

HUMANITARIAN CONSIDERATIONS AS AN ELEMENT IN THE MAINTENANCE OF
INTERNATIONAL PEACE AND SECURITY

Although many forms of international involvement in the internal affairs of States have become increasingly accepted (protection of the environment, removal of trade barriers are but a few examples) the prohibition of "intervention," in the sense of unauthorized foreign presence on the territory of a State, remains as one of the fundamental principles of modern international law. Its maintenance is considered essential by most States for political reasons, including self-protection. No right for States to intervene for humanitarian reasons exists in contemporary international law. This position is buttressed by the United Nations Charter, which forbids State Members to use, or threaten to use force, against the territorial integrity of any State.

The Charter also specifically prohibits the United Nations from intervening in the internal affairs of States, except in cases of collective action authorized by the Security Council, to maintain or restore international peace and security. This exception has served as the legal justification for recent actions in Northern Iraq, the former Yugoslavia and Somalia, all based on the proposition that humanitarian considerations constitute an important element in the maintenance of international peace and security.

This novel application of collective security measures represents the continuation of a positive trend towards increased UN concern over and active involvement in human rights, humanitarian assistance and the advancement of democratic values. It is animated, to a significant degree, by the increased risk of domestic and international conflicts following the end of the Cold War, and by public demands to deal effectively with the causes, and failing that, the consequences of such conflicts.

In resolution 688 of 5 April 1991, the Security Council qualified the repression of civilian populations in Iraq, because of its leading to massive flows of refugees towards and across international frontiers, and to cross border incursions, as a threat to international peace and security. The resolution served as the basis for establishing a "safe haven" for the Kurds.

In resolution 751 of 24 April 1992, the Security Council mentioned the magnitude of human suffering caused by the civil conflict, and expressed its concern that continuation of the situation in Somalia constituted a threat to international peace and security. The resolution established a United Nations operation in Somalia, including, among others, the deployment of a UN security force.