing programme that may bear fruit in the years to come. A related trend has been the growing consensus within development NGOs that relief and development aid cannot be divorced from the political context and that an integral goal of all aid must be to avoid fueling conflict and to enhance local peace building.

Repeated calls have been made in recent years to bring the lending practices of the World Bank and the International Monetary Fund (IMF) more directly in line with conflict prevention goals.[39] These same institutions also play a central role in post-conflict peace building and reconstruction. Their reputations for heavy-handed pressures on recipient countries have led to less than enthusiastic endorsement by some observers of using their conditionality as part of a meaningful preventive strategy. And critics charge that the policies of the Bretton Woods institutions have actually fueled deadly conflicts. Instead, given the resources of these two institutions, their engagement in coordinated conflict prevention efforts would considerably expand the range of inducements offered to cooperative parties.[40]

Studies of preventive measures consistently stress the need to strengthen indigenous capacities. This ethos of "local solutions to local problems" emphasizes the primary responsibility of both governments and local communities to manage their own conflicts and their enormous advantages in understanding and operating in their own political milieu. International NGOs have been on the front line of efforts to build local capacity.

Direct Prevention Tools

There are a number of methods of direct conflict prevention available to actors who are concerned with conflict before it reaches catastrophic proportions. These include the use of special envoys, "naming and shaming," international criminal prosecution, NGO involvement, the use of the media, and, finally, the deployment of UN or other forces.

The use of special envoys and special representatives by the UN Secretary-General in potential conflict zones is an important part of consensual prevention. Envoys can – by merit of their reputations and role as honest brokers – achieve breakthroughs and catalyze domestic and international support for peace at low cost and in a discrete manner. They do not, however, wield much direct influence in terms of "carrots and sticks" and can succeed only as part of a package of other preventive measures. Many observers applaud the increased use of this type of diplomacy, which can also include "friends'" groups,

eminent-persons commissions, and fact-finding missions.[41] The capacity to appoint and send special envoys has been enhanced by Norway's establishment of the Fund for Preventive Action in 1996.

The time-honoured technique of "naming and shaming" is one of the more effective and important tools of conflict prevention. As human rights reporting has become an established, routinized practice, it has become a source of information to be skillfully used to embarrass and pressure governments or political movements to cease violations that endanger the peace. International support for local human rights organizations helps to build up this capacity, which could well be expanded.

International criminal prosecution is in the first instance a form of intervention, but its existence may also have a deterrent effect. One of the most powerful ideas in conflict prevention is the notion that many deadly conflicts are facilitated by a "culture of impunity." If government figures, opposition leaders, merchants, and warlords perceive that they can literally get away with murder, then they are more likely to resort to deadly conflict in pursuit of their political or economic goals. To establish limits to impunity, the UN Secretary-General contends that it is crucial to "reassert the centrality of international humanitarian and human rights law. We must strive to end the culture of impunity – which is why the creation of the International Criminal Court is so important."[42] War crimes tribunals may have an impact far beyond the immediate armed crisis for which they are established. The more that potential perpetrators of crimes against humanity must consider the possibility that they will be held accountable for their actions in a future court of law, so the argument goes, the less likely they will be to commit atrocities against civilians. As discussed earlier, it can also have the opposite effect, by eliminating potentially face-saving ways of withdrawing from a deadly conflict.

NGOs also grew in importance throughout the 1990s, as they injected themselves into conflict prevention, not only as pressure groups and as part of early-warning systems, but also as direct mediators in conflict prevention and management. Track II diplomacy has been studied and explored as an option for building peace.[43] At the civil society and grass-roots levels, they have demonstrated some successes in "citizen-based diplomacy," which has produced considerable interest and enthusiasm for a direct mediating role for NGOs.[44] There is an important distinction, however, between NGOs' working at a civil society level and their playing direct diplomatic roles. NGOs have not, in fact, distinguished themselves in the formal conduct of preventive diplomacy, and it is not clear that they possess the ability and experience for this role. Indeed, there are serious concerns about NGOs, including their lack of experience and accountability.[45] Given the consequences of failure, the current rush by enthusiastic NGOs to assist in conflict prevention may be counterproductive. More recently, interest has been expressed in drawing the for-profit sector into conflict prevention, especially in an early-warning role, on grounds that businesses have strong interests in preventing conflict in their zones of activity.[46]

In the aftermath of the Rwandan genocide, the world is more aware of the potential for local media to incite deadly conflict.[47] Greater use of jamming techniques is under discussion where "hate media" is being used to incite violence. Conversely, mass media also have the capacity to promote communal understanding and peace building. A variety of international engagements with local media – ranging from journalist training, to media monitoring, to the establishment of, or support to, "peace radio" projects – have been attempted with some promise.

Mounting pressure is being placed on governments from NGOs, human rights groups, and peace activists to consider direct coercive measures to monitor, restrict, and in some instances embargo the flow of small arms to zones of emerging or imminent conflict. A

coalition of NGOs organized by Saferworld and International Alert, for instance, lobbied the Swedish and Belgian governments to use their turns on the rotating presidencies of the EU in 2001 to pass an EU code of conduct on arms transfers and to push for a comparable measure in the UN.[48] The UN Millennium Report highlighted the need to curtail illicit small-arms trafficking.[49] Because of the success of the International Campaign to Ban Landmines in the 1990s and because most deaths in armed conflicts are caused by small arms, the campaign to place tighter controls on small-arms trafficking may have an impact in the coming decade.[50] Although it cannot stop armed conflict from breaking out, effective embargoes on small-arms trading can serve as a powerful signal to local belligerents.[51]

Where armed conflict or genocide appears imminent and belligerents are unwilling to explore peaceful alternatives to their disputes, preventive deployment of UN forces is an option. The UN Preventive Deployment Force in Macedonia is the clearest example to date, and it garnered credibility for this preventive device.[52] The experience seems to have been strengthened by the precarious situation that developed in Macedonia in 2001, after the UN's departure. While consensual, this preventive measure can also be coercive if the Security Council decides to send buffer or observer forces without the agreement of one or more local authorities. Calls to institutionalize a UN capacity to deploy a "thin blue line" via the establishment of a rapid-reaction force have also been repeated in numerous studies.[53]

STRATEGY

Tools of prevention, however well developed, are of only limited use without a coherent strategy. The recent flood of studies and commissioned reports on preventive action has helped improve this situation somewhat. Yet, there is a great distance to travel before a strong strategic capacity exists. What emerges from these studies is best described as contributions to a strategic framework. One of the most important observations is that there can be no "one size fits all" strategy – each situation requires tailoring.

For observers concerned with the weak link between early warning and actual responses, a critical aspect of a preventive strategy is ensuring that the decibel levels for early warnings are not only loud enough to be heard but also trigger effective action. For NGOs, human rights organizations, and others, this involves a fairly straightforward but essential strategy of pressuring governments and international organizations. Where discrete action is required, pressure can be mounted through normal political channels; where urgent action is required, "making noise" through the media and through holding elected officials accountable for inaction is essential.

Others argue that almost all preventive actions require "mixed strategies," combining elements of coercion and inducements. Preventive strategies that embrace sticks to the virtual exclusion of carrots, or vice versa, have limited persuasive value. In this regard, constituency politics shape strategic frameworks for prevention by highlighting the political and economic interests at stake in emerging conflicts. Negotiations should allow all sides to show their constituencies real gains.[54] Where conflict constituencies or spoilers have vested interests in triggering deadly conflict, external actors should move quickly to support and empower the local leaders embracing nonviolent positions and work to limit the impact of spoilers. One can add to this strategy a tactic of using economic inducements to buy off spoilers who resist preventive diplomacy because they see little benefit in peace. Well-timed and well-conceived economic aid, such as demobilization or job-skills training for armed unemployed youth, has the potential to change spoilers into stakeholders.

The Carnegie Commission's extensive work on the strategic employment of conflict prevention efforts sets a standard. The report argues for two distinct strategies – for imminent crises and for underlying causes. The operational strategy emphasizes early action, when prevention stands a greater likelihood of success. A "lead player" is required to manage multi-actor prevention, to avoid the prospect of "prevention by committee" and all the strategic incoherence that implies. Initiatives are also desirable that not only prevent violence but also take specific, comprehensive, and balanced actions to reduce pressures that trigger violence. In practice, this approach would integrate "quick-impact projects" into diplomatic initiatives. The availability of a pool of flexible development funds for use at very short notice is necessary. This capacity does not presently exist within the UN, and this has long been a major constraint on the ability of mediators to "sweeten the pot" for parties to a dispute and engage in even rudimentary confidence-building measures.[55]

Another approach to preventive strategies emphasizes the importance of timing. Strategies should be informed by an understanding of whether actors in an emerging conflict are ready to negotiate. Thus, a strategy must first determine if an emerging conflict is "ripe for prevention."[56] This position challenges the common idea that when it comes to prevention, earlier is always better.

Despite some progress, there is still much work to be done. Even with a well-honed strategic framework to provide general direction to specific preventive actions, success is ultimately dependent on an appropriate strategy, one which should be case-specific and be designed by individuals and organizations with close knowledge of the conflict. Success also depends on the ability of those crafting it to avoid committee-driven decisions (which are prone to compromises and hence rarely coherent strategically) and bureaucratically driven approaches (relying on standard operating procedures). Studies of failure have demonstrated that a successful preventive strategy requires an ability to "think outside the box" and tailor new approaches to new types of problems.[57]

INSTITUTIONAL CAPACITY

Conflict prevention is and will remain a thoroughly multilateral endeavour, with numerous structures and organizations playing different roles at different times. By adopting a broad definition of conflict prevention, there is virtually no limit to the number of organizations and institutions whose activities are relevant to the task at hand. Yet these actors – states, the UN, regional organizations, NGOs, religious groups, the business community, the media, and the scientific and educational communities – are judged collectively as mediocre by the Carnegie Commission.[58]

Effective conflict prevention depends on these disparate organizations' working together strategically. The capacity to conduct preventive diplomacy ultimately relies on the international ability to coordinate multilateral initiatives and identify logical divisions of labour. The mention of "coordination" normally makes eyes glaze over, and this topic remains a perennial concern for numerous UN conferences and reports. The number of coordinating committees and meetings is large, but they do not necessarily improve coordination. It is obvious that states and nonstate organizations often have varying interests and agendas; and in zones of potentially catastrophic conflict where external actors have significant interests (and usually more than a few rivals), coordination of preventive actions can be especially difficult. This provides easy ammunition for indigenous actors to exploit divisions among external players. Combined with the need to coordinate and create divisions of labour across agencies and be flexible in sequencing preventive measures over time, the prospects for strategic coherence are formidable.

In many respects the institutional challenges to effective preventive action parallel those for early warning. Most observers have accepted the reality that the structures of preventive response will be "loose and temporary," to return to Kofi Annan's characterization. But where does responsibility for preventive action ultimately rest? For when everyone is responsible for preventive measures, then no one is compelled to act.

POLITICAL WILL

The final link in the chain of prevention is political will. The overwhelming majority of studies cite lack of will as the major cause of failed prevention. On this score, the Rwandan genocide casts an especially long shadow. Assessments of this sad display of highly inadequate international backbone all conclude that the world's inaction was due to a failure of the major states and the UN Secretariat. "There was a persistent lack of political will by member states to act, or to act with enough assertiveness," concluded the UN's own independent inquiry into Rwanda.[59]

One suggestion is for advocacy or political organizations to exert sustained pressure on governments to make prevention a priority. Yet, there is no guarantee that forcing governments to act will yield appropriate outcomes. One of the hard lessons about humanitarian intervention in the 1990s is that public pressure can produce window dressing instead of meaningful action: "When humanitarian policy is driven only by media images and public pressure, there is a strong tendency on the part of administrations to measure success by how effectively they *appear* to be addressing the problem, rather than by how effectively they *actually* resolve it. If the stakes are political, not strategic, then the policy choices will also be political, not strategic."[60]

Advocacy and political pressure should, therefore, be coupled with other measures if sustained and successful preventive diplomacy is to become the norm. If leaders are persuaded that preventive action is in the national interests of their states, if the public is sceptical that preventive diplomacy is warranted, or if officials perceive that the political risks of preventive action are too great, then early warnings will either go unheeded or will yield risk-averse, half-hearted measures. Such responses may actually make things worse.

Some observers argue that governments should become persuaded that conflict prevention addresses important security interests. The paradigm of prevention as a cornerstone of national interest, not just special interests, should be thoroughly "soaked" into both the leadership and the foreign policy branches of governments and international organizations. If preventing deadly conflicts is framed and ultimately accepted as a vital strategic goal, then preventive responses are more likely to engage sustained attention from governments. This means that arguments for conflict prevention should be articulated in the language of interest as much as moral or humanitarian appeals.[61] At the same time, skeptics argue that broadening definitions of vital interests is counterproductive and that humanitarian action should be justified in its own terms.

Advocates go still further, arguing that cultivating a regime of prevention is essential.[62] The notion of a "culture of prevention" has taken on a wide range of meanings, but its core presumes that certain norms gradually become so pervasive and globalized that there are real costs – to individual careers, to governments, and to would-be transgressors – for violating or dismissing them. And, importantly, these norms permeate governmental agencies and international organizations, so that acting on them becomes almost second nature. Evidence suggests that neither creating nor maintaining a regime is easy. For example, regimes based on such long-standing concerns as human rights and sustainable development still remain relatively weak.

TOWARD EFFECTIVE PREVENTION

Conflict prevention has received far more rhetorical than political, financial, and institutional support. Nonetheless, significant improvements in capacity and the growth of organized public pressure have created a more fertile atmosphere for the growth of a culture of prevention.

Prevention is broadly understood to involve strategies addressing both proximate and underlying causes. The vast majority of preventive measures, particularly those that address root causes, are nonintrusive and actively championed by many poor countries that are potential targets for outside intervention when prevention fails. Some direct preventation measures are merely intrusive, however, while others actually are coercive. Dimensions of conflict prevention are therefore part of a "continuum" of intervention that can conjure up visceral negative reactions. In this respect, genuine preventive efforts are both attractive and repellent. This reality, along with the fact that internationalizing a conflict is not necessarily in the interests of governments or belligerents, explains why prevention is not always uncontested.

The effectiveness of prevention depends on six distinct capacities, which together form the links in a chain, with the results being only as strong as the weakest of these links. At this time, some are stronger than others. The analytic capacity to predict and understand conflicts is not as strong as many believe and needs serious attention. The capacity to provide early warning is weak and ad hoc, but it has been sufficient in many instances to provide adequate notice. The operational capacity to prevent conflict is in place – that is, a well-honed and increasingly sophisticated toolbox of prevention is at the disposal of policy makers. However, the strategic capacity to prevent conflict – to know which tools to use when – remains underdeveloped. Although each conflict requires a distinct strategy, a general strategic framework requires more attention. The capacity to respond is, and will likely remain, multiactored and decentralized. This basic reality places a premium on coordination and the establishment of clear divisions of labour among states, the UN, regional organizations, NGOs, and local actors.

Finally, the political will to act has been a chronic weakness. While a growing network of advocacy groups is trying to place political pressure on states to engage, conflict prevention needs to be understood by governments as being in their strategic, as well as in their political, interests before the concept is fully institutionalized.

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59 Alison Des Forges, *Leave None to Tell the Story: Genocide in Rwanda* (New York: Human Rights Watch; Paris: International Federation of Human Rights, 1999); Astri Suhrke and Bruce Jones, "Dilemmas of Protection: The Log of the Kigali Battalion," in Howard Adelman and Astri Suhrke, eds., *The Path of a Genocide: The Rwanda Crisis from Uganda to Zaire* (New Brunswick: Transaction Publishers, 1999); Gerard Prunier, *The Rwanda Crisis, 1959–1994: History of a Genocide* (London: Hurst & Co., 1995); Scott Feil, *Preventing Genocide: How the Early Use of Force Might Have Succeeded in Rwanda: A Report to the Carnegie Commission on Preventing Deadly Conflict* (Washington, DC: Carnegie Commission on Preventing Deadly Conflict, 1998); Carnegie Commission on Preventing Deadly Conflict, *Preventing Deadly Conflict – Final Report; Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda*, UN Document S/1999/1257, December 15, 1999, p. 1; and Joint Evaluation of Emergency Assistance to Rwanda, *The International Response to Conflict and Genocide: Lessons from the Rwanda Experience* (Copenhagen: Steering Committee of the Joint Evaluation of Emergency Assistance to Rwanda, 1996).

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