Humanitarian Intervention as a ‘Responsibility to Protect’:  
An International Society Approach 

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Introduction  
The issue of humanitarian intervention has been approached from different angles. The topic has been a subject of intense academic discussion in international law, ethics, political theory, and international relations. Although it has been studied mainly within the confines of each particular discipline, humanitarian intervention has also given way to important issues crosscutting disciplinary boundaries. For instance the implications of humanitarian intervention for the problematic relationship between legality and legitimacy have been a constant theme in the study of humanitarian intervention. As such it has also raised important questions about the relationship between these different fields. Humanitarian intervention goes to the heart of the debates about how we should understand the connection between morality and politics, morality and law, and law and politics. I will approach this debate from an international relations perspective, focusing specifically on how humanitarian intervention reflects different approaches to the normative principles underpinning the modern international society. 

Seen from this perspective, there appear to be two competing broad schools of thought on humanitarian intervention. Some see it as incompatible with the existing world order, based on Westphalian norms of sovereignty and nonintervention due to humanitarian intervention’s disruptive repercussions on interstate affairs. Along the same lines, some view it as a resurrection of the traditional gunboat diplomacy where human rights justifications are used as a cloak to cover selfish national interests behind grand schemes to create a worldwide imperial order. Hence, humanitarian intervention as a part of Hobbesian world of power politics. In contrast, a competing school of thought treats it as a precedent heralding the down of a new era in world politics where universal values, such as human rights, are the benchmark of the emerging new world order. Hence, humanitarian intervention as a practice of cosmopolitan world society. 

My approach to humanitarian intervention falls somewhere between these two competing positions. The big puzzle that attracts my attention to study this topic is the question where we stand in the evolving balance between the normative order of human rights and the modern international system. I discuss humanitarian intervention within the context of the developments regarding the promotion of human rights on international level and
their transformative impact on the existing principles of international order. As such, I am driven by a normative concern to allow for a greater room for humanitarian norms in international relations. Yet, in so doing, I also do recognize the enduring power, and the realities, of the current world order, which hinder a wholesale incorporation of humanitarian intervention within the framework of modern interstate system. Therefore I approach it rather as a limited practice whose life-course is stringently bound by the contingencies of the existing international order. Nonetheless, the fact that humanitarian intervention received a widespread recognition in state practice raises a theoretically interesting question. In order to explain the emergence and diffusion of this new norm in state practice, I address two questions in this paper:

-What does the practice of and discourse on humanitarian intervention imply for the irresolvable dilemma between Westphalian world order and the promotion of human rights?
-What theoretical approach to international relations can help explain this new practice and discourse?

I argue that although sovereignty versus human rights debate traditionally has been framed in dichotomized terms, the post-Cold War practice of humanitarian intervention illustrates the possibility of a *via media* approach to these competing normative claims. Further, I argue that English School of international relations provides a relevant theoretical framework to explain this new consensus on humanitarian intervention. To elaborate my point further, I briefly introduce the English School as a distinct approach to international relations. I study the key ideas of English School, developed by scholars such as C.A.W. Manning, Martin Wight, Adam Watson, and Hedley Bull. These ideas include: the primacy of the states, the international society of states, and shared norms. Drawing largely on Hedley Bull’s work on international society, I expand on how these concepts offer a powerful explanation for the incorporation of humanitarian intervention in state practice.

**Westphalian order versus human rights: two worlds of International Relations?**

Humanitarian intervention may be defined as “forcible action by a state, a group of states or international organizations to prevent or to end gross violations of human rights on behalf of the nationals of the target state, through the use or threat of armed force without the consent of the target government, with or without UN authorization.”1 As I said, I treat humanitarian intervention as a practice pertaining to the advancement and protection of human rights. As I will discuss below, this process gained momentum in the post-1945 world, particularly following the demise of the Cold War.

Despite its moral appeal as a norm to promote universal human wellbeing, however, the humanitarian intervention debate cannot escape the wider political context it belongs to: military intervention in international relations. The question of intervention raises two complementary issues. First, the question of whether force can be used legitimately in international relations becomes the crux of any discussion about humanitarian

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intervention.\textsuperscript{2} For, the organization of coercion has been the basic concern of any social structure, including international society. Therefore the place given to humanitarian intervention is directly related to the international milieu, i.e. the receptivity of the international community toward ‘military’ intervention. Although the idea to use force for other-regarding purposes has a long history in international law and politics, and is morally compelling, the application of the idea into state practice has been inconsistent, depending mainly on international rules and practices regarding the use of coercive force.\textsuperscript{3} Since the principles of non-intervention and non-use of force underpin the current international system, the room allowed for humanitarian intervention has been limited.

Second, humanitarian intervention is closely interwoven with the international society’s attitude toward intervention into ‘domestic affairs.’ Modern international relations have been characterized by a clear separation between the internal and external affairs of the states, basic actors of the international society. Traditionally it was the established practice to treat the relationship between a sovereign and its subject as one of internal jurisdiction; hence, outside the scope of interference by other governments. Moreover, issues such as human rights that were considered to fall within the domestic realm of state-citizen relationship were excluded from the subject matter of international relations. They were beyond the boundaries of legitimate intercourse between the states. Therefore, the debate about whether an issue falls within a government’s exclusive realm of authority also determined the ways in which humanitarian intervention is perceived as it involves a dictatorial interference within the domestic jurisdiction of another state.

\textit{Why study these two questions?}

As such, the questions I raised above are of theoretical importance. Behind the specific issue of humanitarian intervention lies a fundamental contradiction between two different sets of moral concerns, and two different approaches to international relations.\textsuperscript{4} From a cosmopolitan perspective, using force for stopping extreme human rights violations appears to be a higher ethical end because it aims at upholding the basic rights of human beings, the primary subjects of any social order. It however contradicts with the principles constituting the basis of the modern Westphalian international system that puts the moral priority on the preservation of the integrity of its actual members, nation-states, and the maintenance of the precarious world order. In other words, this is the tension between realism and idealism that had been the main divide through much of the history of the modern international relations theory.

As will be further discussed below, the crux of this issue revolves around the incompatibility between the promotion of human rights on international level and the


\textsuperscript{4} Welsh also underlines that it is a debate about the boundaries of moral community, the consequences of intervention, and the density of values that underpin international society.” Welsh, Jennifer M., “Taking Consequences Seriously,” in Jennifer Welsh (editor) \textit{Humanitarian Intervention and International Relations} (Oxford: Oxford University Press, 2004), p.53.
principle of non-intervention which is a derogative of the norm of sovereignty. As Donnelly puts it, humanitarian intervention presents “a genuine moral dilemma in which important and well-established principles (human rights and nonintervention) conflict so fundamentally that reasonable men of good will may disagree on how that conflict is to be resolved.” Therefore it became almost a stereotype to talk about the legal/political tension between human rights and state sovereignty, non-intervention, and non-use of force in most of the scholarly works on humanitarian intervention. Moreover, this has been mostly presented as a dichotomic relationship.

Due to its being situated at the center of this tense relationship, humanitarian intervention has important implications for international relations theory. Arguments based on the tension I identified constitute one of the major theoretical objections to humanitarian intervention. As I will elaborate further below, humanitarian intervention as an assertive form of human rights promotion continues to create discomfort among the defenders of the existing world order in that humanitarian intervention would violate the doctrine of sovereignty, the organizing principle of the international order. As Corten aptly puts it, “the doctrine of ‘the right to intervene’ is an attempt to challenge this traditional legal structure [of UN system of collective security] by calling into question the very concept of sovereignty it is based on.” In other words, the opposition to humanitarian intervention is not the result of a mere indifference to human suffering elsewhere. But it is largely a reflection of different conceptualization of how to organize interstate relations, and what principles should guide the appropriate state behavior. As such the humanitarian intervention debate turns out to be a subset of the debate about the nature of international society and its institutions; i.e., whether there exists an international society, what its organizing principle is, who its members are, and what norms underpin it.

Humanitarian intervention in post-Cold War period

The emerging international system and the global wave of democratization have enabled human rights groups to exert more pressure and persuasion on liberal states and international organizations to take up the promotion of human rights. Moreover, the end of the Cold War and the emerging international system were characterized by the increasing possibilities for international cooperation among major powers. Therefore, in the new era the UN Security Council was able to realize its powers under the UN Charter and thus come closer to orchestrating the collective security system laid down in the Charter. Humanitarian intervention, as a result, made its way into the practice and study of international relations in the post-Cold War period.

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Because the use of force is currently regulated by the UN SC, any humanitarian intervention can be categorized according to the existence of a UN-authorization. By interpreting its Chapter VII powers in an expanding manner, the SC was successful in accommodating humanitarian intervention within the UN system and providing it with a certain degree of legitimacy. Moreover, despite its unsettled legal position, the practice of humanitarian intervention without SC authorization also endured during this period and was received receptively on moral and political grounds by many. As a result, incorporation of humanitarian intervention into state practice has taken two distinct forms: UN Security Council-authorized, and unilateral interventions.

Although the latter is more controversial than the former due to its shaky legal standing, there is a growing international consensus around the concept. This consensus recently has been captured by the idea of ‘sovereignty as responsibility,’ which has been advocated by the United Nations and some Western states. Under the emerging norm of humanitarian intervention, extreme cases of human suffering, caused by a state’s failure to respect or protect individual rights of its own citizens, could warrant intervention by the international community.

**Humanitarian Intervention between Rwanda and Kosovo**

Within this new setting, a body of examples of humanitarian intervention has accumulated in state practice. Starting with the Allied intervention in Northern Iraq in 1991, intervention in support of people in danger has been increasingly incorporated into state practice. Although the SC authorized most of the post-Cold War interventions, the practice of intervention out of UN umbrella did not disappear completely. Along the way, both SC-authorized humanitarian interventions (Somalia, Liberia, Bosnia, Haiti, Rwanda, East Timor, and Sierra Leone), and unauthorized interventions (Northern Iraq, and Kosovo) put their mark on the evolution of the debate on humanitarian intervention. Particularly, the enduring practice of humanitarian intervention without a prior authorization from the SC affected the theoretical discussions on humanitarian intervention.

In the beginning of the 1990s, the debate about humanitarian intervention was mainly focused on the question of whether violations of human rights constituted a threat to international peace and security, hence legitimized humanitarian intervention. But, later on the linkage between human rights and international security and the need for addressing situations of extreme humanitarian emergencies were largely recognized and humanitarian intervention through UN authorization, when it did take place at all, did not create much controversy. By the end of the 1990s, especially with the NATO intervention in Kosovo, the debate gained a new dimension raising the question whether such interventions needed UN authorization.\(^\text{11}\) In other words, the focus of the debate on humanitarian intervention shifted from ‘whether’ to ‘how’ or ‘by whom’. The debate however was characterized by the inactivity of the international community as much as its activity. The inability of the international community to put a halt to humanitarian catastrophes in Bosnia, Rwanda, and lately in Burundi, and Darfur- Sudan has led to

\(^{11}\) Oudraat, *op. cit.*, pp. 16.
doubts about the viability of the new interventionism, and fed the skepticism about its selective application.

The debate about humanitarian intervention, as a result, revolved around international responses to two critical cases: Rwanda and Kosovo. The case of Rwanda signified the un-humanitarian non-intervention in the face of genocide. While hundreds of thousands of people were slaughtered, the world community stood idle by as powerful states were not willing to put their own troops in harm’s way. In the case of Kosovo, although they were inflicted upon much lower level of violence than the Tutsis in Rwanda, an effective international intervention came to the aid of Kosovar Albanians. This time, however, the world community was concerned with the implications of intervention by a group of states acting through a regional organization –NATO- without fulfilling the requirements of international legality. This was “deeply troubling to many observers and countries for having posed a fundamental challenge to the normative architecture of world order.”

Toward ‘sovereignty as responsibility’.

As a result, especially after the NATO intervention in Kosovo, the world community confronted with the dilemmas posed by humanitarian intervention sharply: undermining the current principles of international system versus the continuation of human suffering. Humanitarian intervention received a growing attention from international community and became the central theme in the 1999 GA debate. The UN Secretary-General Kofi Annan’s keynote speech to the 54th Session of the General Assembly in September 1999, just after the Kosovo crisis, reflected this dilemma starkly and stimulated a debate in regards to humanitarian intervention.

Annan was calling the inability of the international community to reconcile “on one side, the question of the legitimacy of an action taken by a regional organization without a United Nations mandate; on the other, the universally recognized imperative of effectively halting gross and systematic violations of human rights with grave humanitarian consequences” in the case of Kosovo as a tragedy. He, then, turned to the opponents of the use of force without SC authorization and asked: “If, in those dark days and hours leading up to the genocide [in Rwanda], a coalition of States had been prepared to act in defense of the Tutsi population, but did not receive prompt Council authorization, should such a coalition have stood aside and allowed the horror to unfold?” Then he posed the following question to those who were advocating that the Kosovo case heralded a new era for the use of force outside the UN mechanism: “Is there not a danger of such interventions undermining the imperfect, yet resilient, security system created after the Second World War, and of setting dangerous precedents for future interventions without a clear criterion to decide who might invoke these precedents, and in what

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circumstances?” He did not give any clear answers and invited the world community to address the problems posed by this dilemma.

ICISS Report
As response to Annan’s call, a number of initiatives have been launched, especially by western states. As a result, some reports and books have been prepared which deal with legal and political problems of humanitarian intervention and offer some alternative guidelines to regulate the state conduct regarding humanitarian intervention. The most famous one has been the report published by the International Commission on Intervention and State Sovereignty (ICISS), set up by Canadian Foreign Minister Lloyd Axworthy. The report of the commission was published with its formal presentation to Annan on 18 December 2001.

The report aimed at restating the terms of the debate, while at the same time avoiding the polemical mood dominating the debate. It put forward important suggestions to reconcile the need for humanitarian intervention with the realities of state sovereignty. To this end, it endeavored a conceptual shift from the right and duty of ‘humanitarian intervention’ to the responsibility to protect. To achieve this, the commission reinterpreted the norm of state sovereignty by qualifying it with the responsibility to protect:

State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.

As summarized by Thakur, the report sought to achieve three things.

- to reposition the existing normative consensus on the subject by replacing the language of humanitarian intervention with the concept of the responsibility to protect.
- to locate that responsibility with state authorities at the national level and with the Security Council at the global level.
- to ensure that when intervention for human-protection purposes does take place, it is carried out with efficiency, effectiveness, and due authority, process and diligence.

High-level Panel on Threats, Challenges and Change
As part of the debate about the reform of the United Nations, Secretary-General Kofi Annan set up a high-level panel on global security threats and reform of the international system, on 3 November 2003. The panel was “tasked with examining the major threats

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15 In the intervening period, there was also another report by the Independent International Commission on Kosovo. The Kosovo Report (Oxford: Oxford University Press, 2000).
17 ICISS, para.xi.
and challenges the world faces in the broad field of peace and security, including economic and social issues insofar as they relate to peace and security, and making recommendations for the elements of a collective response.” The panel presented its report to the Secretary General on 2 December 2004. On the principle of sovereignty, it echoed the same spirit dominated the report of the ICISS:

In signing the Charter of the United Nations, States not only benefit from the privileges of sovereignty but also accept its responsibilities. Whatever perceptions may have prevailed when the Westphalian system first gave rise to the notion of State sovereignty, today it clearly carries with it the obligation of a State to protect the welfare of its own peoples and meet its obligations to the wider international community. But history teaches us all too clearly that it cannot be assumed that every State will always be able, or willing, to meet its responsibilities to protect its own people and avoid harming its neighbours. And in those circumstances, the principles of collective security mean that some portion of those responsibilities should be taken up by the international community, acting in accordance with the Charter of the United Nations and the Universal Declaration of Human Rights, to help build the necessary capacity or supply the necessary protection, as the case may be.  

**How did we get here? An International Society approach to humanitarian intervention**

Through these practical and conceptual attempts, humanitarian intervention came to be recognized as a reality of modern interstate system. I said earlier that the problematic relationship between human rights and sovereignty is an offspring of different approaches to international relations. I further underlined that traditionally this relationship was understood in dichotomic terms. That means prioritizing one norm over another was also understood as subscribing to two opposite notions of international system, or two interpretations of international relations. In this sense, the acceptance of humanitarian intervention was viewed as a substantial transition from a states-system based on respect for sovereignty and non-intervention to a cosmopolitan one where individual rights trump over a state’s right to sovereignty, and where some sort of universal governance prevails. To put it in more concrete IR terms, it was a choice between binary dualism of realism and idealism.

Yet, despite the accumulation of state practice on humanitarian intervention and the erosion of the norms of sovereignty and nonintervention it is difficult to claim that we have moved beyond the state centric modern world system. Nor would it be an accurate description to call the current system a purely anarchic one. So it is my contention that we stand somewhere in between these two extreme positions. Similarly, although universal ideas have assumed increased importance in state practice, they did not transform the realist power politics where coercion matters. What we need therefore is a theoretical construct that will help us capture the actual reality in the grey zone. In what follows, I will study the English School scholars’ position on the nature of international society, the centrality of states, the importance of norms, and normative change to develop an explanation for the practice of humanitarian intervention.

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Following Martin Wight’s proposal during the meetings of the British Committee on the Theory of International Politic, the members of the English School started to study states systems in various parts of the globe throughout the ages. In these efforts, the main impulse was their hope to find general characteristics of the historical states systems for a better understanding of today’s world, and for reaching the best possible international order as a response to the crisis of the current age. They were in that sense both empirically and normatively driven. In their works on international relations theory, one may see a deliberate attempt to move beyond a narrow pursuit of interpreting the causes of the present problems to thinking about social and historical construction of modern international society, and offering prescriptions for remedying the predicaments facing the humanity. They developed a distinct approach to international relations, characterized by their notion of international society, and their emphasis on norm-regulated conduct.

1. The nature of international system, and the primacy of the society of states
The tendency to conceive humanitarian intervention and Westphalian international system as incompatible owes a great deal to the realism’s legacy. Realism, the main approach of the study of international relations, takes the international system as anarchical consisting of sovereign nation-states. It is anarchic in the sense that there is no overarching authority to govern the relations among the members of system. This is best expressed in Kenneth Waltz’s treatment of the ordering principle of the system, i.e the principle according to which the parts are organized. Realists recognize only two possible forms of political organization within a social structure: hierarchy and anarchy. These are conceived in a dichotomized/ dyadic position to each other, and this idea is consolidated by means of another dichotomy, domestic versus international realm. While there is a hierarchical organization in a domestic system, anarchy prevails in international system. International system is decentralized, and it is a self-help system, which emerges from coexistence and co-actions of the states. In this self-help system, the basic motivation of the states is the need to ensure self-survival. By realist and neo-realists, the ordering principle of structure, anarchy, is assumed as the unchanging nature of the system; hence it is quasi-constant. This is mainly because of the members of it, nation-states. An overarching authority over them means the end of their existence. Hence they are in an ongoing self-help system. Since realists understand international system in such a way, their notion of the system is also so static that a system change is difficult to occur; hence they accept no room for normative/ideational change.

Scholars writing within the English School tradition question this rigid, sharp distinction. They have a broader and more diverse perspective on international system, partly because of their emphasis on historical analysis. For instance, Martin Wight classifies three traditions of thought. With his threefold classification as Realists, Rationalists, and Revolutionists, he was one of the first theorists to reject the binary dualism of the realism and idealism, which dominated the study of modern international relations in the post-

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war period. His additional category of rationalism serves the function of a _via mediam_ approach between the diametrically opposite traditions of realism and idealism. He does not treat them as isolated, unrelated traditions. Rather his traditions are like streams that are cross-cutting each other. These traditions can be roughly distinguished by reference to their descriptions of the nature of international relations. The Realists are those who emphasize and concentrate upon the element of international anarchy. The Rationalists are those who emphasize and concentrate on the element of international intercourse. And the Revolutionists are those who emphasize and concentrate upon the element of international society as the community of mankind.

Adam Watson also offers a useful alternative way of approaching this issue: a continuum with absolute multiple independences at one extreme and absolute empire at the other. While these two extremes are fictional theoretical constructs, the reality corresponds to somewhere on the continuum. As such, in reality, a certain degree of hegemonic tendency, which means the limitation over states’ independence, and a proclivity toward the multiple independences, which limits the hegemonic tendency, go hand in hand.

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### Anarchy ←------------------------ X ----------------------------→ Hierarchy (realist)

**Absolute ind.** ................................................................. **Absolute empire (Watson)**

**Realism** ................................................................. **revolutionism (Wight)**

**Hobbesian** .................. **Grotian** .................. **Kantian** (Bull)

**Hobbesian** .................. **Lockean** .............. **Kantian** (Wendt)

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#### Hobbesian

- **nature of international politics**
  - International politics is struggle between the states. State of war of all against all: pure conflict –zero-sum; war is the typical activity.

- **prescriptions about international conduct**
  - State is free to pursue its goals in relation to other states without moral or legal constraints of any kind. Only limitation: rules of prudence or expediency.

#### Grotian

- **nature of international politics**
  - International politics is society of states. Both conflict and cooperation are possible. Game is partly distributive partly productive.

- **prescriptions about international conduct**
  - States are bound by the rules and institutions of the society they form. In addition to prudence or expediency, they are bound by the imperatives of morality and law (contra Hobbesian). No replacement, but acceptance of the requirements of coexistence and cooperation in a society of states (contra Kantian).

#### Kantian

- **prescriptions about international conduct**
  - Moral imperatives limiting the action of states. They do not enjoin cooperation, but overthrow of the system of states, and its replacement by a cosmopolitan society.

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Hedley Bull’s work, Anarchical Society, is the most widely known representative of English School among American scholars. Bull first defines a *system of states* (international system), which comes into being “when two or more states have sufficient contact between them, and have sufficient impact on one another’s decisions, to cause them to behave –at least in some measure- as parts of a whole.” This necessitates regular contact in the sense that the interaction between states is sufficient to make the behavior of each a necessary element in the calculations of the other. States could interact directly or indirectly, and this interaction could be in the form of cooperation or conflict. A *society of states* (international society) is formed “when a group of states, conscious of certain common interests and common values, form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions.” As such, international society presupposes an international system, but an international system may exist that is not an international society. In that sense it is the injection of a societal element into a mechanical system that turns an international system into international society. Bull identifies three apaches to the idea of international society: Hobbesian, Grotian, and Kantian.

Bull further argues that the Grotian idea of international society has always been present in intellectual thinking and state practice. Since the emergence of the modern international relations three or four centuries years ago, it has undergone several phases: Christian international society, European international society, and world international society. Bull also notes that the goals of international society include a) the preservation of the system and the society of states itself, b) maintaining the independence –external sovereignty- of the states, c) goal of the peace -subordinate to the preservation of the states system-, d) common goals of the social life. I will return to these different goals while discussing humanitarian intervention below.

I think this way of approaching international system provides a better means for explaining how the practice of humanitarian intervention affects the nature of international relations. Although some advancement has been made to uphold universal values in a way to limit the autonomy of nation-states, we are still in a Grotian world, where a certain degree of norm-guided behavior coexists with states’ drive for independent, autonomous action.

First of all, the aversion to humanitarian intervention is best captured by Hedley Bull’s first fundamental goal of international society: “the preservation of the system and the society of states.” Here English School comes closer to realism. Conceptualization of international system as anarchic resulted in the prioritization of international order as the primary value that the states should strive to achieve. Because international relations is in the final analysis about the issues of life or death, maintenance of the existing minimum order was seen as part of the prudent action required from the statesmen.

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23 Bull.
24 Bull...
One implication of this primacy of world order is somehow reflected in the supposed tension between order and justice—realization of human rights.\textsuperscript{25} As discussed, an action to promote or implement universalizing humanitarian norms was understood as a threat to or a breach of world order. Therefore such attempts were seen as highly destabilizing forms of action that must be avoided. This was particularly the case during the Cold War years given that the need to avoid a great power war and maintain stability was the prime concern. Therefore, due to their destabilizing effects, issues of secondary importance, such as promoting human rights, were sacrificed to the maintenance of international order. Bull catches this point cogently by drawing our attention to the fact that the framework of international order is inhospitable also to demands for human justice…

International society takes account of the notion of human rights and duties that may be asserted against the state to which particular human beings belong, but it is inhibited from giving effect to them, except selectively and in a distorted way… It is here that the society of states … displays its conviction that international order is prior to human justice. African and Asian states, … are willing to subordinate order to human justice in particular cases closely affecting them, but they are no more willing than the Western states or the states of the Soviet bloc to allow the whole structure of international coexistence to be brought to the ground.\textsuperscript{26}

The same emphasis on the primacy of systemic stability also explains the changing attitude toward humanitarian intervention, and gives us important clues about the limitations on the applicability of this new norm. Despite several reports and codification attempts, there has not emerged a consensus among the states on the question of when to intervene in a domestic crisis, or more specifically when the international community should get involved. Besides the absence of such a consensus, another interesting point is the fact that there is no reference to the Articles 55 and 56 of the UN Charter, which require member states to take joint and collective action for the achievement of the universal respect for, and observance of, human rights and fundamental freedoms for all. Instead of making a reference to these articles, in the recent humanitarian interventions, a linkage between the threat or breach of international peace and the situation at hand was made.\textsuperscript{27} By doing so, such interventions were not justified on purely humanitarian—cosmopolitan—basis, instead they were legitimized to the extent that they had some impact on international peace and security. As such, the practice of humanitarian intervention throughout the 1990s has served the goal of preserving the ‘precarious and imperfect’ world order, by addressing the destabilizing effects of the civil wars, and humanitarian crises.

In that sense, the practice of humanitarian intervention in the post-Cold War era was more than an exercise in realizing ‘human justice,’ but it also became an effective tool in containing violence, and maintaining systemic stability. Hence it served the lone superpower and other states in the system by contributing to systemic stability, as much as it produced some humanitarian good for the victims of excessive violence. With almost no exception, all cases of humanitarian intervention were justified with a supposed linkage between violations of human rights and international peace and security. This appears to be a via media solution, which endeavors to find a balance between

\textsuperscript{25} I will turn to discuss this issue further below.
\textsuperscript{26} Bull, p.85.
\textsuperscript{27} This provides the only legal avenue for the UN SC to intervene in domestic crises.
concerns for maintaining the current system on the one hand, and allowing a room for humanitarian values on the other.

The application of the concept, thus, remained selective, depending on the specific political conditions within which a humanitarian crisis has emerged. What warranted any decision to intervene was not the existence of human suffering *per se*, but its coalescence with the political determination/consensus among major powers, notably the United States, on the need to act and on the feasibility of a given operation. It could, therefore, be said that what allowed a greater room for the practice of humanitarian intervention was its positive contribution to the maintenance of existing world order, which is an essential element for the survival of the society of states. As such, humanitarian intervention does not signify a transition to post-Westphalian system. Therefore, as will be further discussed, its application and future evolution will also be bound by the realities of the existing order, which will not allow a wholesale incorporation of the concept into state practice.

2. Element of society and the emphasis on common norms as regulating state conduct

Any theoretical framework to explain the practice of humanitarian intervention must be accommodative to the role of ideas and norms as affecting state behavior in one way or another. In that sense, even the very idea of sovereignty or non-intervention can be seen as norms that govern state conduct. As we move our focus to human rights, the need to explain the place of universal ideas becomes even more pressing. In what follows, therefore, I will elaborate on English School’s approach to common norms. Then, I will expand on how the changes on normative level have affected the place given to humanitarian intervention.

Dominant realist paradigm assigned a downgraded place to ideas in the study of international relations. Because realists put emphasis on the material aspects of international relations and defined the structure as the distribution of material capabilities, their notion of power politics has left few, if any, space for ideas as constitutive elements of international relations. In realist understanding, ideas, along with all other non-material factors, were reduced to be a function of material forces determining the content and nature of international relations. Hence, the impact of ideas on the behavior of states has been left off the analysis.

Another reason why there was a neglect of norms in realist approach is realist position on the relationship between a normative order and the organizing principle of a social structure. In order to talk about a society with common and shared norms, in the realist understanding, there needs to be a system based on an overarching authority structure. This can be traced back to Thomas Hobbes. In Hobbes’ view, “where there is no common power, there is no law; where no law, no injustice. Force and fraud are in war the two cardinal virtues.”

So, the argument goes, because international relations is a realm of

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28 Hobbes, *Leviathan*, Book 1, Chp. 13, para.13, http://www.bartleby.com/34/5/13.html; he also says that “covenants without the sword, are but words, and of no strength to secure a man at all.”
state of nature—anarchy—lacking the order as it exists in domestic society, there cannot be any rules that are applicable to the relations between the states, as they existed in a domestic society. In such a system with no orderer, how can order be achieved? According to realists, through the systemic constraints on the states, and the limitations stemming from the rules of prudence or expediency.

English School scholars accept that international society is anarchic in the sense that there is no common orderer. Yet they part company with those who reject societal dimension of international relations because it is organized anarchically. For instance, Bull claims that the common belief that “states have to submit themselves to a common authority in order to realize a society does not apply to international realm.” Thus an ‘anarchical’ society is always possible, and the element of society has always been present and remains present in the modern international system. It exists “because at no stage the conception of the common interests of states, of common rules accepted and common institutions worked by them has ceased to exert an influence.” Along the same lines, Wight also compares Hobbesian and Lockean conceptualizations of state of nature. While Hobbes equates the state of nature with the state of war, Locke believes that the state of nature does not necessarily mean the state of war. The state of war is a state of enmity, malice and mutual destruction, whereas the state of nature is one of goodwill, mutual assistance and preservation. In the pre-contractual condition, the state of nature is not necessarily non-social. It bears a certain degree of sociability. So does the international society.

However, English School scholars also do recognize that this society is not a perfect one, let alone real. This point is best captured by C.A.W. Manning, one of the founding names of the school. He starts by noting that “the term ‘international society’… refers thus to a phenomenon presupposed by the very possibility of a functioning system of international law,” but adds that

> those ‘persons’ of which, it [international society] was composed were such not in point of fact but only in point of theory. And whereas relations among living individuals could be social indeed, those between mere personified abstractions could be social …only in idea. ‘International society’ was thus neither strictly international nor strictly a society… That humanity as a whole was potentially a true community might be conceded. But those sovereign states? These, one thought of it, could become a quasi-community at best.

As underlined by Chris Brown, according to English School scholars, although international society is not a perfect one it is still bound and regulated by shared norms. Manning thus adds that “the essence of the matter is however that, law or no law, international society is still not simply the jungle. There always will be standards, of a

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29 Using the analogy of the Hobbesian state of nature has been a common tendency among many realists to depict the existing anarchic international system.
30 Bull.
31 Bull.
32 Wight, “An Anatomy of,” ; similar to Wight, Bull also talks about the inapplicability of the analogy of state of nature to international relations.
kind, even if no longer those of the civilization known as Western.”35 As Brown further notes, their approach to norms is both descriptive -is- and normative -should.

In this context it is worth noting that English School’s position on social dimension of international relations, as reflected in rules, norms, and ideas, is different from constructivism. The burgeoning literature on ideas was somehow monopolized by constructivist research agenda. Constructivists underlined the importance of social relationships, ideational factors, culture, or shared knowledge, and attached them an importance of their own. Constructivists analyze the ways in which norms have an effect on international politics – particularly on the formulation of identities and interests. Nonetheless, English School scholars do not go as far as even Wendt’s limited positivist constructivism on the issue of how much ideas matter. Wendt maintains that “ideas always matter, since power and interest do not have effects apart from the shared knowledge that constitutes them as such.”36 Although Wendt does not argue for ‘ideas all the way down,’ he nonetheless identifies two basic tenets of constructivism, or structural idealism: “1) that the structures of human associations are determined primarily by shared ideas rather than material interests, and 2) that the identities and interests of purposive actors are constructed by these shared ideas rather than given by nature.”37 As such, constructivism is particularly interested in the role of ideas in shaping the interests and identities of states.

For English School, norms have constraining and enabling impact on state behavior and strategies.38 It is states that generate the norms to regulate their affairs. Manning is onto it, when he argues “what makes practicable the actual playing of a game is the willingness of those who are to share in it to have their choices effectively channeled by a set of rules. A game without a referee is possible only so long as it suits enough of the players, for the sake of their game, to impose upon themselves the needed minimum of discipline.”39 This is so because norm-governed behavior better serves the primary goals of international society. In his treatment of how order is maintained in international society, Bull argues that order is a consequence of common interests, rules, and institutions. Rules function to provide guidance as to what behavior is consistent with common goals of international society.40

This conceptualization of norms as regulating state behavior in a way to serve the common goals of international society provides English School with a powerful means to explain the practice of humanitarian intervention. In this sense, both Westphalian principles and humanitarian values can be seen different sets of norms, with differing degrees of relation to the basic goals of international society. Hence, both set of norms

35 Manning, op.cit., p.xxxii.
39 Manning, op.cit., p.xxix
40 Bull.
play certain functions for the maintenance of order in an anarchic international society. The developments relating to those norms had important implications for the practice of humanitarian intervention. On the normative level, what happened throughout the 1990s was the coalescence of basically two complementary processes: a normative shift regarding the place of human rights, particularly as far as it relates to domestic-international distinction, and the redefinition of the norms of non-intervention and sovereignty.

**a) Human rights as a legitimate international concern**

In her constructivist explanation of the developments regarding intervention, Finnemore maintains that the shift in the 1990s cannot be understood without considering the changing normative context in which it occurs. Because traditional legal/political interpretation of sovereignty confined the issues of human rights to the national jurisdiction of sovereign states, human rights was by default of no legitimate concern to other states; thus they were dropped out of the agenda of international relations. As the Cold War had made the non-intervention a universal norm, with the end of the Cold War, norms pertaining to the protection of individual rights have increasingly received a general acceptance within international community. The achievements in the field of human rights have reached a stage where the question whether human rights is subject to international scrutiny is no longer controversial. As Nigel Rodley states, “it is now … difficult as a matter of law to sustain the thesis that human rights matters are still not matters of international concern”. Consequently, the idea that the violations of these basic rights are no longer matters which are purely within the domestic jurisdiction of states, and therefore the nonintervention norm cannot be invoked as a barrier against international interference for the protection of these rights gained ground during this period.

These developments have been further strengthened by the growing belief that the maintenance of international peace and security and the protection of fundamental human rights are interdependent. In the post-Cold War period, a consensus emerged that massive and widespread violations of human rights stemming from the repression of governments, internal conflicts, or failed states and the human suffering that they generate may constitute threats to international peace and security. Therefore, such matters do not fall exclusively within the domestic domain of states. The SC, acting as the representative of the international community, may take necessary measures, including the use of force to address such situations. This idea of the indivisibility of

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security also underpins the report commissioned by Kofi Annan, *A More Secure World*, discussed above. Against this background, the SC has assumed a more assertive role for the protection of human rights by invoking its powers regarding the maintenance of international peace and security, and orchestrated several humanitarian interventions. In so doing, the SC has engaged in a broader interpretation of what amounts to threat to the peace. Similarly, the interdependence between human rights and international security has been the basic driving motive of un-authored interventions.  

The new normative concern on universal human rights has had an enabling impact for broadening the scope of intervention. Consequently, the international opposition to acts of intervention on humanitarian grounds has diminished in breadth.

**b) redefinition of sovereignty and non-intervention**

As stated, the post-Charter international state system was inspired by the so-called Westphalian legacy. The Westphalian norms, particularly sovereignty and non-intervention, which for a long time constituted an obstacle to the promotion of human rights, are derived from the anarchical conceptualization of international system. Because anarchic international system is composed of sovereign units, states are granted exclusive jurisdiction over the territory they control and people living on this territory. The logical corollary of sovereignty is the norm of non-intervention which prohibits states from taking action in the internal affairs of other states.

I noted that there is a tension between these twin-norms and human rights, and traditionally, this tension has been resolved in favor of the nonintervention side of the dilemma. The norms of sovereignty and nonintervention were treated as sacrosanct principles. It was traditionally understood that intervention into each other’s domestic affairs did not belong to the proper behavior of sovereign equals; hence be prohibited, however laudable the motives might be. Therefore, the strongest criticism against humanitarian intervention has been implicitly based on this ‘statist paradigm’ which prioritizes the rights of states over the rights of individuals, thus norms of sovereignty and non-intervention over protecting human rights. The defenders of the Westphalian principles, including English School scholars, note the important functions of these norms for the maintenance of world order and point out the disruptive implications of humanitarian intervention. As such they draw our attention to the factors that constraint the place of humanitarian intervention. They, however, also recognize the prospects that with the changes in international relations, the rationale underlying these norms might also be altered. In such cases of change, in order to better serve the maintenance of world order, these norms might be subjected to reinterpretation.

**Nonintervention**

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47 In the case of Kosovo, except two NATO members, no reference to purely humanitarian concerns were attempted. NATO members rather relied on previous SC resolutions, which defined the situation in Kosovo posing threats to regional peace and security.


As a historical fact, the idea that nonintervention holds a primary place had a distinctly utilitarian rationale. The norm of state sovereignty and its corollaries, which are the products of centuries long Western historical development characterized by the atrocities inherent in wars for ideological and religious purposes, have important moral standing, and nonintervention principle has not served badly in maintaining world order since the enactment of the UN Charter.\(^{50}\) As Bull argues, nonintervention is part of the rules of coexistence in an anarchic society as it serves important purposes.\(^{51}\) As analyzed by Damrosch, nonintervention has two principal functions; to minimize interstate conflict and to preserve a state’s autonomy.\(^{52}\) On the issue of autonomy, Bull writes:

> there is the goal of maintaining the independence of external sovereignty of individual states. From the perspective of any particular state what it chiefly hopes to gain from participation in the society of states is recognition of its independence of outside authority, and in particular of its supreme jurisdiction over its subjects and territory. The chief price it has to pay for this is recognition of like rights to independence and sovereignty on the part of the other states.\(^{53}\)

Similarly Vincent underlines that nonintervention allows a degree of pluralism and variety within the states,\(^{54}\) which strengthen and protect the autonomy of the state. As such this principle also upholds the right of the people living within this state to self-determination. This idea goes back to John Stuart Mill and is advocated in modern times by Michael Walzer. His idea of communal integrity leads to the conclusion that states are moral entities and should therefore enjoy the right of nonintervention.\(^{55}\) By endeavoring to restrain the use of armed force and reduce war among states, nonintervention norm implies somehow an orderly world, where different societies may coexist in a relatively peaceful atmosphere of harmony and concord. This set of norms, therefore, was enshrined in the UN Charter and gained a wide acceptance among the international community as the fundamental values to be upheld. These principles were treated so valuably that they could allow no room for humanitarian intervention in breach of the international order even for the purpose of alleviating human suffering. This position is best summarized by Wheeler and Morris. They note that, from a realist perspective, the main weakness of the defenders of humanitarian intervention is that because they focus on individual cases of human suffering, they fail “to see that issuing a license for humanitarian intervention is likely to bring about a generalized erosion of the norms of non-intervention and non-use of force, and with it a long-term reduction in general well-being.”\(^{56}\)


\(^{51}\) Bull.


\(^{53}\) Bull, pp.16-17.

\(^{54}\) Vincent, op.cit., p.117


Yet, in the current era of spreading ethnic conflicts and state collapses resulting in extreme human suffering on the one hand, and growing global awareness and increasing possibilities for international cooperation on the other, a need for revisiting this dilemma is obvious. As noted, UN Charter also advances norms pertaining to human rights. Then the question can be put as follows: What happens when these two sets of values are in conflict with each other and the nonintervention norm stands as an obstacle to justice and the realization of basic human rights? Hence, the question posed by Adam Roberts:

"can that rule [of nonintervention] really apply when the situation is so serious that the moral conscience of the mankind is affronted? What is the ethical or logical foundation of the rule that make it so rigid, so uncomprehending of misery, that it cannot allow for exceptions?"

Or, as Hoffmann starkly puts it, refusing unilateral intervention at all may improve global social order, yet, by allowing grave injustices to persist, it could also harm justice which is another respectable value for the world community. For this reason, in certain conditions a blind attachment to the norm of non-intervention would create inconsistencies with the real world and put the very idea of nonintervention norm into question, and this weakness has been the primary concern expressed by the scholars and practitioners about the scope of the principle.

Cognizant of the tension between order and justice, Bull devotes a chapter to this problematic relationship. He highlights the incompatibility between demands for individual/human justice and cosmopolitan justice and world order. He thinks that only interstate justice can be accommodated within the current system. Although his realist side dominates and he sees order as a precondition for the realization of other values, including justice, he still concedes to contextual judgments; i.e., the decision about order versus justice should be evaluated on the basis of the merits of a particular case. This leaves international society an important avenue to accommodate concerns for justice.

Along the same lines, he later observed that non-intervention norm in its absolute meaning does not reflect the reality and therefore begs for being modified and adapted to meet the particular circumstances and needs of the present time. As Hoffmann points out, “there are many cases in which the effects of nonintervention might be worse than those of intervention, either on political or moral grounds”. Against this background, Roberts notes that, “one might even say that if a coherent philosophy of humanitarian

57 Roberts, op.cit., p.20.
59 Bull, Chapter IV.
60 Bull.
intervention were developed, it could have the potential to save the non-intervention rule from its own logical absurdities and occasional inhumanities’.\(^{63}\)

A coherent, and universally agreed-upon philosophy of humanitarian intervention has not been developed yet.\(^{64}\) But, the developments in the post-Cold War period amount to a significant shift in this direction. The achievements regarding the internationalization of human rights and the contracting scope of domestic jurisdiction have already been noted. The emergence of the practice of UN-authorized humanitarian intervention was also quite influential in undermining the absolute interpretation of the norm of nonintervention. This practice made it clear that under certain circumstances of extreme humanitarian emergency, traditional norms of sovereignty and nonintervention can be overridden by the international community for the purpose of ending human suffering, provided that political conditions allow for realization of such an intervention. This has been, moreover, the common theme expressed by three successive UN Secretaries-General in the 1990s,\(^{65}\) and thus paved the way for the new consensus on humanitarian intervention.

Indeed, the developments in the post-Cold War period that culminated in ‘sovereignty as responsibility’ were basically a reconsideration of the principles of nonintervention and state sovereignty. As a result, though these developments did not transform the norm of nonintervention, they created conditions favorable to the emergence of humanitarian intervention as an acceptable form of policy instrument at the disposal of the international community to end human suffering.\(^{66}\) As such, they also helped redefine the norm of nonintervention and make it better fit to the realities of the current world politics.

This was in a sense the realization of what Bull observed about the future of intervention in world politics: intervention through multilateralism and collective action. He notes that “if, however, an intervention itself expresses the collective will of the society of states, it may be carried out without bringing that harmony and concord (of the society of sovereign states) into jeopardy”.\(^{67}\) In the same vein, it is noted by Damrosch that the shift from unilateral intervention to collective involvement allows the preservation of the values of conflict containment and autonomy implicit in nonintervention norm.\(^{68}\) The practice of the UN, as the expressed will of the international society, helped eliminate the objection to humanitarian intervention. Although the opposition to unauthorized intervention still continues, the fact that the post-Cold War cases of humanitarian intervention without authorization from the SC were also conducted by different regional organizations or a group of states which enjoy a great legitimacy among the society of

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\(^{64}\) See Weiss, “The Sunset of,” for a critical account.


\(^{66}\) The idea that the Westphalian structure is being modified, but a new one has not emerged is advocated by Weiss, “The Politics of.” He also notes that “non-intervention, the organizing principle of international relations since Westphalia, is not what it once was”, pp.13, 19.

\(^{67}\) Bull, “Conclusion,” p.195. For his remarks on the impact of “the growing legal and moral recognition of human rights on a world-wide scale” on the problem of humanitarian intervention, see p.193.

\(^{68}\) Damrosch, Lori F., “Concluding Reflections”, in Damrosch (editor), *op.cit.*, p.354.
states should be kept in mind. These interventions were also carried out in a multilateral fashion and therefore they come closer to Bull’s observation. They express the collective will of at least a certain part of the society of states. Their multilateral character puts important checks and balances on the way the intervention is conducted and therefore does not let the interventions jeopardize the order. For this reason, these acts of intervention were realized without posing any serious threats to the international order.  

Sovereignty

The objection to humanitarian intervention is also justified with reference to an absolute understanding of the principle of sovereignty. Within such a conceptualization, sovereignty is the basic guarantee for the enjoyment of the basic rights of the people, due partly to the autonomy principle inherent in sovereignty, discussed above. If there will be attempts to promote and implement international human rights, according to this way of thinking, they must pay due attention to the principles of sovereignty and non-intervention. Therefore, an intervention amounting to the breach of sovereignty is also seen as the violation of the basic rights of the people. Or, foreign interference is seen as a greater evil than the violation of some of the rights by the sovereign authority itself. Although they accept the importance of human rights, the supporters of this view, stress that the main and sole responsibility for the realization of these rights rests in national states. This view is nowadays voiced by non-Western countries as well. As Chinese President Zemin put it, sovereignty provides the best guarantee for human rights. For this reason, concerns for human rights cannot override sovereignty.

The idea that individual justice can only be achieved through the agency of states, and the implementation should be confined to domestic level is also recognized by Bull. Otherwise, it may lead to disorder in international society. As such, English School provides a strong explanation for the inherent tendencies among the states against the incorporation of humanitarian intervention into state practice.

I noted earlier that humanitarian intervention is a subset of the debate about ‘military intervention.’ When it comes to the humanitarian intervention debate, under the existing realities, the terms in which sovereignty and intervention are debated need to be altered. It has been increasingly agreed that humanitarian intervention is different in essence from other forms of intervention. This can be best stated by an analytical distinction between internal and external aspects of sovereignty. Intervention in general aims at the external dimension of sovereignty in order to affect the relations of the target state with the other sovereign counterparts. Humanitarian intervention, on the other hand, relates to the internal aspect of sovereignty.

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69 The most controversial case in this regards was the NATO intervention in Kosovo which had the potential of deteriorating the relations between Western countries and China and Russia. Yet, despite this potential danger, the intervention was successfully concluded without the feared expectations realized. Even Russia later joined the international efforts for the reconstruction of Kosovo and KFOR.


72 Bull..
It is true that for the citizens of a state to be free and enjoy their rights there must be an independent political space for them, thus the state in question must be free from external interference in order to provide its citizenry with a space as such. This is what external aspect of sovereignty and nonintervention norm assure. As discussed above, besides minimizing interstate conflict these norms also aim at the preservation of a state’s autonomy. Yet, in the post-Cold War era a common understanding emerged that the preservation of the autonomy should not be seen as an end in itself. Rather, it is a means for the realization of the basic human rights of the individuals living within the boundaries of sovereign states. In his speech, discussed above, Kofi Annan reflected this new understanding by maintaining that

State sovereignty, in its most basic sense, is being redefined—not least by the forces of globalization and international co-operation. States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty—by which I mean the fundamental freedom of each individual, enshrined in the charter of the UN and subsequent international treaties—has been enhanced by a renewed and spreading consciousness of individual rights. When we read the charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them.  

Similarly, the high level report, presented to Annan, argued that

What we seek to protect reflects what we value. The Charter of the United Nations seeks to protect all States, not because they are intrinsically good but because they are necessary to achieve the dignity, justice, worth and safety of their citizens. These are the values that should be at the heart of any collective security system for the twenty-first century, but too often States have failed to respect and promote them. The collective security we seek to build today asserts a shared responsibility on the part of all States and international institutions, and those who lead them, to do just that. (para.30)

Seen from this perspective, the question of humanitarian intervention has little to do with the external aspect of sovereignty; rather it is related to the internal aspect of sovereignty and how it is constructed. Indeed, humanitarian intervention is about the very essence of the relation between sovereign authority and its citizenry. As it is pointed out by the liberal political theory, the internal aspect of sovereignty is built on the assumption that the sovereign authority is charged with the duty to create a suitable atmosphere for the people living within its jurisdiction to fulfill their basic rights. The problem, then, starts when the sovereign authority fails to provide the conditions essential to the fulfillment of basic rights—the problem of failed states—or itself abuses these rights—the problem of oppressive governments. Humanitarian intervention, in this light, aims at rectifying the relationship between the government and the governed and the way the internal aspect of sovereignty is constructed. In other words, it has no direct bearing on the external aspect of sovereignty.

Thus the argument that sovereignty is prerequisite for the fulfillment of the basic rights of the individuals has undergone an important transformation, without undermining the power of the sovereignty norm itself. Today, most of the humanitarian emergencies are

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73 Annan, “Two Concepts,” p.49.

taking place in developing countries where the sovereign authorities are unable to provide the basic conditions for the enjoyment of basic rights. Although decolonization process created a great number of new states and there was nominally a Westphalian system throughout the Cold War years, in reality most of these states lacked the attributes of internal sovereignty. Most of the time they lacked domestic cohesion and the central authorities were hardly able to monopolize the use of force, which is the defining character of being a ‘sovereign.’ Yet, the Cold War politics helped them avoid confronting underlying problems. With the shield provided by the Cold War conditions is over and the globalization process is underway, the discrepancy between the real conditions prevailing in the developing world and the absolute interpretations of sovereignty has become more and more visible. As a result, the world is now faced with a range of “totally or partially failed, troubled or murderous states whose claims to sovereignty are either unsustainable or unacceptable.” This is actually where the dilemma of nonintervention starts. The rulers which lost the internal legitimacy by their inability to provide an autonomous domestic sphere have been mostly protected by the external aspect of sovereignty, which was expressed by the principle of recognition in the international community. They stayed in power at the expense of the society as a whole and this led to the protection of injustice by the nonintervention norm itself.

In this regard, the post-Cold War practice of humanitarian intervention reflects a new understanding of the twin principles of sovereignty and nonintervention. Rather than going beyond the traditional Westphalian norms, this new way of thinking seeks to reconcile the international intervention with the traditional state sovereignty in what Francis Deng first called ‘sovereignty as responsibility’. As discussed above, this concept has also influenced most of the conceptual attempts to generate a consensus on the issue. This approach underscores a state’s responsibilities and accountabilities to domestic and international constituencies. Accordingly, in order for a state to claim the prerogatives of sovereignty it must meet internationally agreed responsibilities which include respecting human rights and providing life-sustenance to its citizens. What is important in this conceptualization is that the first instance for the protection of individual rights is still the state in question. As such, this approach represents an attempt to allay the concerns of developing countries, mentioned above. Only in case a state fails to meet such obligations, then it becomes legitimate for the international society of responsible states to intrude in and even undertake military intervention.

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75 Hoffmann, “The Politics and Ethics,” p.31. According to Hoffmann, failed states, like Somalia or Liberia; troubled states like Sudan, Sri Lanka or Rwanda; and murderous states like Iraq or Haiti under the military regime of 1991-1994 can be considered examples.


77 This new understandings raises an important moral question about the other side of the coin: responsibility of the other states to intervene to halt humanitarian crises. This imposes significant limitations on the external sovereignty of powerful outsiders; i.e. they cannot remain silent to human suffering elsewhere. A good moral philosophical argument that there are specific limits to states’ right to ignore the ill-treatment of residents within the territories of other states can be found in, Shue, Henry, “Limiting Sovereignty,” in Welsh (editor), op.cit., pp.11-28.

78 However the criticism that these new developments undermine the existing rights of democracy, i.e. sovereign equality, and self-government preserved in the UN Charter framework did not disappear. This was mainly raised by neo-left, and liberal left. For a strong argument to that effect, see: Chandler, David, “New Rights for Old? Cosmopolitan Citizenship and the Critique of State Sovereignty,” Political Studies (Vol.31, 2003), pp.332-349; another
The culmination of the post-Cold War practice of the UN showed that when such an act is carried out by the SC the opposition seems to dissolve. Despite the continuing opposition, in cases of extreme human suffering there is also a growing support for, or at least acquiesce to, unauthorized intervention. Therefore, it could be concluded that post-Cold War practice of humanitarian intervention approaches the notion of sovereignty as responsibility and offers a promising amendment to the unrestricted interpretation of nonintervention and sovereignty.\(^79\)

As such, this reinterpretation also serves to consolidate international system, rather than undermine it.\(^80\) Despite his warnings against incorporation of human justice, noted above, Bull nonetheless admits that the continuation of states system necessitates that the element of international society in it should be preserved and strengthened.\(^81\) This requires maintaining and extending consensus about common values, as well as common interests.\(^82\) Moreover, he also believes that prospects for international society are bound up by the prospects of a cosmopolitan culture, which will increasingly need to absorb non-Western traditions. To the extent that it helps advance common values, and generates a universal consensus on minimum standards of behavior, the practice of humanitarian intervention is likely to enhance the societal dimension in international system; hence strengthen it.\(^83\)

This practice also realizes the last goal of international society, identified by Bull: upholding the “common goals of the social life.” Unlike neorealists, Bull does not isolate international society from domestic realm; rather he treats it as an extension of human social life. In Bull’s understanding, the elementary goals of social life include securing life against violence, keeping the promises and observing agreements, and ensuring the possession of things.\(^84\) By securing life against violence, humanitarian intervention thus becomes an important instrument in realizing the goals of international society, hence further contributes to its proper functioning.

3. **State-centrism and restoration of actorhood**

As the foregoing treatment of the English School suggests, state is the primary actor in the international society. Bull maintains that: “world political system is currently system of states but there is nothing to suggest that it may not be transformed one day. There

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\(^{80}\) As noted by Wheeler, reinterpretation of existing principles and justifying new practices on the basis of their conformity with the prevalent norms is a central theme in the constructivist account of norm creation and diffusion. Wheeler, “Humanitarian Responsibilities,” p.32.

\(^{81}\) Bull.

\(^{82}\) Even his notion of common interest, which is one of the instruments of maintaining order, implies a sense of common interest in the elementary goals of the international society.

\(^{83}\) Bull.

\(^{84}\) Bull.
could be new forms of universal political organizations.” Although English School Scholars recognize the possibility of alternatives to states system, they also point at strong tendencies that perpetuate contemporary states system. Therefore they put emphasis on the maintenance and strengthening of the existing society of states. Moreover, in the international society approach, the state has ontological superiority over the system, which differentiates it from constructivism and world society approach of Stanford school. This state-centrism is a source of strength that adds to the explanatory capability of the English School. This applies to both ends of intervention: the actors and objects of intervention.

*The actors: State-driven process*

Indeed, a careful examination of the new consensus on humanitarian intervention suggests that states and state-controlled institutions are still the major actors in the intellectual and practical aspects of humanitarian intervention. Despite the involvement of NGOs, and UN Secretary-General, the main push for the responsibility to protect approach came from some liberal Western states. Although the UN SC has the legal authority to authorize interventions for humanitarian purposes, actual decision to intervene and the conduct of interventions still remains dependent on the policies of states, particularly great powers. Especially the conduct of interventions is still bound by the availability of effective means of armed coercion, which is still under the sole possession of individual states, or regional alliances, such as NATO. So, as expressed by Bull, in the absence of a supreme government or solidarity among themselves, states took the initiative for the realization of common rules. States are, in that sense, the primary institutions or agents of the international society. Bull underlines specifically that the realization of individual justice and protection of human rights can be realized only through the mediation of states. He also notes that protection of human rights will be selective and through the mechanisms of international politics.

The nation-states are still around and will continue to be with us for some time to come. Therefore, they would oppose to a process which will eventually lead to the emergence of supranational authority structures above themselves, hence undermine the current system drastically. For this reason, despite the enhanced place given to humanitarian intervention, it still remains as an exception rather than a rule. States opposed to the emergence of a norm that would create legal and political obligation to intervene in every case. As argued earlier, currently the decision to intervene is still conditional on the political conditions, i.e. the readiness of the states to bear the material and human costs of humanitarian intervention. As a result, post-Cold War norms on humanitarian intervention are permissive rather than binding. Looking at this situation we can argue that the application of the concept will continue to be selective, depending on the specific political conditions within which a humanitarian crisis has emerged. Thus some human rights violations will still remain untouched, as in Chechnya. The declining interest in

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85 Bull.
86 Bull.
88 The futile debate about a ‘UN-army’ to enable swift response to humanitarian crises is reflective of this caution on the part of the states.
humanitarian intervention in the post-September 11 era, and the inability of the international community to stop the bloodshed in Brundi and Darfur are reminders of how untenable the new consensus on humanitarian intervention is. As the American commitment to global norms has been eroded by the concern to counter threats to US national interests, the use of force has assumed a new rationale, the international community has developed aversion to permissive uses of force and the global hegemon itself has become the violator of the fundamental rights, the post-September 11 period witnessed the declining place for humanitarian intervention.

Objects of intervention: restoration of sovereignty
In my discussion about reinterpretation of sovereignty, I underlined how humanitarian intervention came to redefine the internal dimension of sovereign statehood. With its emphasis on the primacy of the state as the main actor in world politics, English School has an analytical superiority over purely cosmopolitan approaches. As I argued above, under the current consensus, the state becomes the first instance to address the rights of individuals. Only after it fails to fulfill its obligations can international society step in to enforce the rights of individuals.

What is important, however, is what happens to the state in question after intervention. One important consequence of the cases of humanitarian intervention in the post-Cold War period has been the post-conflict reconstruction of the target states. In none of the cases did the intervening states attempt to occupy the country in question, but rebuild it. I think this has important implications for the tension between sovereignty and humanitarian intervention. Humanitarian interventions aimed at strengthening, not overcoming, state and state sovereignty. The target states were provided a helping hand to (re)emerge as sovereign states. On this point, English School also has superiority over realism, which similarly emphasizes the primacy of state. What happened during this process was consolidation but at the same time redefinition of sovereignty. While strengthening the norm of state sovereignty, the new practice also added important qualifications to it, discussed before. In this new understanding, sovereignty does not guarantee a state an automatic right to protection under nonintervention norm. In order to claim this right, a state now has to fulfill its duties, which is to respect fundamental human rights of its own citizens. In other words, the legitimacy of state is redefined to include respect for individual rights. This new normative condition now constitutes one of the basic conditions for the membership into international society. From this perspective humanitarian intervention becomes an important tool for restoring state authority to create more respected members of the society of states. By rectifying the weak states possessing little attributes of sovereignty, this process in fact strengthens the existing states-system, based on sovereign nation-states. The idea that a state’s right to enjoy the privileges of sovereignty depends on its possession of certain qualifications has

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90 International administrations / protectorate.
91 This qualifications are also the basis for further criticism for the new practice of interventionism. Chandler calls it replacing sovereign equality with cosmopolitan ‘sovereign inequality.” Chandler, op.cit, p.343.
92 This resembles Meyer, et.al.’s notion of structuration.
always been underlined by the scholars of English School. This idea dates back to the founders of modern international law –natural law tradition-, such as Grotious, Wolf, and Vattel, who English School scholars highly value.93

Conclusion: Why English School?
I have endeavored to make a case that existing Wesphalian order has built-in brakes against the incorporation of humanitarian intervention. Yet, post-Cold War developments regarding the place of conventional norms of sovereignty and nonintervention in world politics on the one hand and the growing space for the protection of human rights on the other have eased the worries about the prospect for order in international system and created a suitable environment for the inclusion of humanitarian intervention without jeopardizing that order. On the contrary, through the reinterpretation of the Westphalian principles in light of the new realities of international relations, such as increased intrastate violence, and the linkage between human rights and security, which were the underlying reasons behind the post-Cold War cases of humanitarian intervention, humanitarian intervention contributed to the precarious world order and enhanced the prospects for the preservation of the states-system, rather than undermining it. Post-Cold War practice of humanitarian intervention thus can be considered as a via media solution, which endeavors to find a balance between concerns for maintaining the current system on the one hand, and allowing a room for humanitarian values on the other.

What attracts me to study English school over other approaches that try to achieve the same aim of offering alternatives to a strict realist understanding of international relations is English School’s degree of realism. In that regard, what comes to mind as another alternative is constructivist international relations theory, which has largely dominated the study of norms -the emergence of international norms, the spread of norms and compliance with norms- and their impact on state behavior. Moreover, constructivists also offer non-realist readings of the nature of international system. However, what underpins most constructivist scholarship is the high degree of idealism. They are interested in constitutive impact of ideas on state identity and behaviour. The repeated practice and compliance with norms, in this view, will shape state identities and radically alter the rules of the game toward a more peaceful, non-violent direction. Their prescriptive policy is to suggest ways to transform the nature of international politics, and establish a cosmopolitan order; i.e. a world state a la Wendt.94 Moreover, they purposefully downgrade the role of coercion, and the utility of military force. Although they champion the norm-driven behaviour, the basic instrument of rule compliance, according to many constructivists, is “persuasion rather than enforcement or capacity building.”95 This is where the Habermasian logic of arguing triumphs over power politics.

I think that they cannot explain the problems that emerge in the case of states voluntarily and consciously avoiding compliance with international norms, or states rejecting the legitimacy of international norms, thus undermining the persuasiveness of a norm.

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95 Risse, op.cit., p.619.
Particularly their downgrading of enforcement and utility of force is unacceptable if we move our discussion to controversial cases such as humanitarian intervention, or economic sanctions to uphold fundamental human rights. How long can we tolerate to engage in discursive dialogue with tyrants and expect them to find the truth and change their behavior while they are slaughtering their own people? In such cases, power and empirical reality out there do matter, and ironically enough idealist constructivists have little to offer when compliance with universal humanitarian norms fails.

In their endeavours, however, scholars of English school do not purport to move beyond the existing parameters of inter-state system, nor are they interested in transforming the nature of international politics. Instead of transforming it, they are concerned with achieving a more orderly world by recognizing recurring elements of international relations. They share the received realist wisdom that international relations has certain unchanging features. They are basically suggesting other possible conceptualizations of the same reality out there. Therefore they treat sovereign nation-states as the constituting elements of international society, yet underline the systemic constraints on them, by studying the societal dimension of interstate relations. They do recognize the absence of a common authority in international relations, yet accept the order generated by the shared norms. They accept the disruptiveness of violence to a societal order, yet they also treat war –organized violence-- as an institution essential for achieving purposes of international society (i.e. enforcing international law, and preserving balance of power). I think it is for these reasons that English School’s position on international society and shared norms/ideas, grounded in a careful consideration of the existing reality of inter-state system, provides a more robust framework than other alternatives.

I have tried to show that the international society approach, particularly Bull’s discussion about the fundamental goals of international society, provides important insights for our understanding of the place of humanitarian intervention in conceptual discussions and state practice. English School directs our attention to both enabling and constraining factors, and as such there is both promise and caution about the prospects for humanitarian intervention. By highlighting the primacy of the world order, and the primacy of the nation states, it explains the existing tendencies for the opposition to wholesale incorporation of humanitarian intervention and alerts us that this incorporation will never fully take place. Similarly, by studying the power of the founding norms of the existing Westphalian order, and their function for the preservation of the society of states, it further underlines the difficulties involved in the incorporation of humanitarian intervention. On the other hand, it also highlights the importance of maintaining the peace and common goals of the social life, and the need for shared values for strengthening the societal element of international system. As such, it points out the factors that are permissive to the ‘limited’ incorporation of humanitarian intervention. Likewise, by highlighting the prospects for reinterpretation of the traditional norms of non-intervention and sovereignty, it shows the likelihood for the accommodation of humanitarian intervention within the confines of existing international society, without necessarily transforming it in a cosmopolitan direction.