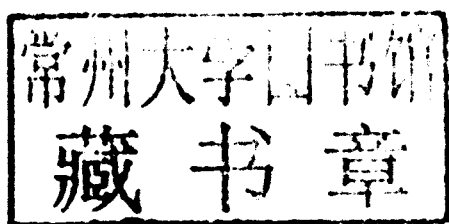Didier Fassin
Mariella Pandolfi

CONTEMPORARY STATES OF EMERGENCY

THE POLITICS OF MILITARY AND HUMANITARIAN INTERVENTIONS

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Humanitarian Interventions

edited by

Didier Fassin and Mariella Pandolfi

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Introduction: Military and Humanitarian Government in the Age of Intervention

Didier Fassin and Mariella Pandolfi

> I am not insensible to the respectable sentiments of humanity which are invoked to support the case for intervention; but I also know that, of all things, the most cruel is a mistaken and useless interference.
> —*Letters by Historicus on Some Questions of International Law*, 1863

Earthquakes in Iran and Pakistan, tsunamis in Indonesia and Sri Lanka, mudslides in Venezuela and the Philippines, hurricanes in Honduras and Louisiana, floods in Burma and China, famine in Ethiopia and North Korea—the rhythm of life in contemporary societies is punctuated by disaster. Images of catastrophe form part of our everyday surroundings, evoking private and public responses of compassion and solidarity that prove more or less effective and prompting the mobilization of human and financial resources that development aid can no longer provide: the exodus of Bangladeshi refugees from India, the flight of the Vietnamese boat people, the genocide in Rwanda, the massacres in Darfur, the intifada in the Palestinian Occupied Territories, the civil wars in Somalia and Haiti, the ethnic oppression in Kosovo and West Timor. Political conflicts and their bloody consequences are similarly present in our media landscape, they, too, prompting surges of emotion and strategic calculations and calling for nongovernmental action and for military operations.

These two series of events—disasters and conflicts—are not as different as they might appear. While the former apparently result from natural phenomena and the latter from human confrontations, the boundary between the two remains porous. The 1983 famine in Ethiopia was the result of authoritarian policies and displacement of populations; the region of Aceh was both the worst hit by the tsunami in 2004 and the scene of long-standing conflict between the Indonesian armed forces and separatist groups; and the Burmese dictatorship prevented the

rescue of the victims of the floods in Burma in 2008, its attitude contrasting with the Chinese government's decision to open the country to aid when faced with a similar disaster at the same time, keen as it was to show itself in a favorable light in the run-up to the Beijing Olympic Games. Above all, disasters and conflicts are now embedded in the same global logic of intervention, which rests on two fundamental elements: the temporality of emergency, which is used to justify a state of exception, and the conflation of the political and moral registers manifested in the realization of operations which are at once military and humanitarian. This book is devoted to that dual reality of contemporary interventionism: the generalization, at the international but also at the national level, of states of emergency and the institution of a military and humanitarian government as a mode of response to situations of disorder.

The principle of intervention, which has become normalized since the "right to intervene" has been asserted, constitutes an important political innovation of the late twentieth century, a break with the doctrine of sovereignty that had prevailed until then. Indeed, immediately after World War II, the UN Charter had stated that the new organization was based on the principle of the "sovereign equality" of its members (Article 2-1) and specifically proscribed intervention "in matters which are essentially within the domestic jurisdiction of any state" (Article 2-7), following a European legal tradition established at the time of the Treaty of Westphalia in 1648.[1] The response to conflict should be peaceful preventative action and, when conflict arises, mediation aimed at encouraging negotiation between the protagonists. Admittedly, decolonization put this doctrine to the test in the wars of liberation that established the sovereignty of colonized peoples and their right to self-determination in conflict with the sovereignty of colonizing states and with their logic of the fait accompli of conquest. However, with the creation of postcolonial sovereignties, independence brought a resolution of this tension. The Cold War also saw numerous military interventions, involving particularly the United States in Southeast Asia and Latin America, the Soviet Union in Eastern Europe and Central Asia, and their supporters in Central and Southern Africa, making respect for national sovereignty a relative concept, but essentially, these were classic conflicts between hegemonic powers that followed the mechanism of imperial wars. It might thus be tempting to think—and this is an interpretation frequently offered by those involved—that the fall of the Berlin Wall overturned this order because, on the one hand, the power relations were altered by the disappearance of one of the protagonists in the Cold War, and, on the other, the much heralded end of ideology gave way to a more consensual world of greater

solidarity. However, rather than creating a new situation that called for interventionism of a kind previously unknown aimed at protecting populations, saving lives, and relieving suffering, the end of this conflict in fact reveals a paradigm that had been emerging over almost two decades.

From this point of view, India's military intervention aimed at ending the Pakistani Army's brutal repression of the people of East Pakistan, which eventually led to the birth of the independent state of Bangladesh in 1971, appears retrospectively as a turning point.[2] India justified its use of force on the grounds that it could not remain passive in the face of the massacres perpetrated by the Pakistanis, while, inversely, the position taken by the UN, which rejected any military action, was based on Article 2-7 of the UN Charter about domestic jurisdiction. In other words, while India championed the duty to intervene, the UN insisted on respect for sovereignty. The two logics, new and old, confronted one another and, in reality, if not in law, the new logic won out, since India, by entering into conflict with Pakistan, imposed humanitarian reason by force. The Security Council, divided along the lines of the Cold War, stuck to its official position, on which the society of states is based and which consists in preserving the international order at all costs. It could of course be objected that India's decision to intervene was also prompted by its interests in the region, its historical hostility toward neighboring Pakistan, and the massive influx of refugees into its territory, and that conversely, the UN failure to act was largely due to the geostrategic stakes involved in South Asia, influenced by the United States, which supported Pakistan against the Soviet Union, the traditional ally of India. Nevertheless, this moment marked a break in the dogma that had prevailed until then, and above all introduced a new discourse.

Moreover, the conflict between East and West Pakistan is emblematic not just as the first military operation clearly defined as humanitarian in aim, but also because it crystallized the Western world's realization that international regulatory bodies are powerless against the extreme violence of war. The nongovernmental organization MSF, Médecins Sans Frontières (Doctors Without Borders) was formed a few months after Bangladesh gained independence. It was founded by a group of former Red Cross members disappointed by their organization's silence during the Biafran war and shocked by the slaughter of the war in Pakistan. Some time later, the best-known of MSF's founders was to become the champion of the *droit d'ingérence*, the right to intervene, asserting the right of states to ignore the sovereignty of another state in the event of serious violation of humanitarian law.[3] Although this right is not recognized in international law—and still less the *devoir d'ingérence*, the duty to intervene, that some derive from it—Western countries have used it with increasing regularity to justify their interventions on the basis of

Security Council resolutions: in Iraqi Kurdistan in 1991 (Operation Steel, Resolution 688), in Somalia in 1992 (Operation Restore Hope, Resolution 794), and in Rwanda in 1994 (Operation Turquoise, Resolution 929), to cite only the first such instances. To sum up, then, during the 1970s and 1980s—thus, prior to the fall of the Berlin Wall—a new paradigm was gradually being put in place, a paradigm that asserted the right to intervene—or that at least allowed it to prevail over the respect of sovereignty—in the name of lives to be saved and populations to be protected. This paradigm is what we propose to call the "military and humanitarian government" of the world.[4]

Thus, contemporary interventionism is new in that it is legitimized in terms of a moral obligation, rather than a political principle—or more precisely (for morality has always had a place in the justification of war), it is new in that the politics of military intervention are now played out in the name of humanitarian morality. The old interventionism did indeed use moral arguments to determine whether there were grounds for intervening in defense of a weak state or to support a liberation movement, for example, but not in order to protect a population and save lives—it is this specific justification that is new and that is becoming normalized. We might take the example of Vaclav Havel (and Tony Blair) calling for "humanitarian intervention" in Kosovo in 1999, or George Bush (and, once again, Tony Blair) claiming "humanitarian assistance" as the primary objective of the invasion of Iraq in 2003.[5] A comparison of these two military operations—both conducted with Security Council backing—is doubly instructive. The parallel between them suggests a shift from legality toward legitimacy, or rather from a focus on international law to the invocation of the humanitarian argument. Not only does the protection of peoples take precedence over the sovereignty of states, but even the formalism of legal validation by the UN disappears (ironically bringing these cases closer to India's intervention in Bangladesh). Morality now justifies suspension of the rule of law. Yet the comparison also highlights the futility of many debates on the intentions and sincerity of the actors. In fact, the idealism of Havel, who saw the intervention in Kosovo as a victory for human rights over the nation-state, whose excesses he had experienced under the Communist empire, raises the same questions and produces the same consequences as the cynicism of Bush, who invoked defense of the Iraqi people and promised aid despite the fact that the intervention was strictly determined by economic and geostrategic interests (Tony Blair is certainly more difficult to place on this psychocognitive spectrum). In short, good faith is no redemption. Thus this dual observation of the situation in Kosovo and Iraq encourages a form of realism in the analysis of the stakes—and the consequences—of military interventions conducted today in the name of humanitarianism.[6] We cannot simply be satisfied with the supposed morality or

the good faith claimed by actors. We need to grasp the new geography of conflicts and, with it, the new international political order.

Thus, humanitarian interventions could be seen as having replaced just wars. On one level, this shift is rhetorical. The debates around the decision to intervene in Kosovo or Iraq centered essentially on arguments that aimed to establish that these military operations were just or, for their opponents, unjust, and thus, they derived in some degree from the old paradigm. Not being founded in law, since they violated the sovereignty of states and were moreover not agreed to by a UN resolution, these operations needed an appearance of legitimacy in the eyes of the protagonists and above all in public opinion—a legitimacy easily conferred by the humanitarian argument. But the development of intervention as norm is more than rhetorical: It grows from a new assumption of self-evidence. Humanitarianism has become the justification for extralegal action.[7] In effect, the only higher reasons that can be set against international law are protecting populations at risk, saving the lives of those in danger, and relieving human suffering.[8] To return to the two series of crises cited above, we might say that the paradigm of disaster prevails over the paradigm of war. Intervention was used in Somalia, Bosnia, and East Timor at the moment when it appeared that thousands of people were being massacred or were in danger of dying in the same way that it was used in Honduras after Hurricane Mitch, in Iran after the earthquake, or in Sri Lanka after the tsunami. In the eyes of the actors, the urgency of the situation and the danger to victims—both of war and of disaster—justified the exception of intervention, which then needed no further justification, least of all in law.

In this operation, whereby the world's disorders, whether natural or human in origin, become equated, we can see a form of naturalization—or depoliticization—of war.[9] Indeed, the humanitarianization of intervention implies the neutralization of conflict situations. Now it is as if the only issue were aid to victims, as if the local context presented no historical peculiarities, as if military operations did not originate in the defense of the interests of the states conducting them. In the case of open conflict, this attempt at neutralization can succeed on only one condition: that there is a very wide gap between the forces involved, so that the military resources of the intervening powers are much greater than those of the belligerent countries. Thus, humanitarian intervention is still a law of the strongest—this is what makes it possible, for there is no question of intervening in Chechnya, Tibet, or even North Korea to protect populations at risk.

This relation of forces—and the realpolitik that, highly paradoxically, underlies military and humanitarian government—explains not only why local impulses

toward resistance are discouraged, but also why the human cost of intervention is much lower for the intervening forces, even at the cost of placing the populations on whose behalf the intervention is supposedly undertaken in considerable danger: zero deaths among the NATO forces, compared with the five hundred civilians killed by the bombardment in Kosovo in 1999 and, by 2008, more than forty-five hundred deaths among the coalition troops compared with over a million mainly civilian deaths in Iraq since the invasion in 2003.[10] Given the need to ensure this imbalance between the actors involved, since the early 1990s and the emergence of humanitarian order, it has almost always been the United States and the countries of Western Europe that have intervened in this context, with or without the backing of the UN Security Council, in regions where economic and strategic issues are at stake. Conversely, the only operations undertaken by other states under the aegis of UN missions are those on the African continent in zones considered difficult to manage, such as Angola (the United Nations Angola Verification Mission, UNAVEM), Liberia (the United Nations Mission in Liberia, MINUL), Sierra Leone (the United Nations Observer Mission in Sierra Leone, MONUSIL) and the Democratic Republic of Congo (the UMONUC). Thus, power relations, but also logics of self-interest map a moral geography of the world, a map that reveals the global distribution of those who count, on the one hand, and those whose lives count, on the other.

Admittedly, the mixing of military and humanitarian action is regularly condemned by nongovernmental organizations, which proclaim their humanitarian aims and denounce military action as they intervene. MSF and Oxfam, in particular, reject any assimilation of their presence with the action of armed forces and usually make every effort to keep their distance, sometimes brutally, from international agencies such as the Office of the UN High Commissioner for Refugees, whose missions aimed at protecting populations, saving lives, and relieving suffering are close to their own, but, in the view of the NGOs, precisely too bound up with power plays between states. And it has to be recognized that the NATO bombardment in Kosovo is not equivalent to the actions of humanitarian organizations that cared for Albanian Kosovar refugees in the camps, nor the invasion of Iraq by coalition troops led by the United States to the dispatch of volunteers from the Red Cross and other associations who undertook to risk their lives to aid the people of Iraq. We need to be clear that the work of humanitarian organizations cannot be likened to the action of military forces. It is therefore important that analysis does not add to the confusion of categories that reigns on the ground by blurring the issues and by placing all actors and all logics on the same level. Moreover, this observation holds equally for each of the two sides that need to be distinguished here. Just as, on the military side, the intervention in Somalia and the intervention in Iraq do not follow from the same imperialist motivations on the part of the United States, similarly,

on the humanitarian side, the position taken by MSF cannot be conflated with that of MDM, Médecins du Monde (Doctors of the World). Thus, sociological analysis needs to differentiate between actors and between their logics.

Nevertheless, as the attentive observer cannot fail to note, beyond the differences between humanitarian actors and the military that the aid organizations insistently highlight, the two sides come together on the same scene, in a reciprocal and asymmetrical dependency — the military increasingly calling on humanitarians to legitimize their interventions and the latter needing the former to ensure their safety. We know that the humanitarian organizations present in Rwanda at the time of the genocide found themselves powerless not only to act on behalf of the victims, but even to prevent the massacre of their own employees, and attempted to call for a military intervention, which came much too late. It is equally well known that MSF's report on the atrocities committed by the Serbs served to sanction the NATO air strikes in Kosovo, that a former president of MDM became the chairperson of Urgence Darfour, a French campaigning organization calling for military action against the Sudanese regime, and that a former French minister for humanitarian action, Bernard Kouchner, has defended the U.S. intervention in Iraq. Thus, humanitarian actors often justify military action precisely in the name of the humanitarian reason they embody. Furthermore, both military and the humanitarian actors share the temporality of emergency, both reject the sovereignty of states in the name of a higher moral order, and both are thus similarly engaged with extralegality and extraterritoriality, justified, in their view, by the legitimacy of their actions and the mobility of their sovereignty.[11]

In other words, in structural terms, military and humanitarian actors place themselves under the same law of exception. It is this reality that leads increasing numbers of belligerents, in some regions of the world, such as Afghanistan, Chechnya, Sri Lanka, and Sudan, to make no distinction between these actors, or at least to construe aid workers as characters among others on the war stage. Thus, kidnapping, assault, murder, and bombing become potential responses to this blurring of frontiers, though obviously incomprehensible and intolerable from the point of view of those who have come to bring aid to and express their solidarity with the victims of conflict.

What we seek to explore, then, in this book, beyond the range of contexts and the diversity of actors, is the state of exception that has progressively become established at the global level over the last two or three decades. This state of exception constitutes a sort of "no-man's land between public law and political fact, and between the juridical order and life" — in other words, a form of globalized biopolitics.[12] The state of exception thus forms the basis for a government that is at once military and humanitarian, resting on a logic of security and a logic

of protection, on a law external to and superior to law, rooted as it is in the legitimacy of actions aimed at protecting life. This state of exception is inscribed in a temporality of emergency, which may become perennial through successive plans and missions, confirming the impossibility of reestablishing normal order, and in a spatiality of exclusion manifested in relief corridors and protected enclaves within territories that are no longer subject to a state monopoly of legitimate violence. The state of exception mobilizes technologies in the legal, epidemiological, and logistical fields, and even a form of technicality, which neutralizes political choices by reducing them to simple operational measures. Finally, the state of exception derives from a desire to intervene, and it increasingly appears that compassion for far-away suffering and its translation into the moral obligation to act has become one of the strongest political emotions in contemporary life.[13] We need only think of the impatience for action inspired by the images from Somalia and East Timor, the surge of generosity concerned with Ethiopia recently or Darfur today, or the world's agitation prior to the NATO air strikes in Kosovo and the coalition invasion of Iraq. It is clear that in these situations, we are outside the rationality of the politics of intervention. The states of emergency that we discuss in this book are always based on affective foundations, which may be distinguished from traditional war situations in that the passions brought into play are supposedly not nationalist, but are presented as universalist—or simply as humanist.

In the face of these profound transformations in the contemporary world and the false assumptions that generally underlie them (the assumption that emergencies, exceptions, and the need for intervention are self-evident), we believe that it is crucial for the social sciences to exercise their critical function—not in order to condemn any particular military operation or humanitarian rhetoric, this being the task of a form of political action that, as we have seen in both North America and Europe, has given rise to the biggest social mobilizations in Western societies in recent years, but in order to comprehend what such mobilizations leave unspoken or deliberately hide, to grasp their ambiguities and contradictions, to understand the bases of them and the stakes involved, and, in short, to make sense of a military and humanitarian government that is often imposed on us as if it went without saying. The collective reflection that we present here brings together anthropologists, sociologists, legal scholars, political scientists, philosophers, and also researchers who resist defining their work within disciplinary boundaries. Not all of the authors belong to the academic world, but all are engaged and involved in the public space in various ways, some of them even in the field of action. From a range of viewpoints and taking different paths, all consider their activity of inquiry, analysis, and writing to be related to an ethical and political responsibility.