

Is Humanitarian Intervention Legal? The Rule of Law in an Incoherent World

*Ian Hurd**

The concept of humanitarian intervention has evolved as a subset of the laws governing the use of force and has very quickly come to occupy an institutional position alongside self-defense and Security Council authorization as a legal and legitimate reason for war. It is both widely accepted and yet still highly controversial. This article considers whether humanitarian intervention is legal under international law. This is a common question but one that produces an uncertain answer: humanitarian intervention appears to contradict the United Nations Charter, but developments in state practice since 1945 might have made it legal under certain circumstances. Those who argue for its legality cite state practice and international norms to support the view that the prohibition on war is no longer what it appears to be in the Charter. The debate suggests that humanitarian intervention is either legal or illegal depending on one's understanding of how international law is constructed, changed, and represented. Since these questions cannot be answered definitively, the uncertainty remains fundamental, and the legality of humanitarian intervention is essentially indeterminate. No amount of debate over the law or recent cases will resolve its status; it is both legal and illegal at the same time.

This article examines the implications of this finding for the idea of the rule of law in world politics. It suggests that the traditional emphasis that scholars have put on compliance with international law is misplaced; that is, the power of international law in this case comes not from its ability to differentiate rule breakers

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Is Humanitarian Intervention Legal The Rule Of Law In An

Fernando R. Tesón



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Peremptory Norms of General International Law (Jus Cogens) Dire Tladi,2021-08-16 Peremptory Norms of General International Law Jus Cogens Disquisitions and Dispositions brings together an impressive collection of authors addressing both conceptual issues and challenges relating to peremptory norms of general international Covered themes in the edited collection include concepts relating to the identification of peremptory norms consequences of peremptory norms critiques of peremptory norms the relationship between peremptory norms and particular areas of international law as well as the peremptory status of particular norms of international law The contributions are presented from an array of scholars and experts with different perspective thus providing an interesting mosaic of thoughts on peremptory norms Written against the backdrop of the ongoing work of the International Law Commission it exposes some tensions inherent in the jus cogens

Michigan State Journal of International Law ,2011 **An Equitable Framework for Humanitarian Intervention** Ciarán Burke,2013-05-09 This book aims at the resolution of the dilemma regarding whether armed intervention as a response to gross human rights violations is ever legally justified without Security Council authorisation Michigan Journal of International Law ,2013 **The Yale Journal of International Law** ,2006 Public Affairs Quarterly ,2006

Philosophical studies of public policy issues Michigan Law Review ,1923 **Cornell International Law Journal** ,2005

The Kosovo Conflict and International Law Heike Krieger,2001-07-12 This book was first published in 2001 The Kosovo Conflict and International Law provides international lawyers scholars and students with access to material on the conflict in Kosovo As well as the basic material relating to Kosovo s status in Yugoslavia before 1999 this volume reproduces the significant documentation on the following issues the development of the human rights situation the diplomatic efforts for the settlement of the crisis the military action against Yugoslavia and the international community s response court action with regard to the conflict and the implementation of the principles for a political solution with an international civil and security presence in Kosovo Dr Krieger s analytical introduction provides the historical and political context as well as an overview of the various legal aspects of the conflict A chronology and detailed index make the documents more accessible **Essays on Levinas and Law** Desmond Manderson,2009-01-15 Emmanuel Levinas was one of the great writers on ethics of the 20th century Now for the first time this collection starts to think through exactly what challenges and problems are posed once we try to apply Levinas ideas about ethics to law **Essays on Levinas and Law** A Mosaic injects Levinas provocative thought right into the heart of living law radically changing our understanding of both It features a broad sweep of essays ranging from critical reflections on the connection between ethics and justice to specific discussions of the effect that Levinas ideas might have on our thinking about immigration or international law or political identity or justice For those interested in philosophy and ethics this book insists that our legal institutions are not a dirty little secret but a crucial realm in which to test our ideas For those interested in law this book insists that ethics is not a dirty little secret but a crucial realm by which to assess our

structures and policies For all interested readers Essays on Levinas and Law does not intend to fulfill a need but to awaken one

Global Health Law Michel Bélanger,2011 Humanitarian Intervention Terry Nardin,Melissa S. Williams,2005-12-01 Somalia Haiti Bosnia and Kosovo All are examples where humanitarian intervention has been called into action This timely and important new volume explores the legal and moral issues which emerge when a state uses military force in order to protect innocent people from violence perpetrated or permitted by the government of that state Humanitarian intervention can be seen as a moral duty to protect but it is also subject to misuse as a front for imperialism without regard to international law In Humanitarian Intervention the contributors explore the many questions surrounding the issue Is humanitarian intervention permitted by international law If not is it nevertheless morally permissible or morally required Realistically might not the main consequence of the humanitarian intervention principle be that powerful states will coerce weak ones for purposes of their own The current debate is updated by two innovations in particular the first being the shift of emphasis from the permissibility of intervening to the responsibility to intervene and the second an emerging conviction that the response to humanitarian crises needs to be collective coordinated and preemptive The authors shed light on the timely debate of when and how to intervene and when if ever not to Contributors Carla Bagnoli Joseph Boyle Anthony Coates Thomas Franck Brian D Lepard Catherine Lu Pratap Bhanu Mehta Terry Nardin Thomas Pogge Melissa S Williams and Kok Chor Tan

Stanford Journal of International Law ,2004 *International Law Studies* Naval War College (U.S.),1930 *South African Journal on Human Rights* ,2004 **Philip C. Jessup International Law Moot Court Competition** Association of Student International Law Societies,1981 A Compilation of the Problems Judges Briefs Rules and leading written Memorials which comprise the Philip C Jessup International Law Moot Court Competition To be issued annually **SCOLAG** ,2002 **Peace Research Abstracts Journal** ,2005 **Humanitarian Intervention** Fernando R. Tesón,2005 No detailed description available for Humanitarian Intervention An Inquiry Into Law and Morality 3rd Edition *Moral Issues in Military Decision Making* Anthony E. Hartle,2004 Much has changed in warfare in recent years with America now dominant on the international scene and terrorism the new enemy In light of these changes the need for moral grounding in military actions is a more pressing concern than ever When it was originally published *Moral Issues in Military Decision Making* reflected the concerns posed by nuclear stalemate and the lessons of Vietnam In that highly praised work Anthony Hartle outlined the essential elements of the Professional Military Ethic created for American military forces In this new edition he reexamines the moral foundations for America s military leadership in the post 9 11 era Considering world affairs since the first edition the Gulf War Bosnia Afghanistan Iraq 9 11 and the emergence of the United States as an unrivaled military power Hartle explains how these events have raised ethical issues that differ dramatically from those of the Cold War by the war on terrorism homeland defense asymmetric warfare the proliferation of American military interventions and the UN s role in peacekeeping operations Using meticulously analyzed case studies twice as many as in the

first edition he considers such moral dilemmas as torture challenging superior officers use of overwhelming force and responding to fire in the presence of civilian shields In this revision Hartle examines further the status of professional military ethics in light of current affairs changes in the articulation of military values and recent research In a new chapter on human rights he relates moral principles directly to values embedded in the Constitution and argues that overwhelming American military power cannot succeed unless it is accompanied by the moral force of the values it seeks to protect difficulties of applying conventional laws of war and human rights doctrine in military operations Hartle convincingly shows that national security is as much about the preservation of moral principles as it is about the protection of America s citizens and borders His book demonstrates that the American military must continue to observe those principles in order to be effective in its primary mission

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