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*Humanitarian war: military
intervention and human rights*

ADAM ROBERTS

The following is an edited text of the first John Vincent Memorial Lecture delivered by Adam Roberts at Keele University on 26 February 1993.

'Humanitarian war' is an oxymoron which may yet become a reality. The recent practice of states, and of the United Nations, has involved major uses of armed force in the name of humanitarianism: especially in northern Iraq, in Somalia and in former Yugoslavia. These humanitarian activities in situations of conflict raise many awkward questions. Two are considered here:

1. Is humanitarian involvement in conflicts—in the form of the provision of food, shelter, and protection, under international auspices—a step on a ladder which can or should lead to much more direct military involvement, even to participation in hostilities?
2. Can we conclude from recent and contemporary practice that a new consensus is emerging on humanitarian intervention, that is, military intervention in a state, without the approval of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants?

Both these questions fall partly within the field of the legitimacy, or otherwise, of the resort to force in particular circumstances—the *jus ad bellum*. These particular questions are, to some extent at least, separate from the laws of war—or *jus in bello*—but the membrane between these fields is less permeable in fact than in legal theory. These two questions also take us beyond law, and into the fields of historical interpretation and prudential judgement. They involve ancient problems which have been debated since time immemorial. With respect to both questions, international thought and practice seem to be changing.

John Vincent

On issues relating, as these do, to human rights and military intervention, John Vincent taught, and wrote, in a style which was uniquely his.¹ Those who worked with him, or studied under him at Keele, at Oxford, at the London School of Economics and elsewhere, were, and are, beneficiaries of his astonishing ability, not merely to bring past debates on international relations to life, but to bring them home to each individual. He would tell a student, having encouraged him or her to speak up in a class, that he or she was a Cobdenite, or a Kantian, or a Hobbesian. With John Vincent, this was never done as criticism, nor as mere pigeon-holing. It was done partly out of sheer intellectual fun verging on mischief, and partly also out of genuine respect for the positions articulated, in however primitive a form, by those he was teaching. It was a means of making students and even colleagues conscious that they were part of an enduring, even eternal, debate, in which there was merit and intellectual distinction to be found on all sides. His technique must have sent many a student rushing nervously, but also excitedly to the library—here at Keele and in the other universities where he taught—to discover what exactly Cobden, or Kant, or Hobbes had actually said. It was as if, instead of looking into a dusty book, they were looking into a mirror, and discovering themselves.

John Vincent contributed powerfully to developing the best aspects of the international relations academic community in this country. Dealing as we do with a grim subject which involves a great deal of tragedy, and on which there are many contending schools of thought, we are the beneficiaries of a spirit of tolerance and a sense of common intellectual endeavour of which he was a notable champion.

It is sometimes suggested that the changes in the world in the past decade require exponents of the academic subject of international relations to go back to the drawing board. Fine, provided the drawing board is a good, well-used one. Perhaps paradoxically, it is writers such as John Vincent and his friend and mentor Hedley Bull—those who delved deepest into the history of the subject, and into the history of thought about it—whose writings most help us in the task of interpreting today's much changed, and changing, world.

John Vincent did not believe that the test of our subject of international relations lay in its ability to provide glib answers for every question thrown up by current affairs. He was conscious of a range of approaches, from different intellectual backgrounds, each of which was legitimate. He represented that respectable strand in the profession of international relations that sees our task as one of teaching people, including ourselves, how to think about inherently complex problems, and of attempting to understand what is happening in the world, not in rushing in with policy advice at every available opportunity.

¹ For a fine appreciation of Vincent's role as 'a leading figure in the consolidation of international relations as a major academic subject in its own right', see Christopher Hill, 'Obituary: R. J. Vincent (1943–90)', *Political Studies*, 39: 1, March 1991, p. 158.

Non-intervention and international order

The subject of humanitarian intervention links, but in an uncomfortable way, two of the major themes about which John Vincent wrote. His book *Non-intervention and international order*, while far too rich to be intellectually pigeon-holed, was conceived as a reply to those who thought that the day of non-intervention was over. As he put it in the very first words of the preface:

What provoked this enquiry was the prevalence of the view that the contemporary world is not a world in which a principle of non-intervention can obtain in international relations. Its ultimate purpose is to reply to the prevailing view and to state a case for non-intervention principally by meeting the arguments of those who would dethrone it.²

He went on to outline the familiar litany of developments—in weapons, ideologies, transnational relations and transnational problems—which were believed to have eroded the significance of state frontiers. He argued that despite such developments, the principle of non-intervention still played a key part in international order.

Without getting bogged down in definitions, John Vincent made it clear that his understanding of intervention was broad. It is,

that activity undertaken by a state, a group within a state, a group of states or an international organization which interferes coercively in the domestic affairs of another state ... It is not necessarily lawful or unlawful, but it does break a conventional pattern of international relations.³

So John Vincent not only expressed scepticism about intervention in a general way, but by including activity by an international organization within his meaning of intervention he also indicated scepticism about intervention under United Nations auspices. Yet he was in no way hostile to the United Nations. In examining carefully the development of UN doctrine regarding non-intervention, and the partial exception that was emerging in respect of South Africa, he displayed sympathy with the UN's upholding of the principles of human rights and self-determination as against the extreme claims to domestic jurisdiction made by South Africa.⁴ Although tension between competing ideas was grist to his mill, he would have been genuinely torn by today's debate about humanitarian intervention.

Perhaps it is symptomatic that above the dining-room table in the Vincents' house in Oxford hung a portrait of Gladstone. No political figure illustrates more vividly the tangled nature of the subject of non-intervention. It was Gladstone who said in the House of Commons in 1850 that he sought to

² R. J. Vincent, *Non-intervention and international order* (Princeton, NJ: Princeton University Press, 1974), p. vii.

³ Vincent, *Non-intervention and international order*, p. 13.

⁴ Vincent, *Non-intervention and international order*, pp. 274–7.

advance, as the very basis of foreign policy, 'the principle of non-intervention in the domestic affairs of other countries'.⁵ But it was the same Gladstone who 30 years later, even while campaigning effectively against British imperial over-extension, showed special partiality towards the principle of multilateral intervention: in the first speech of his Midlothian Campaign in November 1879 he said that he had for some years recommended coercion of Turkey to bring about the better government of that country, but it was 'coercion by the united authority of Europe'.⁶

Human rights and international relations

The other central theme of John Vincent's writings was of course human rights. In a characteristic phrase in his 1986 book *Human rights and international relations*, he saw, correctly, that certain developments in the UN 'challenged the freemasonry of sovereign states'.⁷ He was humorously dismissive of simple versions of human rights advocacy: he criticized those who fail to understand that there are genuinely different conceptions of rights; and those whose morality is merely interest in disguise, and involves dressing-up. He mischievously called the advocate of human rights who enters the tangled realm of foreign policy 'an innocent abroad'.⁸ Yet he was far-sighted in his trenchant conclusions that hunger is becoming a pressing human rights issue; and that diplomats should view the inclusion of human rights in their agenda as a challenge rather than a disaster.⁹

On the matter of humanitarian intervention, John Vincent gives us some pros and cons, but defers delivery of an answer: 'This argument continues, and the determination of a position on it must await the inquiry which is to follow.'¹⁰ Later in the book, he discusses humanitarian intervention very briefly, and promises to return to it in the final chapter.¹¹ In the crush at the exit in that last chapter, he addresses the subject only tangentially. He says that notions of human rights now infuse the international system and the individual states which compose it; and that there is an area of domestic conduct which is under the scrutiny of international law. But then these few words, on the last page: 'This does not issue a general licence for intervention'.¹² It is clear, in short, that he saw the main impact of human rights on the system of states as

⁵ W. E. Gladstone, 27 Jun. 1850, in the course of a long speech in the Commons debate on the Don Pacifico affair, *Hansard*, 3rd series, vol. CXII, col. 582. He was opposing Lord Palmerston's policy, which he said was 'characterized by what I must call a spirit of interference'.

⁶ First Midlothian speech, delivered in the Music Hall, George Street, Edinburgh, 25 Nov. 1879, in W. E. Gladstone, *Political speeches in Scotland, November and December 1879* (London: W. Ridgway, 1879), p. 53.

⁷ R. J. Vincent, *Human rights and international relations* (Cambridge: Cambridge University Press for Royal Institute of International Affairs, 1986), p. 95.

⁸ Vincent, *Human rights and international relations*, pp. 101, 120, 135.

⁹ Vincent, *Human rights and international relations*, pp. 145, 138. On p. 143, Vincent's throw-away line about diplomats is characteristic: '... given that *sang-froid* is their business, human rights are one more thing for them to be unenthusiastic about.'

¹⁰ Vincent, *Human rights and international relations*, p. 45.

¹¹ Vincent, *Human rights and international relations*, pp. 126-7.

¹² Vincent, *Human rights and international relations*, p. 152.

being not through a doctrine of humanitarian intervention, but through the slow spread of a global cosmopolitan culture. As he put it in an essay published in the year of his death: 'Offences against human rights are a matter of international concern, but they do not trigger intervention except perhaps when outrageous conduct shocks the conscience of mankind.'¹³ In a chapter being published posthumously, as Nicholas Wheeler has noted, he seems to lean a fraction further in the direction of humanitarian intervention.¹⁴ Since 1990 there has been a great deal of practice which, at the very least, calls for a new gloss on his Delphic conclusions on this matter.

Humanitarian intervention: a change in attitudes

If parts of the international community are now beginning to accept that there can be a right of humanitarian intervention, this is in sharp contrast to what went before. To appreciate the significance of the sea-change in international attitudes, especially at the United Nations, one has only to look at the emphasis, in most of the period since 1945, on observance of state sovereignty. In the UN Charter, the prohibition of attacks on states is fundamental; and self-defence against armed attack is the one remaining completely unambiguous justification for states using force.¹⁵ The Charter even places limits, in the famous Article 2(7), on intervention within states by the UN itself.¹⁶ In the years since 1945 there have of course been many military interventions, in many types of circumstances, but the UN almost routinely condemned them. It also made many general pronouncements on the subject. For example, the 1970 Declaration on Friendly Relations said in a preambular paragraph that

the practice of any form of intervention not only violates the spirit and letter of the Charter, but also leads to the creation of situations which threaten international peace and security...¹⁷

¹³ R. J. Vincent, 'Grotius, human rights, and intervention', in Hedley Bull, Benedict Kingsbury and Adam Roberts, eds, *Hugo Grotius and international relations* (Oxford: Oxford University Press, 1990), p. 255.

¹⁴ Nicholas Wheeler, 'Pluralist or solidarist conceptions of international society: Bull and Vincent on humanitarian intervention', *Millennium: Journal of International Studies*, 21: 3, Winter 1992, p. 478. (See the chapter by R. J. Vincent and Peter Wilson, 'Beyond non-intervention', in Ian Forbes and Mark Hoffmann, eds, *Political theory, international relations and the ethics of intervention* (London: Macmillan, July 1993).

¹⁵ In the UN Charter, the clearest prohibitions on violations by states of the sovereignty of other states are those in Article 2(3) and (4). The right of self-defence is spelt out in Article 51.

¹⁶ UN Charter, Article 2(7): 'Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.'

¹⁷ Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, approved by the UN General Assembly in Resolution 2625 of 24 Oct. 1970, eighth preambular paragraph.

There was a similarly general condemnation of intervention in a 1974 UN document which classified the following as 'aggression': 'The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack...'. Article 3(a) of the Definition of Aggression, approved by the UN General Assembly by Resolution 3314 (XXIX) of 14 Dec. 1974. However, Article 2 of the same document gave the Security Council some discretion in particular cases to 'conclude that a determination that an

However imperfectly observed, the presumption against military intervention, including even humanitarian intervention, has not served badly as an ordering principle of international relations. The protection which it provides has been one basis for so many states joining, and staying within, the United Nations. It is, notoriously, a principle based more on order than on justice, but as such it does have a serious moral basis. It provides a clear rule for limiting the uses of force and reducing the risk of war between the armed forces of different states. It involves respect for different societies.

By the mid-1970s, as John Vincent noted in his book, the non-intervention principle was coming under strain; but it was still more or less hanging on to its throne, at least in most UN pronouncements, and more precariously in practice. True, there was a substantial discussion among international lawyers about the question of whether humanitarian intervention could ever be compatible with the Charter;¹⁸ but this was mainly a debate among schoolmen, especially American schoolmen, and until recent times had relatively little impact on national or international practice.

Thus when the non-intervention principle was breached in practice, as it all too frequently was, states seemed markedly reluctant to cite the protection of human rights as their reason for invading another country. There are three familiar examples of this reluctance to rely on a humanitarian case for intervention even when hideous repression within the target state, and consequent huge refugee flows, would have seemed to provide a ready-made justification for doing so. First, the Indian invasion of East Pakistan in 1971, leading to the creation of Bangladesh; second, the Vietnamese invasion of Cambodia in December 1978; and third, the Tanzanian invasion of Uganda in 1979. It appears that in each of these cases the government of the intervening country felt that a claim to be acting on the basis of self-defence as spelt out in Article 51 was an easier and better means of relating to the UN Charter; and there was probably also a thought that to sanctify a doctrine of humanitarian intervention would be to store up trouble for themselves or their friends.¹⁹

Since those events, the idea of humanitarian intervention has gained strength for good reasons, most, but not all, of which focus on the United Nations.

First, there has been a demonstrable increase in the role of humanitarian aid of various kinds in a large number of disasters, natural and man-made. Our awareness of the plight of victims of such disasters has been made stronger and more painful by the medium of television. Humanitarian assistance has been provided on an unprecedented scale by the International Committee of the Red Cross, Médecins sans Frontières, and many other bodies.

act of aggression has been committed would not be justified in the light of other relevant circumstances....’.

¹⁸ One example of a large body of literature is Richard B. Lillich, ed., *Humanitarian intervention and the United Nations* (Charlottesville, VA: University Press of Virginia, 1973).

¹⁹ In the UN Security Council, India did initially justify its military action in 1971 partly on grounds of humanitarian intervention. These statements were deleted from the final record of the Security Council: instead, India alleged that Pakistan had attacked India first. See Michael Akehurst, ‘Humanitarian intervention’, in Hedley Bull, ed., *Intervention in world politics* (Oxford: Oxford University Press, 1984), p. 96.

Second, the growth of human rights doctrine has led inevitably to articulation of a right of people in desperate situations to receive humanitarian aid, and of international bodies to provide it. Some elements of this approach, but still paying full respect to state sovereignty, can be found in the 1949 Geneva Conventions; and in a number of resolutions in the 1980s about assistance in the wake of natural disasters.²⁰ They are evidence that the concern with humanitarian assistance is by no means the invention of the Security Council, nor is it a creation of the 1990s.

Third, human rights ideas have sometimes been seen as justifying full-blown invasion. At the time of the US-led invasion of Panama in December 1989, a few Americans argued a case for humanitarian intervention on the grounds that sovereignty is vested in the people: if the popular will was suppressed within a state, then external military action to end the suppression could in some circumstances be justified.²¹ This view did not then, and would not now, command support in the UN General Assembly, with its long record of opposition to military interventions.²²

Fourth, events since the mid-1980s have given the UN Security Council hitherto undreamed of chances of acting. The great powers no longer routinely disagree on virtually all questions of international relations. Through the Security Council the UN has increasingly been involved in the internal affairs of independent states such as Nicaragua, El Salvador, Angola, Mozambique and Cambodia; and in Iraq in 1991, and in Somalia in 1992, it was associated with uninvited deployments of forces to protect refugees and other inhabitants.

Fifth, many developments under UN auspices in recent years have raised questions about whether there is an absolute need for consent for peacekeeping or humanitarian operations, and an absolute respect for state sovereignty, especially in conditions of civil war. In *An agenda for peace* Boutros Boutros-Ghali has famously suggested that consent by the host state may not be an invariable requirement of peacekeeping operations.²³ UN High Commissioner for Refugees' operations in many countries have reflected a more general erosion of the distinction between humanitarian assistance and humanitarian intervention, having involved the creation of specially designated areas (e.g. 'corridors of tranquillity') with some degree of autonomy; and there has been

²⁰ General Assembly Resolutions 43/131 of 8 Dec. 1988, adopted after the earthquake in Armenia; and 46/182 of 19 Dec. 1991. See also 'The evolution of the right to assistance', *International Review of the Red Cross* (Geneva), no. 291, Nov.–Dec. 1992, pp. 592–602, reporting the XVIIth Round Table of the Institute of Humanitarian Law, San Remo.

²¹ See especially W. Michael Reisman, 'Sovereignty and human rights in contemporary international law', *American Journal of International Law*, vol. 84, 1990, pp. 866–76; also the contributions by Ved P. Nanda, Tom J. Farer and Anthony d'Amato in 'Agora: US forces in Panama: defenders, aggressors or human rights activists?', *ibid.*, pp. 494–524.

²² The invasion of Panama was strongly condemned, though not by an overwhelming majority, in General Assembly Resolution 44/240 of 29 Dec. 1989.

²³ Boutros Boutros-Ghali, *An agenda for peace: preventive diplomacy, peacemaking and peacekeeping*, UN Doc. A/47/277 of 17 Jun. 1992, para. 20. (Also published as a booklet by UN Department of Public Information, New York, 1992.) In this report Boutros-Ghali says very little about humanitarian assistance as such. In a section on 'preventive deployment', discussing conditions of crisis within a country, he says (para. 29): 'Humanitarian assistance, impartially provided, could be of critical importance...'

increasing articulation of the view that state sovereignty 'should not stand in the way of providing people with humanitarian assistance, but should facilitate it'.²⁴

Last, and most important, all this takes place against a background in which state structures have broken down in some parts of the world, giving way to anarchy and violence. Conflict, whether dubbed ethnic or communal, breaks out all too easily in successor states of suddenly collapsed empires—especially where, as in the former Soviet Union and the former Yugoslavia, there are mutually incompatible claims to a right of self-determination. The absence of legitimate political systems, frontiers and armed forces makes it a chaotic process. Even some states which emerged decades ago from earlier imperial retreats, including in Africa, have encountered or re-encountered these problems. In short, the four horsemen of the apocalypse—war, pestilence, famine and death—are having a good ride as this century comes to an end. Situations which cry out for humanitarian involvement have increased in number at the very same time as the UN's possibilities for authorizing interventions have grown.

Since 1991 there have been several cases in which interventions with some element of UN backing have had a fundamental humanitarian purpose. They illustrate some of the central difficulties of developing a doctrine, and a practice, of humanitarian intervention.

Providing comfort in Iraq

In April 1991, in the wake of the war over Kuwait, the UN Security Council, addressing Iraq's repression of its population, including most recently the Kurds, stated in Resolution 688 that it,

insists that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations.²⁵

This resolution was followed by the action of Operation Provide Comfort. American, British and French forces were deployed to establish 'safe havens' in northern Iraq. Subsequently, in protracted and difficult negotiations, UN officials secured agreements with Iraq, paving the way for 500 UN Security Guards to replace the coalition troops, and involving also some withdrawal of Iraqi military and police forces. The action taken by the coalition powers had obviously required Iraq to accept humanitarian assistance whether it wanted to or not. The back-up to Operation Provide Comfort became the more ominously entitled Operation Poised Hammer in Turkey, by which the coalition, even after the withdrawal of its troops, threatened Iraq with airborne blue murder if it did not comply with the various terms imposed on it.

²⁴ Points made by Mr Hans Thoolen, Chief of the Centre for Documentation on Refugees, and Mr Richard Perruchoud, representing the International Organization for Migration, at the Sept. 1992 San Remo Round Table, fn. 20 above, pp. 594, 596.

²⁵ Security Council Resolution 688 of 5 Apr. 1991, operative para. 3.

As Operation Provide Comfort got under way, many leaders articulated a notion of humanitarian intervention. President Bush repeatedly referred to 'humanitarian concerns' and 'humanitarian need' as the basis for the United States military presence in northern Iraq. The French were developing the idea of a *droit d'ingérence*.²⁶ UN Secretary-General Javier Pérez de Cuéllar said in a speech at Bordeaux,

We are clearly witnessing what is probably an irresistible shift in public attitudes towards the belief that the defence of the oppressed in the name of morality should prevail over frontiers and legal documents.²⁷

Similarly, the US Ambassador to the United Nations, Thomas Pickering, spoke the following month of 'a shift in world opinion toward a re-balancing of the claims of sovereignty and those of extreme humanitarian need'.²⁸

Yet there are grounds for doubting how far any such shift in opinion, or the practice of Operation Provide Comfort, had changed existing doctrine. Certain features of the 'safe havens' action in northern Iraq merit attention:

- No right of purely national intervention on humanitarian grounds, without Security Council authority, was recognized.
- The Security Council could, and did (in Resolution 688), assert that there was a threat to international peace and security due to refugee flows and cross-border incursions. Further, the powers concerned were already seized with the responsibility, in the words of Resolution 678 of the previous November, 'to restore peace and security in the area'. Thus it was possible for lawyers to say that the formal legal basis of the safe havens operation was by no means exclusively, and perhaps not at all, humanitarian: to the extent that the safe havens had a degree of UN authorization, it was more on the old familiar legal grounds of threats to peace and security.
- The action happened in the immediate aftermath of a war, in circumstances in which the coalition powers had considerable reason to feel responsible for the plight of the refugees, not least because of their previous and unfortunate incitements to Iraqis to rebel. To some extent, therefore, the coalition conduct could properly be seen in customary law terms as a variant of traditional conceptions of rights of victors in respect of a defeated country for whose condition they have some responsibility, and over whose future they wish to have some say.
- While the action had elements of international humanitarian intervention, a key role in decision-making and action was played by states. It was the

²⁶ For a recent French survey, see Philippe Moreau Defarges, 'Assistance politique, ingérence humanitaire', *Défense Nationale* (Paris) 49: 2, février 1993, pp. 65–72.

²⁷ Javier Pérez de Cuéllar, speech at the University of Bordeaux, 24 Apr. 1991, cited in Richard N. Gardner, 'International law and the use of force: paper II', in the papers from the 1991 annual conference of the International Institute for Strategic Studies, *New dimensions in international security*, Adelphi Paper 266 (London: IISS, Winter 1991/92), p. 68.

²⁸ Gardner 'International law and the use of force: paper II', pp. 71–2.

United States, France and Britain which created the safe havens; and these countries did so by stretching the elastic of Security Council resolutions close to breaking-point.

- Many countries expressed unease about Resolution 688 on the specific grounds that it could provide a basis and precedent for intervention, and as such was incompatible with Article 2(7) of the UN Charter. It was the least widely supported of all the resolutions until then adopted by the Security Council in response to the Kuwait crisis, scraping only one more than the nine votes needed for adoption: Cuba, Yemen and Zimbabwe opposed it, China and India abstained.²⁹

Two further, uncomfortable facts about the 'safe havens' in Iraq merit attention. First, the very humanitarian basis of the operation implied avoiding giving a formal answer to the deeply political questions of what system of government there should be in northern Iraq, and what should be the future status of the Kurds. We have yet to see, but perhaps the truest words about Operation Provide Comfort were those of a distinctly uncomforted Nechirvan Barzani, nephew of the Kurdish Democratic Party leader Masoud Barzani: 'Western involvement in April was just for humanitarian reasons. We have seen no political commitment.'³⁰

A second uncomfortable fact about Operation Provide Comfort is that it was a harbinger to another intervention in the area which was neither humanitarian nor indeed multilateral: the Turkish military move into northern Iraq in August 1991 to prevent supporters of the Kurdish Workers Party (PKK) from staging raids on targets in Turkey from bases in northern Iraq. The words of the Turkish prime minister, in justifying this action, are a comment on the limits of the humanitarian intervention in northern Iraq: 'There is no authority in north Iraq.'³¹ In October the Turkish action became more extensive, involving attacks on villages, and leading to a plea by Masoud Barzani to the UN Security Council to intervene. It did not do so.

Overall, Operation Provide Comfort saved countless lives, and helped establish a basis, however fragile, for a degree of Kurdish self-rule. Yet one is tempted to comment, unkindly, that not the least of its remarkable achievements was the degree of comfort it provided in the countries which organized it. Certainly it led to some self-congratulation, and perhaps to excessive trust in humanitarianism as a response to tragedy. Both in its limited legal basis, and in the special circumstances of its creation, the swallow of Operation Provide Comfort by no means made a summer of humanitarian

²⁹ Nigel S. Rodley, 'Collective intervention to protect human rights and civilian populations: the legal framework', in N. Rodley, ed., *To loose the bands of wickedness: international intervention in defence of human rights* (London: Brassey's, 1992), p. 29. Security Council Resolution 688 would have failed had Côte d'Ivoire and Zaire voted differently.

³⁰ Quoted in an article by Hugh Pope, *The Independent*, London, 21 Sept. 1991; cited in Lawrence Freedman and David Boren, "'Safe havens" for Kurds in post-war Iraq', in Rodley, ed., *To loose the bands of wickedness*, p. 75.

³¹ Freedman and Boren, "'Safe havens" for Kurds in post-war Iraq', pp. 77-8.

intervention.³² Yet subsequent events showed it to be more than an isolated episode.

Restoring hope in Somalia

Somalia represents a clear case in which a humanitarian relief effort led inexorably to a major military action, Operation Restore Hope—widely seen as a classic case of humanitarian intervention. This operation was sometimes presented in the media as a response to drought and famine, but in most key aspects Somalia's problems were man-made.³³

The Security Council's involvement in Somalia, which began with a request from what remained of the government of that country, was marked by the passing in 1992 of six resolutions, all of which put great emphasis on humanitarian assistance.³⁴ In April, it resolved to set up a peacekeeping force, the UN Operation in Somalia (UNOSOM), with humanitarian aid as one of its principal concerns.³⁵ The deplorable delays in getting it operational—the first troops only arrived in September—contributed to a sense that the UN was not well equipped to run this difficult operation.

As the summer and autumn progressed, the presence of a major, but largely ineffective, international humanitarian operation in Somalia led to a deeper and more military involvement. With huge numbers starving, and gunmen on the loose, the UN's credibility was in tatters. Humanitarian workers, having to pay ransom to gunmen if they were to carry out their tasks, had themselves become part of the problem, and were involuntarily assisting the war economy. In his crucial letters in late November 1992 to the President of the Security Council, the UN Secretary-General referred 'to the extortion, blackmail and robbery to which the international relief effort is subjected and to repeated attacks on the personnel and equipment of the United Nations and other relief agencies'.³⁶ As President Bush said a few days later, 'relief groups called for outside troops to provide security so they could feed people'.³⁷ Here, then, is an instance in which a powerful part of the case for intervention is the threat to an existing humanitarian presence.

³² James Mayall's conclusion at the time was that 'it would be imprudent in practice, and wrong in theory, to generalize from the international obligations towards the Kurds in favour of an international enforcement mechanism for human rights wherever they are abused'. See 'Non-intervention, self-determination and the "new world order"', *International Affairs*, 67: 3, Jul. 1991, p. 428.

³³ A point much emphasized by Prof. Ioan Lewis and others in an excellent panel discussion on Somalia at the Royal African Society, London, 3 Feb. 1993.

³⁴ The first was Security Council Resolution 733 of 23 Jan. 1992. It called for a ceasefire and weapons embargo, and among its numerous references to humanitarian issues it requested 'the Secretary-General immediately to undertake the necessary actions to increase humanitarian assistance of the United Nations and its specialized agencies to the affected population in all parts of Somalia in liaison with the other international humanitarian organizations and to this end to appoint a coordinator to oversee the effective delivery of this assistance'.

³⁵ See Security Council Resolution 751 of 24 Apr. 1992, operative paras 2–4; and UN Department of Public Information, 'The United Nations and the situation in Somalia', New York, Dec. 1992, p. 3.

³⁶ The quoted words are from the second para. of Boutros Boutros-Ghali's 6-page letter of 29 Nov. 1992 to the President of the Security Council, UN doc. S/24868 of 30 Nov. 1992, p. 1.

³⁷ President Bush, 'Humanitarian mission to Somalia', Address to the Nation, Washington DC, 4 Dec. 1992. Text in *US Department of State dispatch*, 3: 49, 7 Dec. 1992, p. 865.

Yet that alone does not make it a humanitarian intervention in the classic sense. Somalia is not a case of intervention against the will of the government, but of intervention when there is a lack of a government. Thus Operation Restore Hope could have been justified in terms of the long-standing proposition in international law that when a state completely collapses into chaos, there can be grounds for military intervention by other states if such a course has a serious chance of restoring order. This proposition is contentious among lawyers and historians, and it is associated with European colonial practices in the nineteenth century. States using it have often sought to justify intervention on other grounds as well. Yet the proposition reflects a perennial problem of international relations, and has been drawn upon by many states at many times: not just by European colonial powers.

In respect of Somalia, the Secretary-General gave this ancient proposition a modern spin, putting the intervention in the legally safe context of a response to a 'threat to the peace':

At present no government exists in Somalia that could request and allow such use of force. It would therefore be necessary for the Security Council to make a determination under Article 39 of the Charter that a threat to the peace exists, as a result of the repercussions of the Somali conflict on the entire region, and to decide what measures should be taken to maintain international peace and security.³⁸

Such pushing and shoving was used, not for the first time, to make the awkward facts of a crisis fit the procrustean bed of the UN Charter. While this was not specious, it in no way concealed the centrality of the humanitarian rationale for the Somalia operation.

This letter led to the passing of the Security Council resolution 794 on which Operation Restore Hope is based. This was the first UN resolution to authorize explicitly a massive military intervention by member states within a country without any invitation from the government.³⁹ In it, and in accord with the Secretary-General's letter, 'a threat to international peace and security' is duly mentioned—once. By contrast, the word 'humanitarian' occurs 18 times—a record for a UN resolution which I hope it keeps for a long time.⁴⁰ Truly, when the US-led United Task Force (UNITAF) began operations in Somalia on 9 December 1992, we were getting close to the concept of humanitarian war. When the US marines in full battle gear made their night landing on the beaches on 10 December the only thing missing, mercifully, was a convincing enemy. They were confronted only by US television lights: another historical first.

In Operation Restore Hope, two key problems of that fractured society were not resolved. *First*, armaments. The Secretary-General, more hawkish than the Pentagon, had stated before the operation began that its tasks included

³⁸ Boutros-Ghali, letter of 29 Nov. 1992, p. 3.

³⁹ Security Council Resolution 794 of 3 Dec. 1992.

⁴⁰ Three of these references related to violations of international humanitarian law occurring in Somalia, and operative para. 5 affirmed that those who commit such violations will be held individually responsible for such acts. There have been no reports yet of action under this paragraph.

disarming irregular groups, and bringing heavy weapons under control.⁴¹ In the event, there was no consistent policy on this key question. *Second* was the question of how Somalia was to be administered. In initially calling for the operation, the Secretary-General had said that 'efforts are also required to create the political conditions in which Somalia can begin to resolve its political problems and rehabilitate its economy'.⁴² This was a buck which the US rapidly passed back to the United Nations, and on which there has been no significant progress.

Thus in Somalia, even more clearly than in northern Iraq, a central question of humanitarian intervention is its lack of serious long-term purpose. Indeed, the US government spoke about getting out of Somalia before it had got in; and at the beginning of Operation Restore Hope, President Bush said: 'To the people of Somalia I promise this: we do not plan to dictate political outcomes. We respect your sovereignty and independence.'⁴³ On the same day, Defense Secretary Dick Cheney said that the mission was 'to use US forces to restore the situation so that relief supplies can be delivered, and so that once we withdraw, we can turn over the responsibility for dealing with the security problem to regular UN forces'. He then went on, in terms which show the mantra-like quality of the word 'humanitarian':

The suggestion that somehow we don't have a clear-cut mission, that the mission is fuzzy, is not accurate. I've heard some comments from some of my friends to that effect, and I would take strong exception to that notion. The mission is very clear indeed. It is a humanitarian mission.⁴⁴

The humanitarian mission of Operation Restore Hope has worked, just, and so far. Countless lives have been saved. Up to the end of February 1993, very few Somalis, Americans and French died in clashes: probably under 50. Yet the whole operation is, to borrow from Samuel Johnson, a triumph of hope over experience. Friction between inhabitants and an outside policing force charging into a situation of which it knows little is inevitable. Friction when it moves out again is even more certain. When the US-led force eventually hands over to a UN one, few of Somalia's underlying problems will have changed.

The fundamentally American basis of Operation Restore Hope is striking. For the third time in UN history, when military action had to be taken in an acute emergency, the task had to be delegated to US, rather than UN, leadership. Even in a case of humanitarian intervention, and against relatively low-level military opposition, we have not yet got away from the world where the use of force, even if authorized by the UN, has still to be carried out by sovereign states.

⁴¹ Boutros-Ghali, letter of 29 Nov. 1992, p. 5. Some subsequent press reports suggested that Security Council resolution 794 had a secret addendum which committed the US to disarming Somalia: see Richard Dowden and Karl Maier, 'The darkness gathers again', *The Independent on Sunday* (London), 21 Feb. 1993, p. 14. Whatever the truth of this, there was clearly tension over the question of disarming Somali factions. ⁴² Boutros-Ghali, letter of 29 Nov. 1992, pp. 1-2.

⁴³ Bush, Address to the Nation, 'Humanitarian mission to Somalia', p. 866.

⁴⁴ US Secretary of Defense Dick Cheney at a Defense Department Briefing with regard to Somalia, the Pentagon, 4 Dec. 1992.

Perhaps the United States has been particularly prominent in humanitarian missions because of its past self-image as a haven for the hungry, poor and persecuted throughout the world. If they cannot be admitted to the United States any more, they can at least be helped where they are. At the time when Operation Restore Hope began, there was discussion in the US about whether a humanitarian operation such as this was in America's interest. As Acting Secretary of State Eagleburger said:

... this debate is around the issue of our national interest, and that's a legitimate issue. But the fact of the matter is that a thousand people are starving to death every day, and that is not going to get better if we don't do something about it, and it is in an area where we can affect events. There are other parts of the world where things are equally tragic, but where the cost of trying to change things would be monumental. In my view, Bosnia is one of those.⁴⁵

Former Yugoslavia

In former Yugoslavia, too, humanitarianism has played a central role in the international response. Indeed, the worse the crisis has become, the more have humanitarian issues featured in Security Council resolutions and in other international statements. It is sobering to reflect that the Security Council resolution of 21 February 1992 setting up UNPROFOR said that the force was 'to create the conditions of peace and security required for the negotiation of an overall settlement of the Yugoslav crisis'.⁴⁶ By contrast, the mission of UNPROFOR in Bosnia and Herzegovina has been from the start in July 1992 narrowly humanitarian, 'to ensure the security and functioning of Sarajevo airport and the delivery of humanitarian assistance'.⁴⁷ So far, the presence of UN peacekeeping forces in former Yugoslavia has been with the consent of the host states (Croatia, Bosnia and Macedonia). However, the mention of Charter Article 25 in Resolution 743 is one of several indications that the Security Council might actually require the states involved to accept the continued presence of peacekeeping forces, and their humanitarian activities, whether they wished this or not. The express duration of UNPROFOR's mandate in Croatia, and the Security Council's authority to extend it, is another such indication.

Two questions are raised by the emergence of a limited humanitarian role in former Yugoslavia. First, has humanitarian involvement been a substitute for a real policy towards the wars currently raging? And does it constitute a first step towards an ultimately inevitable military commitment?

The difficulty in answering these questions derives not so much from the fact that the events are still continuing, as from the hugeness of the canvas of which they are but a small part. There is reason to doubt the adequacy of the outside world's understanding of the events in former Yugoslavia, as well as its

⁴⁵ Acting Secretary of State Lawrence Eagleburger, ABC's 'This Week' with David Brinkley, 6 Dec. 1992.

⁴⁶ Security Council Resolution 743 of 21 Feb. 1992, operative para. 5. UNPROFOR 1 was deployed in certain areas in Croatia (eastern Slavonia, western Slavonia, and Krajina) where Serbs constitute a majority or a substantial minority of the population, and which are designated as United Nations Protected Areas.

⁴⁷ Security Council Resolution 764 of 13 Jul. 1992.

prescriptions. A European community which as late as June 1991 advocated both Yugoslav unity and democracy—plainly incompatible goals—has relatively little to be proud of. A CSCE whose Conflict Prevention Centre has been of distinctly limited relevance has hardly done better. A world which has sought to apply to Bosnia and Herzegovina the principle that frontiers must not be changed by force, when there is no chance of that principle being upheld in that divided society, has not always seen clearly the inherent difficulty of applying neat principles to tragic realities.

The charge that the UN's present reluctant involvement in Yugoslavia is too narrowly humanitarian, is strong. What are those in a besieged city supposed to make of an international organization which is capable of authorizing Desert Storm, and which in Bosnia turns a blind eye to murder? It is not surprising that many in Bosnia seek to bite the UN hand that feeds them. And what will be made of a US Air Force which, in the latest twist of the eternal debate between precision and carpet bombing, only rains down humanitarian aid from a great height, and with inevitable inaccuracies in targeting?

Some have seen a humanitarian presence as a basis for avoiding a more forceful military role, on the convincing grounds that those involved in humanitarian relief could end up as hostages or worse in this savage war if their countries simultaneously allowed themselves to get involved in the fighting. This argument has clearly weighed with the British government, not least in its consideration of enforcing the air exclusion zone. Yet a humanitarian involvement must in the end involve some degree of responsibility for its supposed beneficiaries. When important powers, Britain, France and the United States among them, are involved in a humanitarian role, will they be able to walk out if, say, Sarajevo falls and the Muslim part of its population is lined up to be taken away by the victors?

The UN's humanitarian involvement in Bosnia is not only limited to food distribution, but also includes efforts to induce the parties to respect international humanitarian law—that part of the laws of war concerned particularly with the protection of victims of war. Since at least July 1992, the Security Council has reminded the belligerents of their obligations under the 1949 Geneva Conventions.⁴⁸ Now it has taken the major step of planning to set up a war crimes tribunal in respect of the violations of international humanitarian law which have occurred in Yugoslavia since 1991.⁴⁹ This has been widely presented as the first international war crimes tribunal of its kind since Nuremberg and Tokyo, but there is no prospect that it will have the powers the Allies had in 1945. This move reinforces the question: are the major powers for ever to be content with words, or will they have to intervene to stop war crimes, and even to apprehend or force into flight some of those they say they wish to put on trial?

So far, the Security Council's role in respect of former Yugoslavia is all too sadly reminiscent of those well-bred spaniels which:

⁴⁸ Security Council Resolution 764 of 13 Jul. 1992, operative para. 10.

⁴⁹ Security Council Resolution 808 of 22 Feb. 1993.

... civilly delight

In barking at the game they dare not bite.⁵⁰

The limited involvement, coupled with hesitation to intervene directly, is understandable, but it cannot be continued for ever. Sooner or later, UN or NATO members will be challenged by events to back up their pronouncements of humanitarian concern, their opposition to war crimes, or their efforts at a peace plan, with some greater use of force than has been seen so far. Boutros Boutros-Ghali has said: 'The 1990s have given peacekeeping another new task: the protection of the delivery of humanitarian supplies to civilians caught up in a continuing conflict'; and he went on to say that more force may have to be used in former Yugoslavia 'if the United Nations is to assert the Security Council's authority ...'.⁵¹ In Bosnia, especially in view of the absence of a viable political entity to protect, any such course will be extraordinarily difficult and costly. Further, the difference of perspective of major powers on the Yugoslav crisis—with Russia leaning towards the Serbs for understandable historical reasons—makes deeper military commitment a nightmare. It is not inevitable, but the alternative of withdrawal may be even more to the discredit of humanitarian involvement, and a severe dent in the credibility of major countries as well as the United Nations. Thus has humanitarian involvement forced us further into a terrible dilemma.

General issues and conclusions

Any conclusions must begin by recognizing new and even positive developments in the age-old debate about humanitarian intervention. There has been a change. As Christopher Greenwood has said:

... the law on humanitarian intervention has changed both for the United Nations and for individual states. It is no longer tenable to assert that whenever a government massacres its own people or a state collapses into anarchy international law forbids military intervention altogether.⁵²

Compared to discussions of the subject in previous decades and centuries, the following special features of recent practice stand out:

1. The UN Security Council has emerged as one key mechanism for reaching, or at least providing a legal background to, decisions to intervene. It has done so within the formal framework defining situations as a 'threat to the peace', being apparently more willing than before to use this phrase to encompass certain humanitarian disasters. The use of the Security Council appears to get round the traditional objection that a doctrine of humanitarian intervention

⁵⁰ Quoted by Mr B. Osborne MP, 25 Jun. 1850, in the Don Pacifico debate in the House of Commons, *Hansard*, 3rd series, vol. CXII, col. 331.

⁵¹ Boutros Boutros-Ghali, 'Empowering the United Nations', *Foreign Affairs*, 72: 5, Winter 1992/93, p. 91.

⁵² Christopher Greenwood, 'Is there a right of humanitarian intervention?', *The World Today*, 49: 2, Feb. 1993, p. 40. This excellent survey refers to much literature and recent practice. It puts great emphasis on the limited scope and purpose of many recent interventions, and the special circumstances in which they occurred.

Humanitarian war

could end up as a licence to states to throw their weight about as they please, in dangerous mutual competition: but in practice states have by no means abandoned unilateral and regional action.

2. Whereas much previous debate about humanitarian intervention, right up to the invasion of Panama in 1989, was about dealing with states with all too much government, the new developments have concerned states with a more fragile character: those embroiled in war, especially civil war (and in one case, Iraq, recently defeated in international war). Countries in such a condition are not, of course, a new phenomenon, but the willingness to address the tragic human consequences of their conflicts has evidently become greater.

3. Many specific concerns, not in themselves new, have been increasingly cited as possible justifications for intervention. These have included a view of starvation as a denial of the most fundamental of human rights; growing emphasis on the international provision of food, and on the protection of humanitarian aid workers and supply systems; opposition to dictatorial governments persecuting minorities; and the need to respond to systematic violations of 'international humanitarian law', i.e. the law of armed conflict. Nevertheless, in all three cases examined the basic legal justification of international military intervention remained a 'threat to the peace'. Massive human rights violations which are not deemed to constitute such a threat are left untouched.

4. The term 'humanitarian intervention' has subtly changed its meaning. It is still military intervention in another country, with limited or no agreement with the authorities there, to prevent widespread suffering and death among the population. However, whereas previously the term 'humanitarian' applied largely to the ultimate rationale of the operation (including in some cases the end goal of replacing dictatorship with democracy), it now relates more to the type of activity with which it is conspicuously associated throughout, including the provision of food, medicine and shelter; and it now seems often to imply limited, short-term goals.

5. The question of host state consent for an international military presence has turned out to be more nuanced, and more variable over time, than in many of the earlier writings regarding humanitarian intervention.

6. In the post-Cold War era there may be a case of tempering some traditional views of international relations that put much emphasis on the sovereignty and inviolability of states. There may have to be a higher priority to human rights issues as a basis of foreign policy and as a justification for the use of force.

However, such conclusions must be tempered by recognition of the deep problems associated with the new ideas and practices of humanitarian intervention:

1. Crusading in international relations has a very doubtful record. The belief that one set of values (in past episodes Christianity, and proletarian

internationalism) has priority over state sovereignty can reflect a failure to understand other societies, and can be a recipe for a great deal of conflict. Only in rare circumstances can civil wars be ended by outside intervention, or democracy successfully imposed on a society with little experience of it. The human rights movement world-wide needs to debate seriously the possible hazards of a view of the world that downgrades the sovereignty of states.

2. While military intervention can sometimes be a means of securing human rights, there should be no underestimation of more patient approaches, and in particular on the significance of gradual sea-changes in values and in diplomatic practice as a means of achieving some of the same objects. Among the many causes of the end of the Cold War was the slow erosion of communist belief, and the strengthening of human rights thinking, especially under the Helsinki process. Snail-like change achieved what sudden intervention could not have done.

3. Without denigrating the significant achievements of recent operations, there is a need for a healthy dose of scepticism about the self-congratulatory assumption that certain actions by great powers are purely 'humanitarian', in motive, character or results. Interest, prudence, and political opportunism remain key factors in state behaviour, and have powerfully influenced decisions favouring humanitarian action in some situations, and opposing it in others.

4. Intervention which is intended to be in principle impartial, as between the parties to a conflict, is seldom so in practice. Those engaging in humanitarian aid often in fact come to identify more with one side than another, and may indeed call for outside military support for one side. Even if they do not, their actions may be perceived as supporting one side: feeding the inhabitants of a besieged city is naturally seen by adversaries as a highly partisan act.

5. Humanitarian assistance and intervention, even when justifiable, must never be a substitute for hard thought and tough policy. The disasters in northern Iraq, in Somalia, and in Yugoslavia are man-made. If they are capable of being tackled at all, it must be through political and military policies, and acts of intervention or non-intervention, that are properly considered and explained. Responding to the immediate pressure of media (the 'CNN factor') may often be justified, but tends to leave long-term issues ignored and less publicized disasters untouched.

6. The idea that military intervention, humanitarian or otherwise, should be under UN auspices has not proved a complete alternative to older and more unilateral forms of military intervention. In northern Iraq, for example, the 'safe havens' began with military action by the US and allies, with only very limited and indirect authority from the Security Council. The Turkish military move into northern Iraq in August 1991 was a unilateral intervention.

7. The idea that humanitarian workers and supplies are entitled to military protection by outside powers, justified as it may sometimes be, has

uncomfortable associations with past practices of great powers. Much colonialism began with protecting missionaries and traders, or even with assisting the oppressed; much great power friction revolved around the assertive protection of nationals in distant lands. The idea of entitlement to military protection also causes concern to some humanitarian workers, such as those of the International Red Cross, whose reputation for impartiality might be compromised.

8. Some of the same bitter conflicts, which have led to a revival of the idea of humanitarian intervention, have also contributed to the idea that UN peacekeeping forces may have to adopt a much more forceful role than hitherto.⁵³ The causes of peace and humanitarianism may thus be jointly, and persuasively, used as reasons for the use of force. In the face of such double pressure supporting resort to force, some scepticism may be in order.

9. Intervention in divided societies involves consideration of the central and long-term issues of who is to govern, and within what frontiers. Some kind of military occupation or trusteeship may exceptionally be required. Governments have addressed this difficult and sensitive issue only at arm's length, or not at all, in respect of northern Iraq, Somalia, and Yugoslavia. The United States seems as anxious as ever not to tarnish its self-image as an anti-colonial power; while for their part the tired ex-colonial powers of Europe are not rushing to resume their old practices in new fields. Some calls for outside administration have come from within Bosnia;⁵⁴ and some also from Somalia.⁵⁵ Some Western writers have urged that this nettle be grasped boldly or avoided carefully.⁵⁶

10. There should be no assumption that humanitarian intervention on a UN basis will be accepted with open arms, or will always lead to capitulation. Many states and armed groups are prepared to resist pressure from the United Nations, or those acting in its name. The illusion that if action is near-universal, its target state will give in promptly, is an old one. Gladstone, in his Midlothian

⁵³ 'United Nations forces may need authorization to demonstrate a resolve to use force. If this is not effective, the situation may call for wider rules of engagement so that United Nations peace-keepers may react to force and, in some cases, use force to forestall an escalation in violence.' Statement by Boutros Boutros-Ghali on 22 Jan. 1993 at Conference on the Future of Collective Security, New York University, UN Department of Public Information Press Release SG/SM/4920, 2 Feb. 1993, p. 6. See also his remark: 'Humanitarian aid now may require military protection', p. 2.

⁵⁴ In early 1992, as the conflict in Bosnia and Herzegovina was developing, intellectuals in Sarajevo called for a UN presence in the country based on the trusteeship provisions of the UN Charter. See Stojan Pajic, 'UN trusteeship can halt ethnic ghettos', *Yugofax: a critical briefing on the conflict in Yugoslavia* (London), no. 11, May 1992.

⁵⁵ See the remarkable guest column by Ahmed Nur Sheikh Ali Hassan, a Somali teacher, advocating that the UN take over completely in Somalia and set up its own administrative system, 'Somali psyche is to blame', *New African* (London), Dec. 1992, p. 26.

⁵⁶ See, e.g., Gerald B. Helman and Steven R. Ratner, 'Saving failed states', *Foreign Policy* (Washington DC), no. 89, Winter 1992-3, pp. 3-20. The authors advocate the idea of 'UN conservatorship', offer several possible models of UN guardianship, and suggest that the UN Security Council (rather than a revamped Trusteeship Council) might be the best body to take responsibility for such a system.

See also Stephen John Stedman's strong assertion that 'humanitarian concerns are not enough', and his pessimistic conclusion that 'peace-enforcement in civil wars is more difficult than peace-enforcement in interstate wars and often requires a long-term presence as an army of occupation', 'The new interventionists', *Foreign Affairs*, 72: 1 (America and the World 1992/93), p. 14.

Campaign in 1880, said he had hoped that 'in the case where the united authority of Europe was brought into action, there was no fear of having to proceed to actual coercion. The Turk knew very well how to measure strength on one side and the other, and he would have yielded to that authority.'⁵⁷ We can no longer have that illusion in respect of Yugoslavia.

The clearest clarion call for something approaching humanitarian warfare has come from ex-President Ronald Reagan. Speaking in Oxford in December 1992, and discussing events in Bosnia, this was his script:

the world's democracies must enforce stricter standards of international conduct. Is this not a moral cause and a great undertaking as profound as the struggle against totalitarianism? What I propose then, is nothing less than a humanitarian velvet glove backed by a steel fist of military force.⁵⁸

To return to the two questions posed at the beginning. First, humanitarian involvement by the United Nations, or by major powers, in a conflict can indeed be a step in a ladder leading to more direct military involvement. If we have here a moral equivalent of war, it is one which has a complex relationship to military power. Behind the safe havens lies Operation Poised Hammer; after UNOSOM come the US Marines. Humanitarian purposes and involvements do not have to be the thin end of the wedge of a full-blown military intervention, humanitarian or otherwise, but they can easily become so. Furthermore, a military intervention in the name of humanitarianism may come to involve a range of policies and activities which go beyond, or even conflict with, the label 'humanitarian'. In the end, 'humanitarian war' remains an uncomfortable possibility, and may sometimes be the only alternative to failure and retreat.

Second, is there a new consensus on humanitarian intervention? While there have certainly been developments indicating that the law has changed, there is no prospect of formal agreement among the states of the international community on exactly how it has changed. Any attempt to devise a general justification for humanitarian intervention, even if such a doctrine were to limit intervention to very extreme circumstances, would run into difficulty. A blind humanitarianism, which fails to perceive the basic truth that different states perceive social and international problems very differently, can only lead into a blind alley. Indeed, advocacy of any general principle of humanitarian intervention could well make some states more nervous than before about international discussion of human rights, since they might see this as a stalking horse for intervention.

It may be just as well that there is no general doctrine of humanitarian intervention, but only an emerging, limited and fragile body of state and UN practice in the matter. A general doctrine, especially if an attempt were made to formulate it in legal terms, would inevitably involve addressing questions which are virtually unanswerable in the abstract. The choice of situations in

⁵⁷ Gladstone, *Political speeches in Scotland, November and December 1879*, p. 53.

⁵⁸ Address by President Ronald Reagan to the Oxford Union Society, 4 Dec. 1992, text p. 2.

which to intervene must always be difficult; must invite accusations of double standards; and must depend, to use a phrase favoured by John Vincent, on the 'empire of circumstance'.

Much in the recent practice of humanitarian intervention was foreshadowed in John Vincent's writings: the beginnings of global ideas on human rights, the emphasis on tackling the issue of starvation, the acceptance of an important role for the United Nations. While he would have welcomed some of the recent developments—and would have appreciated how nature, as ever, has proved richer than the art of theory—the sceptic in him would have seen that they were not free from danger. He was only too well aware of the possibility that progressive international developments can involve a retreat from the wisdom of the past as well as an advance on it.⁵⁹ He would have seen that the harsh dilemmas faced by past thinkers and practitioners were with us still. He would have been critical of any general undermining of non-intervention. Above all, he would put a much-needed premium on tackling these questions with distinction and intellectual coherence. In this, as in other conclusions, we are all in John Vincent's debt.

⁵⁹ R. J. Vincent, 'Order in international politics', in J. D. B. Miller and R. J. Vincent, eds., *Order and violence: Hedley Bull and international relations* (Oxford: Oxford University Press, 1990), p. 39.