

Politics of Intervention: A Case of Kosovo, Afghanistan and Iraq

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Abstract

Politics of intervention is in style to achieve the global targets set by the powerful states. This practice is normally done under the umbrella of international law. The present study is an attempt to analyze legal and practical aspect of US intervention in Kosovo, Afghanistan and Iraq. By answering questions like, i- is the intervention justified? ii-what is the logic behind the casualties in these cases? iii- how the international community react towards these issues? The study concludes that there is difference of opinion on the legal justification of intervention. One group opines that under circumstances international law allows intervention. The others believe that due to the human sufferings politics of intervention cannot be allowed. It seems as if there is a dire need to revise international law.

Introduction

The doctrine of legitimate limited armed intervention and its tussle with nation's sovereignty is going to change the traditional landscape of international law. There has been a large number of interventions after Second World War. According to Byers, four legal justifications are there to use force by a state against any other state. These legal justifications can be located in i, chapter VII of the UN charter, ii- intervention by invitation, iii -humanitarian intervention and iv, right of self defense. During the last decade there are three major events of use of force by NATO forces which are Kosovo crisis, use of force against Afghanistan and intervention in Iraq. But the legality of interventions is complexed and controversial. These three events exclusively try to find out the legal aspect of intervention.

1. Kosovo Crisis (1999)

According to Durch "humanitarian intervention takes place when egregious human rights abuses one deemed a 'threat to international peace and security'; in particular when there is a risk of conflict spreading to other states or an exodus of refugees that threatens political and economic stability in the region."¹ Byers says that NATO leaders were reluctant to call it war but it was full fledge war.² It is called as Operation Allied Forces which was started on 24th March 1999.³ It was for the first time when NATO forces came into action since its establishment. The operation was so unique that the NATO forces won the war without losing single life and basically using air strikes. The Operation Allied Forces was controversial because NATO was intervening in the internal affairs of a sovereign country with the authorization of United Nations. By doing so North Atlantic Treaty Organization was violating its charter which was announced on 4th April 1949.⁴

The NATO leaders argued that their action was according to international law which allows for humanitarian intervention. But it is conditional with approval of Security Council by full consensus that the situation poses a great threat to international peace. According to Thusu, international law does not allow military action by any alliance of the states in the internal affairs of any other state.⁵ The NATO leaders called it as fight for justice over the issue of genocide but it is again very controversial that whether Kosovo was a genocide crisis? Many commentators argued that there are hardly genocide problems in the Kosovo.⁶ The legitimacy of NATO's intervention in Kosovo has been the subject of great debate. NATO did not have the authorization and support of the United Nations Security Council because the military action was opposed by permanent members, especially Russia and China had threaten with ties to Yugoslavia.

¹ Durch W. J. (1993) *the Evolution of UN Peacekeeping*, (New York, NY: Palgrave MacMillan.p.05.

² Byers M. (2002) *Terrorism, the Use of Force and International Law after 11 September*, Vol 51, pp 401-414.

³ Global security organization, *Operation Allied Force*, http://www.globalsecurity.org/military/ops/allied_force.htm. (Accessed on 01 October 2009)

⁴ The North Atlantic Treaty Organization, (1949) *The North Atlantic Treaty*, <http://www.nato.int/docu/basic/txt/treaty.htm>. (accessed on 01 October 2009)

⁵ Thusu, Kishan, D. (2000) *Legitimizing 'Humanitarian Intervention'? CNN, NATO and the Kosovo Crisis*, *European Journal of Communication* 15 (3):345-361. <http://ics.leeds.ac.uk/papers/pmt/exhibits/1863/Thusu.pdf> (accessed on 2008-09-20).

⁶ Farah, J. (1999) *World net daily*, http://www.wnd.com/news/article.asp?ARTICLE_ID=14861 (accessed on 2008-09-20)

NATO claimed that their defiance of the Security Council was justified on the basis of the claims of an "international humanitarian emergency". Criticism was also drawn by the fact that the NATO charter specifies that NATO is an organization created for defense of its members, but in this case it was used to attack a non-NATO country and very far away from its area of influence which was not directly threatening to any NATO member. American Major General William Moorman said that "Kosovo epitomizes the case for legitimate humanitarian intervention independent of U.N. authorization."⁷ International Independent Commission for Kosovo emphasized in their report that the "NATO military operation was illegal, but legitimate."⁸ But there is very strong criticism on NATO action and specifically deliberately bombing on civilian population and killed many people without any justification. Amnesty international criticized that NATO forces violate international law in targeting innocent people deliberately especially 23rd April 1999 bombing on headquarters of radio television Serbia in which sixteen people were killed and most of them were technicians and makeup artists.⁹ While on the other hand NATO justified its attack to claim it as a propaganda machine of the president of Yugoslavia.

Moreover Amnesty international reports that the NATO forces violate the laws of war which resulted in the casualties of many civilians¹⁰. Generally International law does not allow any state to directly attack on civilians and civilian targets of any sovereign state. During war or any other intervention, forces always try to avoid the civilians' particularly senior citizens, women and children. Many evidences show that the NATO forces failed to take precautions to minimize civilian casualties. Operation Allied Forces has put bad impacts on the regional stability and peace because five Balkans states surroundings Yugoslavia have great concern over Kosovo crisis which was a major reason of 500,000 flee of refugees.¹¹ Although NATO and other international donor organizations were working closely with neighboring states but it was not just refugee issue but it was a great threat for regional economic, social issues, which can create political instability and national insecurity. NATO took the situations of Kosovo as a great threat to regional stability.

As such, NATO and the world community had legal interests in the developments taking place in Kosovo, because of their impact on the whole region's stability. But NATO had to face critical situation due to its own charter and its relationship with UN which prohibits the use of force without armed attack on NATO member states.¹² Furthermore Russia and China vetoed the resolution at the United Nations Security Council, both states are permanent members of the Security Council and if one permanent member veto any resolution it can never be passed in the Security Council. United States of America was willing to use of force against president Milosevic regime. The legal justifications given by the U.S.A allied forces to intervene in Kosovo were very weak and operation seems like to kill the civilian population intentionally if not deliberately. The strategy and planning of bombing was inadequate and hundreds of thousands innocent people were killed by so called humanitarian safeguards.¹³

2. Afghanistan

After 9/11 the global politics has been changed dramatically and the world becomes more insecure than before. On this date there were terrorist attack on United States of America after that United States adopt the policy of pre-emption. They start invasion into the parts of globe particularly the Muslims area like Afghanistan were targeted. The September 11 attacks also referred to as September 11th or 9/11, were a series of combined suicide attacks by Al-Qaeda upon the United States of America. These attacks were occurred in the early morning and according to CBS News killed more 2,973 including hijackers.¹⁴

⁷ Moorman, W. (2003) *Humanitarian Intervention and International Law in the Case of Kosovo*, *New England Law Review* 36 (4).p.778.

⁸ Rubin, A. (2001) "Review Article-The Independent International Commission on Kosovo. Kosovo Report" *Journal of Conflict and Security Law* Vol. 6 No. 1, pp. 147-155.

⁹ New York Times, (2000) *Rights Group Says NATO Bombing in Yugoslavia Violated*,

<http://www.nytimes.com/2000/06/08/world/rights-group-says-nato-bombing-in-yugoslavia-violated-law.html> (accessed on 03 October, 2009)

¹⁰ BBC (2000) *Nato accused of war crimes*, <http://news.bbc.co.uk/2/hi/europe/780547.stm> (accessed on 04 October, 2009)

¹¹ Nato, (1999) *Bit Players Become 'Frontline' States*, <http://www.washingtonpost.com/wp-srv/local/natosummit/balkans24.htm> (accessed on 01 October, 2009)

¹² Pugh, Charles, M. Sidhu, Pal sing, W. (2003) *The United Nations & regional security: Europe and beyond*, (United Kingdom: Lynne Rienner Publishers)

¹³ The United States and Allied were claimed to intervene to Yugoslavia to protect the humanitarian law.

¹⁴ CBSNEWS (2006) *War Casualties Pass 9/11 Death Toll*,

<http://www.cbsnews.com/stories/2006/09/22/terror/main2035427.shtml> (accessed on 28 September, 2009)

The four passenger jets hit world trade centers, Washington and Pennsylvania which killed citizens of 90 different states and almost all of them were civilians.¹⁵ These were worst casualties occurred in a day in the American history since its civil war. The very next day on 12 September 2001 after terrorist attacks against United States, the United Nations Security Council passed a resolution 1368 which it has they condemned the terrorist attacks and expressed its willingness to take necessary measures to respond to the attacks of 11 September and to combat all forms of terrorism in accordance with its Charter responsibilities.¹⁶ But the resolution did not authorize the use of force against any state but the reaction of the world community and many organizations was very aggressive. On 12th September 2001 the North Atlantic Council met and agreed that such an attack launched from abroad against United States. According to NATO's charter article 5, an armed attack against one or more member states shall be considered against all member states.¹⁷

Immediately after the attacks there were two most suspected states which were considered responsible for attacks. The US Defense Secretary Donald Rumsfeld declared some doubts about Iraqi involvement in the attacks just after few hours of the incident.¹⁸ In spite the fact that there was no clear evidence against Iraq and even any further information about the incidence. The second most suspected state was Afghanistan particularly Al-Qaeda under the leadership of Osama bin Laden. Al-Qaeda was not only suspected for 9/11 attacks, even before that the number of attacks were suspected to have its involvement such as: 1993 bombing of the World Trade Center, 1996 bombing of the US military housing complex in Dhahran Saudi Arabia, the 1998 bombing of the US embassies in Tanzania and Kenya and in October 2000 bombing of the USS Cole in the harbor of Yemen.¹⁹ In all these attacks major targets were the American citizens who were located in different parts of the world. The United Nations Security Council passed resolution 1373 on 12 September 2001 and which freeze financial and economic assets of all suspects who commit or attempt to commit the terrorist acts.²⁰

Acting under Chapter VII of the Charter of the United Nations,

- (a) Prevent and suppress the financing of terrorist acts;
- (b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

Furthermore on 5th October 2001 UK also disclosed some evidence that the Al-Qaeda is involved behind the 9/11 terrorist attacks against United States. The very next day United States confirmed the information which was provided by UK.²¹ The US considered September 11 incidents as comparable to a military attack. US president Bush signed a joint resolution of congress according to that resolution the president has authorized to use all necessary and appropriate force against those nations, organization, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the US by nations, organizations or persons.

On the 7 October 2001 the government of US informed the United Nations Security Council that it had been the victim of massive and brutal attacks, the evidence shows the Al-Qaeda and Taliban military installations are responsible of this act. According to Article 51 of the UN charter United States going to use its inherent right of self-defense against terrorist training camps in Afghanistan. On the same day U.S. and U.K. started its army action against Al-Qaeda and Taliban. The further discussion will be focused on the legal basis of the use of force against Afghanistan.

¹⁵ America Government (2006) *Five-Year 9/11 Remembrance Honors Victims from 90 Countries*, <http://www.america.gov/st/washfile-english/2006/September/20060911141954bcrekaw0.9791071.html> (accessed on 28 September, 2009)

¹⁶ UNO (2001) *Security Council Condemns, in strongest terms; terrorist attack on United States, Resolution 1368 (2001)*, <http://www.un.org/News/Press/docs/2001/SC7143.doc.htm> (accessed on 28 September, 2009)

¹⁷ Nato (2001) *Statement by the North Atlantic Council*, <http://www.nato.int/docu/pr/2001/p01-124e.htm> (accessed 29 September, 2009)

¹⁸ CBSNEWS (2002) *Plans For Iraq Attack Began On 9/11*, <http://www.cbsnews.com/stories/2002/09/04/september11/main520830.shtml>, (accessed 29 September, 2009)

¹⁹ Merphy, S. (2002) "Terrorist attacks on World Trade Center and Pentagon", *American journal of International Law* 96 (1), pp. 237-255

²⁰ UNO (2001) *Security Council Unanimously adopts a wide-ranging of Anti-terrorism Resolution: calls for suppressing financing, improving international cooperation, Resolution 1373 (2001) Also Creates Committee to Monitor Implementation*, <http://www.un.org/News/Press/docs/2001/sc7158.doc.htm>, (accessed on 30 September, 2009)

²¹ The New York Times, (2001) *A nation challenged: The evidence; White House Approved Data Blair Released* <http://www.nytimes.com/2001/10/06/world/a-nation-challenged-the-evidence-white-house-approved-data-blair-released.html> (accessed on 05 October, 2009).

According to UN charter 2(3) "All Member states shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, is not endangered".²² The question arises that all necessary measures were taken by US to settle down the issue or not? On the day of attack, the Taliban's ambassador in Pakistan Abdul Salam Zaeef made a news conference and declared offer that the Taliban would detain bin Laden and try him under Islamic law if the United States makes a formal request and presents them with evidence.²³ Just after one week of the American bombing into Afghanistan, October 14, 2001, once again the Taliban offered to surrender Osama bin Laden for trail to a third party, if the bombing halted and they were shown evidence of his involvement in the September 11 terrorist attacks. This offer was also rejected by U.S. President Bush, who declared "There's no need to discuss innocence or guilt. We know he's guilty."²⁴ These examples are enough to determine that U.S. did not want to bring Osama Bin Laden into trail but its sole objective was to destroy the Taliban and Al-Qaeda but also to get complete control of Afghanistan. The worst thing is that not a single state asked to United States about the evidence of involvement of Al-Qaeda. If the America and Britain had some evidence they could put Bin laden into a trial in their own courts and after the proceedings Bin laden could be proved guilty and responsible for the attacks.

These examples also show that US did not try to solve this issue by peaceful manner which is the violation of the UN charter 2(3). According to international court of Justice, the right of self defense apply in the response of sending by or on behalf of a state of armed bands, groups, irregulars or mercenaries, which carry out acts of armed forces against another states of such gravity as to amount to an actual armed attack conducted by regular armed forces, or its substantial involvements therein. In other words the armed attack exists in when the link between state and the non-states actor is very close. It is important to mention that the armed attack considered to be launched by one state against the other state.²⁵ In this way if Al-Qaeda is not a state or state's actor, or hijackers are not sent by government then legality of use of force against Afghanistan thought to be in doubt. Furthermore the terrorists and terrorist organizations are individuals and non-state actors. They do not have legitimate state and nor do they appear to govern that state. In my opinion it is fundamental truth that no state appears to have armed attacks against the United States. In the light of these arguments, problematizes the legality of the use of force against Afghanistan on October 7, 2001 is problematic.

Invasion in Iraq (2003)

The United States of America invaded Iraq in March 2003 among the allied states were British, Australia, Denmark, Poland and Spain. The invasion led by US under the United Nations Security Council resolution 1441 which recalled all the previous resolutions against Iraq.²⁶ According to CNN 100,000 American had taken participated in the invasion of Iraq.²⁷ The United States supplied the vast majority of the invading forces, but also received support from Kurdish troops in Iraqi Kurdistan. The basic purpose of this action was to secure the international peace and security, to disarm Iraq of weapons of mass destruction and to overthrow the Saddam Hussein's government. The American President George W. Bush first planted the roots of the argument for pre-emptive self-defense in his address to the United Nations General Assembly on Sept. 12, 2002, when he said, "The first time we may be completely certain Saddam Hussein has a nuclear weapon is when, God forbid, he uses one. We owe it to all our citizens to do everything in our power to prevent that day from coming."²⁸ President George W. Bush, over the past several months, had introduced a new category of self-defense—pre-emptive self-defense—that he claimed was legally justified in the new post-Sept. 11 world. As mentioned above that the US had some doubts for the Iraqi involvements in the 9/11 incidence but then they turned their attention to Afghanistan and after attack against Al-Qaeda and Osama bin laden as Colin Powell said in the UN on 5th February 2003 that Iraq's "weapons can be connected to terrorist organizations that have no compunction about using such devices against innocent people around the world,

²² UNO, *Charter of United Nations: Chapter 1: Purposes and principles*, <http://www.un.org/en/documents/charter/chapter1.shtml>, (accessed 07 October, 2009)

²³ CNN (2001) *U.S. rejects Taliban offer to try bin Laden*, <http://archives.cnn.com/2001/US/10/07/ret.us.taliban/>, (accessed 07 October, 2009)

²⁴ Guardian, (2001) *Bush rejects Taliban offer to hand Bin Laden over*, <http://www.guardian.co.uk/world/2001/oct/14/afghanistan.terrorism5>, (accessed on 08 October, 2009)

²⁵ Stanimir, Alexandrov, A. (1996) *Self-defense against the use of force in international law*, Kluwer law international, Netherland, pp 137-149.

²⁶ UNO, (2002) *The United Nations , International law, The War In Iraq, UN Security Council Resolution 1441*, <http://www.worldpress.org/specials/iraq/unsr1441.htm>, (accessed on 09 October, 2009)

²⁷ CNN, (2003), *War in Iraq: U.S. has 100,000 troops in Kuwait*, <http://edition.cnn.com/2003/WORLD/meast/02/18/sprj.irq.deployment/>, (accessed on 08 October, 2009)

²⁸ UNO, *The United Nations , International law, The War In Iraq, World Press Review*, <http://www.worldpress.org/specials/iraq/>, (accessed on 07 October, 2009)

" Powell asserted that Al-Qaeda "could turn to Iraq for help in acquiring expertise on weapons of mass destruction."²⁹ The legality of Iraqi invasion is again a complex question and it is matter of great debate that the use of force against Iraq is legitimate and according to international law. First of all it is important to discuss brand new term introduced by US "pre-emptive self-defense". The term "pre-emptive self-defense" is not mentioned in Article 51 of the United Nations charter so any self made term cannot be a base to use force against any state and according to international law it is illegal. Furthermore like Afghanistan issue, has the Security Council has taken all necessary steps to maintain international peace and security? The right to self-defense applied only when there is short time to take the issue into the United Nations Security Council, and that if there is time for deliberation, the use of force is not justified. The threat which was considered by US and posed by Iraq had not occurred nor was imminent, and there was enough time to take the issue to the Security Council. The right of self defense exists under article 51 of UN charter when an armed attack has occurred by a state against other state but Iraq did not attack on any other state. So in this way there is still not enough legal justification for using force against Iraq.

The US and UK present the basic purpose for invasion in Iraq to disarm it from WMD (Weapons of Mass Destruction) and present false evidence that Iraq possessed Nuclear and biological weapons. After 2 years of invasion the top CIA's weapons inspector reported that they could not find a single weapon of mass destruction from Iraq.³⁰ The Secretary General of United Nations has told to BBC in an interview that the US-led invasion of Iraq was an illegal act that contradicted the UN charter. I have indicated that it was not in conformity with the UN charter as from the charter point of view, it was illegal."³¹ The US had also put in the resolution that the Iraq has not been respecting the Security Council resolutions since 1990 and now it is necessary to use force against it. But it is duty of United Nations Security Council as whole to take unilateral action against any state to determine that how enforce the resolution of Security Council. Off course it is global organization and every state has equal rights in the Security Council particularly permanent members any solution enforced by the international law should be taken with mutual consensuses, not by individual member states.

Impacts on international law

During the last decade these three major events of use of force occurred around the globe and all events have to face critical situation to justify their actions. We have discussed these events case by case and analyze legal issues of the use of force. To conclude all above discussion we can say that these acts of aggression or use of force are illegal and cannot be justified. These actions are by NATO and American forces put very negative impacts on international law and United Nations Organization which was established with basic purpose to maintain international peace and security and resolve the global issues through peaceful means. Since the last decade UN could not fulfill its responsibilities due aggressive and hegemonic foreign policy of United States. The most importantly in all these incident of that force is used against the Muslims by the U.S.A which has put its foreign policy for the Muslims in doubt. If NATO forces attack in Yugoslavia for the humanitarian intervention and security of human beings then what are outcomes. NATO killed hundreds of thousands civilians but no one is responsible for that mass killings and violations of the international law and law of war.

US attacked Afghanistan but did not provide any evidence for involvements of any Afghan Al-Qaeda and Taliban in the September, 11 attacks. It is yet to confirm that Osama Bin Laden is alive or dead but it is confirm that hundreds of thousands innocent people were dead mostly children and women during NATO operation. Without evidence and trial no one can decide that someone is guilty or not. If American forces just had a purpose to bring in trial to just Bin Laden then why America refused the offer from Al-Qaeda that they will hand over Bin Laden to third party on the provision of the evidence against him. Last but not least invasion in Iraq to disarm it from weapons of mass destruction without authorization of the UN which is violation of international law. While it is confirm that Iraq had not any weapons of mass destruction but important is to disarm the Israel which is great threat for the international peace and security as well as for the region. This double standard in American foreign policy has created a question mark on the validity of international law and UN Security Council. The question arises that why just America is considering itself a champion to maintain international peace and security although in the existence of such a global organization (United Nations Organizations).

²⁹ CNN, (2003) *Transcript of Powell's U.N. presentation*, <http://edition.cnn.com/2003/US/02/05/sprj.irq.powell.transcript/>, (accessed on 07 October, 2009)

³⁰ MSNBC, (2005) *CIA's final report: No WMD found in Iraq*, <http://www.msnbc.msn.com/id/7634313/>, (accessed on 10 October, 2009)

³¹ CNN, (2004) *Iraq war illegal, says Annan*, http://news.bbc.co.uk/2/hi/middle_east/3661134.stm, (accessed on 09 October, 2009)

CNN stated that the Bush warned in his speech at UN on 12, September 2002 that the “United State is prepared to act militarily against Iraq without United Nations”.³² The speech of US president in UN seems to me that Bush thinks the United Nations organization is one of the departments of his administration which works under his authority. In his speech Bush raised two questions in the United Nations that are:

Are Security Council resolutions to be honored and enforced or cast aside without consequence?

Will the United Nations serve the purpose of its founding or will it be irrelevant? The answers of these questions depend on USA rather than the U.N. Whether the United Nations Security Council will work with mutual consensus of member states to enforce its resolutions-or whether the United States and its allies will give it an opportunity to do so. As O’Brien and Williams stated that whether the US would continue to work through global organizations and treaties to build a negotiable system of rule (Multilateralism or whether it would increasingly exercise domination over other states by striking out on its own (unilateralism)).³³ The continued viability of the post-World War II international legal system hangs in imbalance.

Conclusion

Politics of intervention is in style to achieve the global targets set by the powerful states. This practice is normally done under the umbrella of international law. There is an ongoing effort to re-examine the normative arguments on the use of force against the state. The humanitarian intervention, preventive or pre-emptive military actions are the tactics used by the major states to promote or to protect their own agendas this effort is dividing the international community. The case of Kosovo, Afghanistan and Iraq has given rise to considerable debate in international law. Specially the policy opted by US to intervene in other states with the help of chapter VII, in which states can take the necessary steps to prevent from the terrorist acts and then the second possible legal justification. The government of the state is entitled to request assistance from other states and then the humanitarian intervention which is explicitly claimed by UK in Iraq in 1991 and Kosovo in 1999 and then the reason of self defence which is exercised by US. One can conclude that in all cases there are doubts about the reasoning to intervene and then the humanitarian laws in all cases is also raising the questions for the experts of international law and they have to answer such questions like how a war can be a just war when it is fought in unjust manner?

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³² CNN, (2002) *President Bush's address to the United Nations*,
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³³ O’Brien, R. Williams, M. (2007) *Global political economy: Evolution and Dynamics*, 2nd ed., (New York: Palgrave Macmillan) p. 390.

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