

# **GENOCIDE**

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Edited by  
A. Dirk Moses

CRITICAL CONCEPTS IN  
HISTORICAL STUDIES

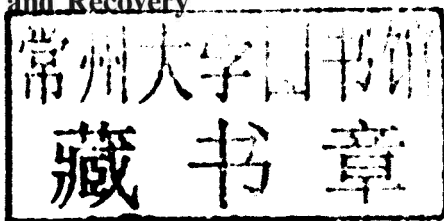
# GENOCIDE

Critical Concepts in Historical Studies

*Edited by*  
*A. Dirk Moses*

Volume VI

**Humanitarian Intervention: The Prosecution of Genocide,  
Trauma and Recovery**



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## Part 10

# HUMANITARIAN INTERVENTION



# RETHINKING HUMANITARIAN INTERVENTION

*Bhikhu Parekh*

Source: *International Political Science Review*, 18:1 (1997), 49–69.

## Abstract

Although the currently dominant concept of humanitarian intervention has a long history, it is also distinctive in several crucial respects. This article analyzes its nature, historical specificity and presuppositions. It argues that the concept of humanitarian intervention is logically unstable in the sense that it both presupposes and seeks to go beyond the statist manner of thinking which has dominated political life for the past three centuries. The article exposes the incoherence of the statist paradigm and concludes by arguing that, although humanitarian intervention is justified under certain circumstances, it is too limited, too late and too superficial to be of lasting value, and needs to be embedded in and undertaken as part of a larger project of creating a just and non-statist global order.

## Historical background

Thanks to the influence of both the classical natural law doctrine and Christianity, Western moral and political thought has long been dominated by a strongly held belief in the unity of mankind and the consequent duties human beings “naturally” owe one another. The emergence of the modern state, a uniquely European invention subsequently exported to the rest of the world, seemed to challenge that belief and led to much agonized debate. While many were worried that the state broke up mankind into independent and morally self-contained units, and wondered if and how it could be accommodated as a mediating institution within the universal human community, some writers welcomed the state and all it entailed, including the loss of what they

regarded as an untenable belief in the universal human community. The debate on the subject generated a wide variety of views, of which three respectively represented, often equivocally, by Vitoria, Grotius and Hobbes, became the most influential.

For Vitoria (1492–1546) humankind constituted a “universal community,” a “great society,” governed by such natural laws as those of mutual love and assistance. States also formed a society of their own by means of mutually agreed conventions, and interacted within it as equals. The society of states was grounded in, and acquired moral depth from, the universal human community. Every state belonged to, and was subject to the moral obligations derived from both. Suarez shared Vitoria’s view. According to him “the human race, into howsoever many different peoples and kingdoms it may be divided, always preserves a certain unity, not only as a species but also a moral and political unity.” It followed that “although a given sovereign state may constitute a perfect community in itself, nevertheless each one of these states is also, in a certain sense, and viewed in relation to the human race, a member of that universal society” (Allott, 1989: 12).

Although Grotius (1583–1645) was ambiguous, he more or less dropped Vitoria’s idea of the universal human community and stressed only the society of states, largely based on nothing more than “mutual consent” and governed by collectively agreed-upon rules and practices, which he called the law of nations. For Grotius the law of nature was exhausted in, and identical to, the law of nations so far as the states were concerned. Each state was an integral part of the society of states and owed others such obligations as were derived from it.

For Hobbes (1588–1679) there was neither a universal human community nor a society of states. States were sovereign and self-sufficient moral communities, and in a state of nature in their relations with each other. Since the law was the command of the sovereign, international law was largely a fiction. States were bound only by such agreements as they had voluntarily entered into, and even these were “mere words” to be abided by only when doing so suited the state’s interests. The sovereign’s sole concern was to promote the interests of his state, and neither he nor his subjects had duties extending beyond its boundaries. His subjects’ relations with their counterparts elsewhere were mediated by and conducted in a manner determined by him. Hobbes provoked considerable criticism both during his time and afterwards because, among other things, his view involved a complete rejection of the ideas of the universal human community and universal natural duties that had for centuries been an integral part of Western self-understanding.

Although each of the three views continued and still continues to have its supporters, the view represented by Hobbes prevailed in practice, giving rise to the statist view of international relations. According to this view, legally sovereign and morally self-contained states had no other duties than to respect each other’s territorial integrity and to observe such international agreements

and conventions as they had voluntarily entered into. The doctrine of mutual non-intervention was limited to European states, who formed a *respublica Christiana*, and did not extend to their non-European counterparts. The latter, mistakenly but conveniently viewed as loose communities with neither a sense of territorial identity nor a rational structure of government, were not considered states in the proper sense of the term; hence they enjoyed no immunity from external interference and could be legitimately conquered and occupied. The answer as to when outsiders may legitimately intervene in their internal affairs and even occupy them was provided by the doctrine of a just conquest or a just intervention, a doctrine drawing inspiration from but quite separate from the older doctrine of a just war.

Since the Spaniards were the first to embark on overseas expansion, it is hardly surprising that its jurists and theologians were among the first to enunciate the doctrine of a just conquest. Drawing on the idea of the great human society referred to earlier, Vitoria argued that since human beings were created by God and belonged to a common species, they had a duty to live according to certain moral and spiritual ideals. And since they were all “neighbours,” Christians owed a “duty of charity” to those unable to provide for their own spiritual salvation. In Vitoria’s view “civilized” states, all of them Christian, had a duty to intervene in the internal affairs of “backward” societies to end such inhuman practices as cannibalism and human sacrifice, to spread Christianity, including preventing the harassment of Christian missionaries, and to remove obstacles to the conversion of the natives (Vitoria, 1917: 153–161). Grotius extended the doctrine to include the suppression of idolatry, atheism and sexual immorality. These arguments were later taken over and modified by other European powers, and formed the basis of the European “civilizing” mission in Asia and Africa.

Unlike Vitoria, Grotius and others, Hobbes recognized no universal moral obligation to civilize the natives or to save their souls, and rested his theory of just intervention on a distinctly secular and statist basis. Every state had a right to pursue its interests, and hence to “transplant” its poor as well as its surplus population into “countries not sufficiently inhabited.” It did not have a right to “exterminate” the natives, only one to “constrain them to inhabit closer together and not range a great deal of ground” (Hobbes, [1651], 1991: 239). Hobbes argued that since the land was “superfluous” to the natives and “necessary” for others, the natives should willingly share it with the outsiders. If the natives proved “stubborn” and “troublesome,” the use of force was justified, for which they carried the moral responsibility. Once the whole world was inhabited and no surplus territory was left, the state was at liberty to resort to war, “the last remedy of all,” in which “victory or death” were the only possible outcomes.

Since the ugly practices could not be eliminated and the natives civilized without outsiders acquiring an effective control over the country, intervention and conquest were inseparable, and the doctrine of a just intervention was

really a doctrine of a just conquest; conquest in turn is unimaginable without war, hence the doctrine of a just conquest was inseparable from the doctrine of a just war. This created acute problems for Vitoria, Suarez, Grotius, Hobbes and others. Although they knew that conquest involved war, they were anxious to separate the doctrines of a just conquest and a just war, for the latter justified only defensive wars, and that too subject to certain constraints, not the kind of expansionist and unrestrained wars in which their countrymen were then engaged. Not surprisingly, the writers concerned resorted to all kinds of sophistry, tried in vain to distinguish between war and conquest, confined the former to (European) states and the latter to (non-European) non-statal societies, and so on. Even Hobbes, generally a rigorous writer, was reduced to incoherent assertions.

The leaders of the French Revolution of 1789 gave the doctrine of just intervention a new twist. In their view a society that had succeeded in establishing the "reign of liberty and reason" within its borders had a duty to help establish it elsewhere by lending its political and military support to groups fighting against the prevailing "tyrannical" systems of government. Since such systems of government existed in many European countries as well, the French writers and leaders extended the doctrine of just intervention to their neighbours. Not surprisingly, this caused alarm in Europe and led to a vigorous debate on the morality of intervention. Burke, who had no objection to the British conquest of India, thought the doctrine a "dangerous nuisance." In a brilliant but dubious manoeuvre, he reversed its logic, combined it with the doctrine of a just war, and argued, on the basis of what he called the "law of civil vicinity," that if a state threatened to establish a form of government which, among other things, insisted on intervening in the affairs of others, its civil neighbours had a "right" to intervene in its own internal affairs and, if necessary, to go to war with it (Luard, 1992: 178–180).

J.S. Mill had, among other things, this debate in mind when he observed:

There seems to be no little need that the whole doctrine of non-interference with foreign nations should be reconsidered, if it can be said to have as yet been considered as a really moral question at all.

There are few questions which more require to be taken in hand by ethical and political philosophers, with a view to establish some rule or criterion whereby the justifiableness of intervening in the affairs of other countries, and (what is sometimes fully as questionable) the justifiableness of refraining from intervention, may be brought to a definite and rational test.

(Luard, 1992: 180)

Briefly, Mill's answer to his own question was that states should generally follow the principle of non-intervention broadly on the same grounds on which he based his case for individual liberty. Like individuals, states developed

their political powers and capacities by learning to manage their affairs themselves. They might make mistakes, even engage in civil conflicts and cause much suffering, but that was all part of the process of growing up. Intervention with a view to helping groups fighting for free institutions against their own government, which was fully justified in the eyes of the leaders of the French Revolution, was explicitly and unequivocally disallowed by Mill. However, there were three situations in which he was prepared to justify it: first, to stop the intervention of others; second, when there was a protracted civil war which neither side had a hope of winning; and, third, to prevent international disorder. Since Mill was a utilitarian and not a natural law theorist, he preferred to call such intervention *justifiable* rather than *just*. He confined the doctrine of non-intervention to "civilized" states and saw nothing wrong in British intervention in Asian and African countries.

The debate on intervention thus far had more or less accepted the legitimacy of the statist paradigm. Marx challenged the paradigm itself. For him states were instruments of class domination and enjoyed neither legitimacy nor a right to autonomy. For him the modern nation state was a distinct product of the capitalist mode of production, and a form of human self-alienation. The proletariat, the vanguard in the struggle for a classless society, was bound by ties of international solidarity and had no national home. In Marx's view socialists therefore had an obligation to assist or help promote proletarian revolutions in countries that were ripe for them. The Marxist doctrine was later taken over by communist parties the world over, and became the official policy of the Soviet Union and later of China. It was not a doctrine of just or even justified intervention, for it rejected the very legitimacy of the state and its territorial inviolability which the doctrine presupposed; rather it was a doctrine of world revolution.

The United Nations Charter represented yet another stage in the discussion of the relations between states. Its novelty was threefold. First, it extended the doctrine of non-intervention to all states and abolished the privileged position the Western states had long claimed for themselves. Second, it permitted intervention in the internal affairs of a state only when international security was threatened. And, third, all such acts of intervention had to be authorized by the United Nations acting as a representative of the international community. The first principle established the *equality* of all states and recognised their claim to non-intervention; the second principle limited intervention to a clearly specified *purpose*, and placed the internal affairs of the state outside external interference; and the third principle regulated the *mode* of intervention. Thanks to the United Nations Charter the principle of nonintervention became a universal legal norm for the first time in history.

Although this was a desirable development, it also created problems. The United Nations Charter and the United Nations Declaration of Human Rights required all states to respect human rights, thus raising the question of how one could both demand such respect and insist on non-intervention.

During its fifty years of existence the United Nations has often been called upon to end acute human suffering caused by such things as genocide, brutal civil wars, and ethnic cleansing, and in each case it was confronted with the moral dilemma posed by its commitments to both the statist paradigm and respect for human rights, to both the inviolability of the state and some conception of universal human community. These dilemmas are acutely highlighted by what has come to be called humanitarian intervention, a concept that both resembles and significantly differs from the earlier ideas of just and justified intervention.

### **Definition of humanitarian intervention**

Humanitarian intervention is intervention inspired by humanitarian considerations. This raises two questions, namely what constitutes intervention, and what sorts of considerations count as humanitarian. We take each in turn.

An act counts as intervention if it satisfies the following four conditions. First, the state that is the object of intervention must be widely acknowledged to be sovereign. Intervention is a violation of a state's autonomy, and presupposes that the state in question enjoys the right to autonomy. To disperse a stray group of people who have declared themselves a state on a desert island is not an act of intervention, for the group is not recognised by other states as enjoying the right to autonomy and the concomitant right to their non-interference. Nor is it intervention if a state interferes with the affairs of a section of its own citizens who have unilaterally declared their independence from it.

Second, intervention implies that the act is designed to influence the conduct of the internal affairs of a state, and not to annex or to take it over. Hitler's invasion of Poland and the Soviet Union was a case not of intervention but war; European colonialism in Asia and Africa was not intervention, not even war, but conquest. The line between intervention on the one hand and conquest on the other is not always easy to draw nor is it fixed and stable. In some cases, such as British rule in India, colonialism began as trade but soon escalated into intervention, involved wars, and later led to the altogether different activity of annexing parts of India and eventually conquering the whole country. Broadly speaking intervention, as different from war and conquest, involves influencing the internal affairs of a state in a specific direction without either taking it over or seeking to defeat it in a military confrontation.

Third, an act amounts to intervention if the country concerned is opposed to it. If it invites or welcomes outside help, then it is a case of giving support to a willing party and not an act of intervention. Difficult questions do arise as to the authority of the party inviting external help and how voluntary the invitation is. The government but not its subjects might invite external help, or vice versa. If the government is legitimate and enjoys broad popular



support, then its attitude deserves to be considered decisive; however when the civil authority is a subject of deep and widespread dispute, or when there is no structure of authority, it is the popular attitude that best decides whether or not the external act amounts to intervention. Civil authority has no other basis than the fact that those subject to it acknowledge, accept and respect it; if they stop doing so, it becomes illegitimate, a usurper, with no right to speak and act for them.

An equally difficult situation arises during times of civil war, when one faction might invite external help but others might condemn it. The decision as to whether or not an intervention has occurred would depend on which faction has a better legal title or a greater political authority to speak in the name of the fragmented community. If no such determination is possible, it is an intervention in the eyes of one but not the other parties to the civil war. If the various factions control clearly demarcated areas, whether or not it is an act of intervention depends on the attitude of the faction controlling the relevant areas of the country. When the civil authority has completely disintegrated and the country does not even have the fractured vertical order created by the warring factions claiming to represent and eventually to take over the entire country, the state may be said to have ceased to exist and the concept of intervention makes little sense. The people concerned are in a quasi-state of nature until such time as they reconstitute the state or become part of another.

Fourth, even as human beings constantly influence each other, so do states. Their immigration, trade, fiscal, foreign and other policies directly or indirectly influence the lives of the citizens of other states, sometimes with profound effects. We would be wrong to say that this amounts to interference in other states' internal affairs. Interference occurs when the influence is not inadvertent but intended, not incidental but direct and targeted, and pertains to areas in which the affected state is entitled to enjoy autonomy. Thus bribing politicians or journalists in another state, secretly funding its political parties, infiltrating the ranks of dissidents, requiring it to follow a specific set of policies on pain of economic sanctions, etc., are all acts of interference.

Intervention is a form of interference, and occurs when an external agency violates a state's territorial integrity by using physical force in one form or another. It usually involves military force, but it need not. If a million unarmed Muslims from all over the world had entered Bosnia and mounted a Gandhian type of non-violent resistance in support of a fair deal for their fellow-religionists, that would have been a case of intervention. Its method of action is totally different from military intervention, but not its intentions, implications and mode of interference.

I have argued so far that although its conceptual boundaries are necessarily fuzzy, an act of intervention can be said to have occurred when an external agency, be it a state, an international body or a group of individuals, forcibly interferes with the internal affairs of another state with a view to reordering