

VII CONCLUSIONS

Let us suppose that there is substantial *prima facie* evidence of genocide being, or about to be, committed within the territory of a state. While the principle obligation correlative to the rights of the victims rests with those actually committing or about to commit the crime, third-party obligations also exist (as formally acknowledged in the *Genocide Convention*). Let us also suppose that agreement to intervene is blocked in the UN Security Council (for whatever reason) and no UN mandate is likely to be forthcoming. The following considerations should then be brought into play.

- (i) First, the decision to resort to force can only be made by a **legitimate authority**. Given the importance of the principle of non-intervention, it is probably reasonable to expect a substantial collective decision rather than merely a unilateral determination to intervene. This could typically, though not exclusively, be achieved through the mechanisms of a significant and appropriate regional organisation. While this discussion is general rather than specific, the decision by the nineteen member states of NATO to intervene in Yugoslavia in 1999 might come to be regarded as a significant precedent in this respect. Obtaining such a degree of international or multinational agreement will never be easy and the ability to do so will in itself convey a degree of authority appropriate to the circumstances.
- (ii) Second, the decision must reflect a **just cause** and be pursued with a morally **right intention**. As discussed, genocide is an extreme form of human rights violation and evidence that it is being committed, or is about to be, should very reasonably be regarded as a just cause, especially as those committing it are in breach of a peremptory norm of international law. The consequent saving of life and the protection of other fundamental rights would certainly constitute a morally right intention
- (iii) Third, military intervention must be regarded as a **last resort** measure and only be applied if all other means have been exhausted or are regarded as unlikely to avert the envisaged humanitarian catastrophe. Diplomatic efforts, including the threat or imposition of economic sanctions, must be made to persuade the state concerned not to proceed with its supposed policy of genocide. These might legitimately include the threat to use force if it does not.
- (iv) Military intervention must have a reasonable **prospect of success**. For this to be likely the force intervening must be endowed with sufficient military capability of an appropriate type. In this respect the debate over NATO's chosen means of intervention in 1999 is especially relevant. At the time, the Alliance's heavy reliance on air power was seriously questioned by many, including by some who were otherwise sympathetic to the idea of intervention. Clearly, this will be a matter of both political and military judgement that has the potential to generate considerable controversy