

Judge and executioner: the politics of responding to ethnic cleansing in the Balkans

VAUGHN P. SHANNON

[In the state of nature] everybody remains judge and executioner of the Law of Nature. (John Locke, in Mayerfield, 2003, p 106)

Introduction: responding to genocide—destined for disappointment?

International relations has often been compared to the “state of nature,” an anarchic realm in which sovereign states do as they please according to interests and power, and where international law has no force. Locke dwelled on how to get people to entrust enforcement of law to “collective bodies of men”; globally the issue is how to enforce international norms (Mayerfield, 2003, pp 106–108). This article explores the problems of enforcing human rights norms in a world between the “state of nature” and the “collective bodies” of the UN system.

The horrors of ethnic cleansing are sufficient that some might assume that an international response to such behavior would be unproblematic. Here it is argued that this is not the case. One reason is that responses to events abroad are filtered through the lens of state interests. Leaders most often are not villains, but neither are they saints: they are people in power for a purpose, and their responses to norm violations such as genocide involves both morality and the calculus of perceived interests. A second reason for skepticism in the face of “never again” is the decentralized nature of the United Nations Security Council as the decision nexus for addressing matters of international peace and security. Fifteen member countries serve as judge and executioner in the defense of norms against violation. As judge, each country’s leader on the UN Security Council brings its own understandings of the norms in question, and decides whether a specific act constitutes a norm violation (e.g. ethnic cleansing in Bosnia and Kosovo); and as executioner, each state brings its view as to the proper means by which to respond to the act. These conditions are a recipe for paralysis or unilateralism.

The propensity for inaction exists at each level of judge and executioner. Some leaders do not identify with or adhere to liberal or Western norms of human rights, despite lip service to such documents as the Universal Declaration of Human Rights. Even if a norm is accepted in general, such as with the case of genocide, there is room for debate as to what it means—the norm in question may be differently understood across different states. Even those who identify with the norm in the abstract may differ in their assessment of a given event as a case of violation, or they dispute the blame assigned to a perpetrator. These differences, coupled with each state's determinations of interests in a situation, can cause "collective inaction" which permits atrocities to continue unfettered.

A second possibility is the unilateral response to human rights violations. Such behavior is arguably moral, but its legality under current international law remains contested (Teson, 1997). Acting alone under controversial legal and political circumstances can raise questions about the legitimacy of action and raise issues about motive (Finnemore, 1996). These moral and political problems are factored into decisions whether and how to intervene.

The following serves as a caution as well as a basis for improving international responses to human rights violations. Humanitarian intervention is often about more than mere humanitarianism. Atrocities are a necessary but not sufficient cause of outside intervention. The moral and legal components, however clear or complex, must be wed to an intervener's perceptions of its interests in order to bring about action in the name of human rights. I suggest how this is possible, with the help of NGOs, the media and the "do-something" effect to shame leaders into commitments that stake their credibility on eventual action.

I examine the problems and dynamics of identifying and responding to ethnic cleansing in the cases of Bosnia and Kosovo, revealing different views of the situation and the international response to each case. The cases highlight the twin problems of the UN Charter framework: ineffectiveness due to lack of consensus versus illegitimacy due to unilateralism. After reviewing the state of the law and norms surrounding humanitarian intervention, I turn to the cases of Bosnia and Kosovo, highlighting the similarities and differences that shed light on the problem of enforcement. I close with a discussion of the implications we can draw from these cases should this sort of thing happen again.

The UN & human rights: between paralysis and unilateralism

Responding to ethnic cleansing or genocide can be understood more generically as an issue of defending an international norm against violations. The driving question is: when will states, facing a violation of their collective code, take it upon themselves to punish the violator? Norm violation does not automatically lead to punishment in an anarchic world whereby decisions rest with "auto-interpretative" states (Doswald-Beck, 1985, p 251). While the rules have evolved over time, enforcement of norms remains erratic: action in the name of human rights can occur when it "shouldn't" and does not always occur when it "should" (Krasner, 1999). Powerful states get away with more than weaker ones

not only due to the deterrent effect of superior capabilities but also the veto in the UN Security Council. Research shows great variation in US elite willingness to defend norms against violation based on the presence of material interests or the perception of the perpetrator or victim as friendly or hostile (Herrmann and Shannon, 2001). Diehl et al. (2003) note that enforcement depends on the willingness of large states to bear the costs of enforcement, which is affected by domestic politics and other factors. Chayes and Chayes (1995, p 21) concede that “a state willing to commit enforcement resources may . . . short-circuit cumbersome organizational procedures,” though “gains in compliance with substantive obligations must be weighed against losses attendant on departure from the procedural norms mandating multilateral dispute settlement.”

This problem relates to the complex addition of the Security Council as legitimate authority to decide the use of force in cases other than self-defense. While the virtues of unilateral humanitarian intervention are debated and contested (Teson, 1997), the prevailing “classical” view suggests that intervention into sovereign territory should be done multilaterally, namely through UN Security Council authorization (O’Connell, 1997, 2000). This means the permanent members of the Council stands between atrocities and effective action.

So why is the identification of, and response to, gross human rights violations problematic? First is the issue of interests and costs of “doing something,” which maybe should not matter but it does. The second issue is the diversity of international society, proliferating the number of views, interests and cost calculations that feed into decision-making. The combination of self-interest and pluralism is a recipe for double standards, and selectivity (Clark, 2002; Donnelly, 1989; Evans, 2002; Nardin, 2000). The problem of this “partiality of judgment” leads to one of two problems with the current system: paralysis and inaction, or procedural subversion and the resort to unilateralism (Mayerfield, 2003, p 107).¹ The cases below illustrate both, as applied to the stages of decision-making in the UN Security Council as “judge” and as “executioner.”

Judge: interpreting international law in specific cases

States largely determine what international law means for themselves. The International Court of Justice has ruled on certain behaviors and cases, but without the enforcement capacity of domestic judicial systems. Some law is more or less specified in treaty and in ICJ and scholarly opinions. Two issues arise in this respect: (1) whether all states involved subscribe to the law and norms in question, and (2) how each state reads the law in a particular case.

Many discussions about norms presume that all share a collective belief in such norms. This implicit notion of universality is problematic. Some states’ cultures or normative orientations may conflict with global norms, resisting their adoption as a result (Checkel, 1999; Harris-Short, 2003; Perry, 1997). The US, for example, eschews many international treaties stipulating “universal” rights, and is relatively alone among Western democracies in its use of the death penalty. Many leaders ruling with some measure of coercion may avoid norms promoting individual

liberties, democracy and human rights—it should be remembered that the Convention on Genocide until recently only had 102 signatories.

Second, even with codification and acceptance of international norms, many rules have ambiguities that require interpretation (Kier and Mercer, 1996; Kratochwil, 1989; Legro, 1997; Shannon, 2000). The legal regime on the rules of genocide and ethnic cleansing exists but there are contested concepts and rules therein (Morton and Singh, 2003; Straus, 2001). Manas (1996, pp 52–53), for one, asks if the prohibition on mass expulsions should also be considered as part of the “fundamental norms” alongside genocide to be enforced by international society. The Article II stipulation of “acts committed with intent to destroy, in whole or in part,” a group begs the issue of how many count as “in part.”² The US tied its belated ratification (1988) of the Convention to a set of legal “reservations” spelling out the US view about the meaning of “intent to destroy,” “mental harm,” and when it would submit itself or its citizens to trial on charges of genocide.³ Ethnic cleansing, new in international parlance since the Balkan wars of the 1990s, is debated within the framework of genocide.

Assessing violations, these definitional issues regarding severity or the “innocence” of victims can become a source of disagreement, debate and inertia. The US used the word “genocide” in reference to Kosovo, but Rwanda in 1994 was considered at the time a tragic “civil war”; while Turkey’s treatment of the Kurds brings forth nary a word (Barnett, 1996; Chomsky, 1999; Kay, 2000; Sylvan and Pevehouse, 1999). Each case is interpreted differently by different actors, compounding the tendency for stalemate and double standards.

There has been debate in policy and academic circles about the actions in Bosnia and Kosovo. Some see unquestionable atrocities, while others question the intent and extent of killing, as well as the blame and claim of unidirectional violence (Burg and Shoup, 1999; Cigar, 1995; Cushman and Mestrovic, 1996). Few dispute that gross human rights abuses occurred at the hands of Serbs against Bosnian Muslims and Kosovar Albanians. What matters, however, is how states sitting in judgment view such actions, as gross abuses or mere tangles of civil strife. Cushman and Mestrovic (1996, p 19) lament the “equivocation and relativism” that “obscure the realities of genocide,” a “central reason for the failure of Western intellectuals and political officials to respond.” The frustration in these words does not alter the truth in them—but not in every case. If they so choose, members of the Security Council may authorize action in response to events. Just how they respond, however, becomes a second dilemma—that of the executioner.

Executioner: responding to international norm violations

So, even if an atrocity is identified and normative consensus more or less is achieved, there is a tangle of legal, moral, and political problems confronting states regarding what to do about it. Legally, there is little that authorizes intervention on purely humanitarian grounds, though this is a disputed area. The UN Security Council can authorize force to resolve perceived “threats to international

peace and security.” Also, under Article 51 of the UN Charter one may use force against a sovereign country in collective or self-defense against aggression. Beyond these two conditions, the legacy of juridical sovereignty remains strong. The “internal affairs” of states are still jealously guarded, with the UN Charter stating:

All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations. (Carter and Trimble, 1991, p 3)

While some claim that this safeguard of state autonomy has given way to an expansive permissive legal claim to humanitarian intervention, O’Connell (1997) notes that most humanitarian actions in the post-Cold War era fell within this classical framework of law; all humanitarian interventions except Kosovo were authorized through Security Council reference to threats to international peace and security. The definition of “threats” has been expanded to include human rights violations; that is true. But there has not been a normative paradigm shift whereby unilateral intervention is accepted legal behavior. Questions about unilateral action to save lives have been raised and remain in dispute,⁴ but the dominant view remains that intervention is supposed to be based on consent of the country or the authorization of the UN Security Council.

That being said, the nonintervention norm has faced *de facto* challenges throughout time, as states have intervened individually or collectively as they deemed fit (Akehurst, 1984; Krasner, 1999). This raises the specter of interest-based military adventures that can undermine international norms. Further, the parameters of the law just specified do not and cannot mandate intervention. Humanitarian intervention is what Finnemore (1996, p 158) calls a “permissive norm”: the rules create conditions for action but do not guarantee it “on all occasions.” An important puzzle driving this study results: *when will states act within the permissive framework?* Weiss (1996) observed that “there is a noticeable, albeit inconsistent, willingness to deploy military force in defense of international norms” over the years. The reason for the inconsistency is the different understandings of the “rules” of intervention as well as the different willingness to employ such rules. Norms and rules that appear clear in scholarly discourse are contentious, conflicting and overlapping, with different states emphasizing different aspects of the law in accordance with their values and situational interests. Burg and Shoup (1999, p 190) suggest that the “key principles of international order” are inadequate for grasping with internal strife and humanitarian disasters, noting there is “no consensus among the Great Powers or in the UN about resolving contradictions . . . between sovereignty and the right of multilateral actors to intervene in domestic affairs.” China, a veto power on the Council, is a champion of sovereignty, bristling at the notion of meddling into internal affairs for “democracy” and “human rights” (Hansen, 1997, p 85).

The dilemma of whether and how to intervene in defense of such values, while respecting the current framework of international law and international relations,

remains unresolved. “The effort to vindicate fundamental norms,” Manas (1996, p 53) observes, “does not provide clear guidance on the correct course of action. Just because we know that what they do is wrong does not mean that we know what we ought to do.” Decisions about intervention revolve around establishing what is “just” and unjust, as well as what is to be done to bring about justice: in short, the decision of judge and executioner. When acting multilaterally as international law encourages, the result can be intransigence and inaction “while Rome burns.” Inaction can emerge out of general lack of interest, casualty aversion, fear of electoral or domestic backlash, credibility concerns, or the desire to respect fellow Great Power spheres of influence.

Conversely, it is when these parochial concerns begin to coincide with the mission of helping victims of human rights violations that forceful responses become a possibility. States can be shamed into action by the “CNN effect” and the “do-something” effect related to public exposure to humanitarian catastrophes. States interested in saving face can face the blowback of moral rhetoric coupled with inaction, and ultimately trod the road to intervention for PR more than HR—a theme raised in the conclusion. If done unilaterally, however, this risks undermining the broader credibility of the UN system and the procedural basis of international relations, leading countries possibly to question the legitimacy and intentions of the intervener. Inaction and unilateralism, then, become twin consequences of the “anarchic enforcement” of international human rights.

The cases of Bosnia and Kosovo

The cases of Bosnia and Kosovo demonstrate these twin dilemmas of the prevailing system. I argue that each case involved reluctant outside powers who acted not so much for HR as for PR, having become ensnared in the credibility and promise to “do something.” Credibility and face saving motivated inaction first, to avoid quagmires, and action later to avoid looking “spineless” in the face of promises to help (Doubt, 2000; Weiss, 1996). Human rights violations were necessary but not sufficient causes of ultimate intervention. Key to ultimate action is linking relevant states’ interests to a course of action.

This is complicated by the second problem, that of pluralism and decentralized decision-making. The cases demonstrate the twin problems of enforcing human rights under anarchy—inaction and unilateralism—as multiple states reflected on identifying the problem, assessing blame, and deciding how to respond. This is a source of inertia in each case, a problem only overcome with the resort to unilateral action. In the case of Kosovo, the Charter paradigm is subverted by the US and NATO forces in order to circumvent a Russian veto in the Security Council. Each highlights a struggle for legitimate and effective response to international human rights violations.

In each case I focus on the words and deeds of the permanent members of the UN Security Council, as well as the record of action for the Council as a whole. In particular, the US, Russia, France and UK are given particular attention as the major participants in the debate about each intervention.

Bosnia and inaction

The war in the former Yugoslav republic of Bosnia-Herzegovina was over politics at its most basic: who rules. The pressures for Balkanization included the desire by the majority Muslims of Bosnia, expressed in a 1992 referendum, to be free of an increasingly nationalist, Serb-dominated Federal Republic of Yugoslavia. Many of the 31% of the Bosnian population who were ethnic Serb insisted on breaking with the newly independent Bosnian state to join with Serbia (Ullman, 1996, p 2). When two or more groups claim the same land as their own, violence can serve as the final arbiter.

A couple things distinguished the war in Bosnia from other everyday bloody civil war. First, depending on one's perspective, this could be considered an international war. There was ample evidence that Serbia proper was funneling arms and aid to the Bosnian Serb militia, the JNA. This link to the Milosevic regime in Yugoslavia brought the issue into sharper focus as an international problem. Second, there was a tendency by all participating groups, especially the Serbs, to commit atrocities against civilian populations of the other groups. Evidence emerged of a conscious, patterned policy of targeting unarmed civilians for violence and extermination in order to eliminate likely opponents (fighting-age males) and frighten others into flight. This was ethnic cleansing.

Different in both kind and magnitude from the other atrocities committed by Croats, Muslims, and Serbs alike, ethnic cleansing was large-scale, intentional executions at the hands of paramilitaries and thugs (Cigar, 1995; Mueller, 2000) that brought international attention to an area of little inherent interest to many states in 1992. The international reaction to events in the crumbling former Yugoslavia was not immediate and decisive action but a complex international debate identifying problems and alternative solutions.

Identifying violations and violators, 1992

US policy toward the situation in the Balkans initially focused on human rights, domestically driven by ethnic lobbies drawing attention to the plight of Albanians and others increasingly stripped of power and rights by Serb nationalist Slobodan Milosevic (Zimmerman, 1996, p 178). The US Congress tied aid to democratic reforms, fuelling separatism in the volatile region. The American executive, however, had different ideas. The Bush and Clinton Administrations took an early hands-off approach, encouraging Europe to handle the gathering storm and seeking to promote a united Yugoslavia. The American approach contrasted with the Europeans, some of whom emboldened the independence movements and recognized Slovenia, Croatia and Bosnia.

Initial evidence of extensive human rights violations emerged in early 1992. After the Bosnian referendum and declaration of independence, fighting broke out almost immediately, as it had under in Croatia the year before. The first well-publicized incident of targeted civilian killing occurred April 6, when Bosnian Serbs shelled Sarajevo. In the context of the flare-ups in Slovenia and

Croatia, it was easy to see this action as one of many amidst the “morass” of nationalist ethnic strife (Bert, 1997). The response to the shelling was a bland and neutral resolution calling for a ceasefire and “negotiated settlement.”

Further instances of ethnic cleansing in the spring of 1992 forced states to consider the Bosnian problem anew. This position was not sustainable amidst the increasing evidence and publicity of gross human rights violations. A series of atrocities in April and May of 1992 mounted pressure on states to “do something.” UN Security Council Resolution 752 added a call for the end of “ethnic cleansing” without attributing blame or providing measures to enforce the call. A relief convoy was shelled outside of Sarajevo, a UN convoy was hijacked, and a couple of days later the town of Korzamac was overrun and several of its Muslim inhabitants massacred by Serb forces. Thereafter, Serbs lay siege to Sarajevo and shelled it for a week.

The UN Security Council called for expanding a peacekeeping force (UNPROFOR), set up in neighboring Croatia, into Bosnia to protect the Sarajevo airport after the city fell under siege by Serb forces. The UN also designated Sarajevo, Srebrenica and Zepa as “safe havens” to protect civilians, without an ability to enforce such havens. The US refused to commit peacekeepers out of concern for their fate. In fact, peacekeepers came under Serb assault and harassment, compelling UNPROFOR to move its headquarters to Zagreb, Croatia. The Security Council agreed to sanctions on the FRY on May 31, indicating a consensus that the Serbs were violating human rights. But the pressing matter of how to stop the atrocities remained. UN forces were “neutral” and, in the words of Weiss (1996, p 72), “too weak to deter Serbs” but impeded from “more assertive action by the international community.”

Responding to atrocities, 1992–1994

In response to the atrocities and especially Serb disregard of UN proclamations and personnel, states considered the use of force in the summer of 1992. The Bush Administration, facing reelection and just off the heels of the Gulf War, regarded the Balkans as a potential quagmire to be avoided, and stated “there is no possibility that the US would intervene militarily” (Bert, 1997, pp 102, 114–116; Burg and Shoup, 1999, p 204). Secretary of State Lawrence Eagleburger declared that Serbs, Croats and Muslims were “intent on killing each other” and that it would be “difficult to bring to a halt” (Bert, 1997, p 102).

The other members of the UN Security Council were apprehensive too. British and French officials, already having contributed forces to UNPROFOR on the ground and exposed to danger, were careful about taking sides and provoking further reprisals. They were reluctant to use force or lift an embargo placed on all parties at the beginning of the outbreak of violence (Burg and Shoup, 1999, p 128; Weiss, 1996, pp 78–79). The French initially refused to name an aggressor in the conflict, and wavered between inaction and the assertion of European and French influence in the regional problem. Russia, normally a country sympathetic and tied to the Serbs, fuelled international division at times, waxing and waning in

its hostility toward Serb actions. Russian President Boris Yeltsin had heretofore defended the Serbs and pointed out atrocities among all groups involved. The Sarajevo and Korzarak killings reportedly angered Yeltsin into reprimanding the Serbs, and he withdrew his objections to sanctions on FRY (Burg and Shoup, 1999, p 205). Such a stand against the Serbs and with the Council backfired, strengthening both nationalists and pro-Serb elements in Moscow and pressuring Yeltsin to play a more independent role (Shirayev and Terrio, 1996). China's Foreign Minister, Qian Qichen, claiming "no partiality to either side," declared throughout this time to support any efforts conducive to a peaceful resolution and acceptable to all parties (*Beijing Xinhua*, March 17, 1995, in *Foreign Broadcasting Information Services Daily Report: China*). In sum, the atrocities of the spring of 1992 may have "turned world public opinion decisively and permanently against the Serbs" (Burg and Shoup, 1999, pp 131–133), but countries continued to stress relatively neutral stances and minimal commitments to end the activities in the Balkans.

As 1992 progressed, reports of possible genocide began to trickle into the US intelligence apparatus. The State Department claimed to have received "credible and verified reports" of Serb-run concentration camps by July 1992, before the media exposed the camps in August (Burg and Shoup, 1999, p 202). This marked a point at which the Western powers, if not Russia, began to see Serb activities as qualitatively and quantitatively different than the random accounts of rape and murder. From this point on, international diplomacy was complicated by new divisions in identifying the perpetrator (the Serbs) as well as what to do about it. On the latter point, France and others took the lead in pushing a solution that embodied in the "Vance–Owen Plan." The US resisted this approach, seeking a prominent role for NATO in any solution. Coupled with the continued casualty aversion by all countries (Gompert, 1996; Weiss, 1996), these different perspectives hampered the UN's effort to play the role of "executioner" in stopping crimes against humanity—in effect, emboldening them to continue unabated (Gow, 1997).

The European plan was to create peace through a plan that avoided assigning blame and froze the conflict in the status quo. Lord David Owen and Cyrus Vance helped forge a document to that effect, and European statesmen were eager to foster it to bring an end to the fighting while solving its neighborhood problem without NATO, a goal particularly desired by France in its attempt to assert post-Cold War influence (Petras and Morley, 2000). The resulting Vance–Owen Plan was, to the US, appeasement of the Serbs, as it rewarded gains up to this point. It was also seen as an end-run around the US and NATO, which made some in the new Clinton Administration uncomfortable (Petras and Morley, 2000, p 55). The US alternative was called "lift and strike"—pushing for the lifting of the arms embargo on the Muslims, largely viewed as the victims, and the use of air power against the Serbs, deemed by the US as the villains, violating safe areas and committing atrocities. France, which accused the US of sabotaging the EU-led peace efforts, opposed the effort to train and equip the Muslims in Bosnia (Gallis, 1996; Petras and Morley, 2000).

Russia for its part viewed the Bosnia situation through its own domestic political situation and its new standing in the post-Cold War order. Russia initially balanced its desire for respect and independence with the new desire to become, and to court, the “West” (Heikka, 1999). Thus it showed new-found concern for human rights while resisting submission to the Western agenda. As Deputy Foreign Minister Vitaly Churkin, participant in negotiations about Bosnia, would reveal in 1994, “the main thing I was trying to prevent was a national humiliation for Russia” (Shirayev and Terrio, 1996, p 135). As a former superpower recently shed of layers of empire and influence, an increasingly nationalist pressure on Yeltsin prompted an assertive policy that demanded consultation and sympathy for Serb sovereignty. Russia vowed to veto any “robust action” requested in the Security Council to be taken against the Serbs, and they opposed lifting the arms embargo (Barnett, 1996, p 151). They reminded council members of Muslim and Croat atrocities, and tried unsuccessfully to pass a resolution condemning a Muslim offensive under the protection of a “safe area” (Burg and Shoup, 1999, p 156). At the same time, they permitted sanctions on FRY and incrementally acceded to the possibility of force against any violators of the safe havens or no-fly zones created by the UN.

UN Resolutions 781 and 816 established a no-fly zone over Bosnia for any unauthorized flights, and requested member states to assist in monitoring the ban. The result was Operation Deny Flight, authorizing “all necessary means” to ensure compliance with the no-fly zone ban (Davis, 2000, p 39). NATO became central to this mission, divided in how to proceed in the Bosnian conflict but united to “do something” and save the credibility of the West in meeting the challenge to regional stability and to human rights on a grand scale (Bert, 1997, p 67). The infusion of the NATO alliance would alter events not out of humanitarian concern so much as the risk to alliance credibility in the face of inaction amidst atrocities. NATO, for instance, condemned the shelling and siege of Sarajevo in July 1993, asserting a “determination to take effective action” to stop it, without setting any deadlines. A February 5, 1994, shelling of a Sarajevo market prompted another round of condemnations and ultimatums from NATO, the EU and the UN. The continued failure to follow up such threats with action over many months made a mockery of NATO and UN credibility.

There was a further catch to NATO’s new involvement: the “dual key” concept. Under UN Resolution 836, which called for “all necessary measures” to protect UNPROFOR units in the “safe areas,” any NATO action had to be approved and coordinated with the Secretary General of the UN and the UNPROFOR mission, through the UN representative in the Balkans, Yasushi Akashi (Reed, 2000, pp 400–401). This was meant to prevent unilateral NATO action and preserve UN legitimacy and input, but it also created tension and paralysis in the effort to stop atrocities and contributed to a growing NATO credibility problem. For example, in the spring of 1994, after a Serb shelling of a hospital in Gorazde, NATO issued an ultimatum for the Bosnian Serbs to cease fire and withdraw their artillery to outside the “exclusion zone” established by UN resolutions. When the Serbs persisted, NATO Secretary General Manfred Woerner requested

airstrikes from Representative Akashi, who rejected airstrikes in favor of waiting to see if the Serbs would abide by an agreed deadline (Barnett, 1996, p 154; Burg and Shoup, 1999, p 149).

Over 100 UN resolutions were passed between 1992 and 1995 demanding cessation of hostilities and an end to atrocities, but some suggest the inaction to enforce or take sides gave “the appearance of being involved . . . at minimal cost” (Barnett, 1996, pp 140, 151). Part of the problem was a lack of strong interest to get into the mix, and part of it was “too many chefs” in the kitchen with different views of the problem and of how to proceed. In an effort at multilateral consensus, a “Contact Group” was established, consisting of the US, Russia, France, UK and Germany, to hash out a solution in the wake of the failure of Vance–Owen. But, while being inclusive, this group’s efforts did little more than tread water. Russia, though disturbed by the brash, public Serb actions, continued to stall on approving the lift of the arms embargo on all parties. The West increasingly determined the Serbs to be the villains, and Croat or Muslim human rights violations were, in one analyst’s words, “inconvenient facts” detracting from the focus on Serb accountability (Doubt, 2000).

Under pressures of humanitarian crisis, NATO credibility, and domestic politics to “do something,” the US began to push along a new tack. Aware of Russian, British and French opposition to ending the arms embargo, the US merely began to “look the other way” while arms to the Muslims flowed into the region. The US also brokered a Croat–Muslim peace in February 1994. Both of these actions altered the balance of power in Bosnia. NATO used military force for the first time in February 1994, downing Serb fighters that had violated the no-fly zone. And after Serbs bombarded the “safe area” of Gorazde on April 10 of that year, the Secretary General requested—and NATO delivered—heavy airstrikes on Serb positions over Russian objections (Burg and Shoup, 1999, pp 301–309). US and NATO officials had shifted to a plan for a “coercive peace,” empowering Serb rivals while increasing the presence of Western military force (Bert, 1997, p xxi). At the same time the Contact Group haggled over a suitable peace, NATO worked with the UN to ease the restrictions on the use of force by the creation of “trigger events” that would permit automatic military action by UNPROFOR command and NATO without “dual key” procedures. These “trigger events” were interpreted out of existing UN resolutions, thereby avoiding the need for new UN (and Russian) approval. In effect, NATO would strike overwhelmingly against Serb assets and capabilities the next time Serb forces attacked or concentrated forces outside one of the designated “safe areas.”

The actual trigger event was August 28, 1995, when Serb shelling of Sarajevo killed 38. NATO sorties numbering over 3,500 began shortly thereafter, lasting several weeks, bringing about a Serb withdrawal and ultimately the peace accord arranged at Dayton. Russia protested the use of force, as it had in 1994, questioning the ambiguous authority of NATO to implement UN resolutions. Lord David Owen suggests that Russian ire may have been raised not so much over the use of force “as the humiliation of being pushed to the sidelines” (Owen, 1995, p 265). As a member of the Contact Group, Russia knew how the

West was proceeding, and Yeltsin often acquiesced, demanding only “proper consultation” (Buszyuski, 1996, pp 71–73; Owen, 1995, pp 330–359). The threat of a Russian veto on stronger calls to use force against the Serbs compelled the West to work creatively within the existing framework. Whether the response proved “successful” depends on one’s perspective. Estimates are that some 145,000 were killed, 175,000 wounded, some 2,000–12,000 raped, and around one million displaced in the Bosnian war (Burg and Shoup, 1999, pp 169–171).

Kosovo and unilateralism

It is instructive to engage in the comparative when opportunity affords it, and scholars and statesmen regrettably were given a second occasion to examine and respond to ethnic cleansing in the Balkans before the decade had ended. Whatever the ambiguity regarding UN support in the case of Bosnia, the Kosovo case was much more clearly unilateralism by NATO forces over the objections of the international body. NATO intervened with a massive air assault on Serbia proper, purportedly “to avoid a human tragedy” and “protect the values on which the alliance was founded” (Solana, 1999, p 114). Without a UN resolution authorizing force, such an action by the Western alliance raised challenges to international law and to the political efficacy of the UN and member states such as Russia and China. In this case, unilateralism rather than inaction became the controversial response to evidence of humanitarian atrocities.

Assessing blame and punishing violators

Kosovo, a province within Serbia, had been a problem waiting to happen since 1989, when Serbia forced Kosovo to rescind its autonomy within Yugoslavia. In a power play by Slobodan Milosevic to trump up Serb nationalism and prevent further decentralization, the reassertion of control over Kosovo actually hastened the ungluing of Yugoslavia and everything Milosevic fought and killed for. Increased nationalism made it easy for non-Serb majority states to vote independence in the wave of democracy following the end of the Cold War. Kosovo, too, chose independence, but remained under the tight reins of Belgrade.

Denied independence and autonomy, Kosovar frustrations turned to violence. The Kosovo Liberation Army (KLA) conducted strikes aimed at terrorizing Serbs, both police and civilian. Given these provocations, Milosevic ordered a crackdown in Kosovo in 1998. But the Serbs responded indiscriminately, and “ethnic cleansing” returned to the Balkans, with Kosovar Albanians as targets. The international community responded with an arms embargo on Yugoslavia. US Secretary of State Madeline Albright announced “we are not going to stand by and watch the Serbian authorities do in Kosovo what they can no longer get away with doing in Bosnia” (Kay, 2000, p 73). Nonetheless, reports of forced expulsions and civilian deaths continued throughout the year, with several hundred thousand people displaced by the autumn of 1998. UNSC Resolution

1199 demanded an end to hostilities and atrocities. On October 13 NATO authorized an order permitting and planning a strike against Serbia (Kay, 2000; Mandelbaum, 1999; Solana, 1999).

This series of responses indicates a consensus concerning Serb behavior, but the picture was more complex. The NATO and Security Council meetings ran concurrent to Contact Group deliberations wherein Russia insisted that Kosovo be handled under the auspices of the UN (O'Connell, 2000, p 76). The KLA had perpetrated much violence and terrorism, with the US labeling them a terrorist group and some arguing the Kosovar rebels intended to draw NATO into the fight by provoking Serb atrocities (www.abcnews.go.com/sections/world/DailyNews/chat_hannum990514.html). Russia noted these and other facts while resisting efforts by the UN to authorize attacks against Serbia for its own activities. The US and allies had, like in Bosnia, been reluctant to consider force of certain kinds. The US refused to commit ground troops to end the hostilities, insisting air power would suffice as it had in Bosnia.

Milosevic agreed to the presence of an OCSE-sponsored Kosovo Verification Mission (KVM) to monitor human rights on the ground, and a tenuous peace held through the New Year with the exception of a few KLA actions including the December 1998 murder of several people including the Mayor of Pec. A very public and brutal slaughter of 45 Kosovar Albanians at Racak on January 15, 1999, was the turning point for US decision-making, swaying advisors either on moral grounds or the affront it posed to NATO credibility. US intelligence also claimed to have had reason to believe that a "spring offensive" was in the making by Serbs to cleanse Kosovo of Albanians (Operation Horseshoe), creating a sense of urgency to stave off a potentially destabilizing and bloody catastrophe.

The stage was set for a "final chance at peace" at Rambouillet, France. The US and other members of NATO and the reassembled Contact Group met with representatives of Serbia and the Kosovar Albanians, offering a "take-it-or-get-bombed" ultimatum demanding (1) withdrawal of Serb forces from Kosovo; (2) free and unrestricted passage by NATO throughout *all* of Yugoslavia; and (3) eventual call for referendum on Kosovo independence within three years (Chomsky, 1999, p 108). Both the Serbs and the Albanians rejected the initial deal, but the US negotiated with the Albanians until they acquiesced on March 18. This made the Serbs out to be the reluctant party, further isolating them. The Serb National Assembly rejected the Rambouillet proposal as unjust, but passed a resolution calling for UN participation and the continued presence of the OSCE monitors in the country. NATO called for the withdrawal of KVM and began bombing March 23rd.

That bombing mission, dubbed *Operation Allied Force* by NATO, lasted 78 days before Serbia acquiesced—notably, much to the credit of Russia's negotiations. The resulting peace, enshrined by UN Resolution 1244, imposed peace upon Serbia, and reflected Russia's role in brokering a solution that looked much like the pre-war ultimatum (Franck, 1999, pp 857–860). Clinton claimed to have sought "to avert a humanitarian disaster," noting that "had we not

acted, the Serbian offensive would have been carried out with impunity” (*New York Times*, April 2, 1999). NATO Secretary General Solana (1999, p 116) reiterated the view that “NATO faced . . . either witnessing a deliberately engineered mass expulsion of people in a region bordering NATO and the EU or addressing the Kosovo crisis in full.” Officials justified intervention on Yugoslavia’s violation of international law, the existing “human catastrophe,” and the “acute threat” to neighboring states (O’Connell, 2000, p 80). The basic thrust of the NATO justification for action, then, stressed humanitarian necessity to avert further atrocities, coupled with the issue of NATO credibility. Was this view of intervention and the benign image of NATO intentions shared by other states?

Differing views of “humanitarian” intervention

The use of force in Kosovo did not go through conventional channels of international law—invoking self-defense or the authority of the Security Council (Howe, 2002). Though some weak attempts were made to justify NATO action within UNSC 1199, neither that nor any resolution ever authorized the use of force. The unilateral use of force is legally prohibited except in cases of collective or self-defense: Kosovo was neither. Normatively, intervention on behalf of human rights could be seen as morally acceptable or necessary. How was international society to respond?

France and the UK, as participants in NATO, not surprisingly viewed the intervention in a positive light, suggesting that “peace in Europe was at stake” (<http://www.un.org/News/Press/docs/1999/19990324.sc6657.html>). Blaming the action on Belgrade, for not respecting its obligations under UN Resolutions 1199 and 1203, NATO’s bombing was considered a response to Milosevic’s violations of international will (Duke et al., 2000). France noted that human rights were at stake, saying “we cannot abandon” ethnic Albanians to “violent repression” (www.un.int/France/frame_anglais/declarations_at_un).

In terms of other perceptions of the intervention, however, the result was a decidedly negative. China’s officials said that strikes “amounted to a blatant violation of the UN Charter, as well as the accepted norms in international law” (UN Documents, 3/24/99). Kosovo was seen as a precedent for humanitarian intervention inside sovereign states and the use of alliances for “out-of-area crisis response” that foreshadows US attempts to impose its values on others by force (Shambaugh, 1999/2000, p 66; Yunling, 2000, pp 117,122). Some called it a “barbaric attack” and “naked aggression” (Nichol, 1999, p 72).

Russia’s position was complicated by its catch between its Western tug toward aid and sensitivity to human rights, versus its nationalist pull demanding Russia’s respect as a Great Power. Russia’s attitude, one analyst suggests, depends on whether or not it gets to be part of the “nucleus” of the oligarchic rule of Great Powers (Baranovsky, 2000, pp 106–107; Braun, 1997; Marantz, 1997). Russia was involved in the Contact Group again for the Kosovo crisis. It was thus a bit of a sting when NATO took action without immediately prior Security Council authorization. Russia introduced a resolution at the Security Council condemning

the act as “a violation of the Charter and as a threat to international peace” (O’Connell, 2000, p 80). A combination of wounded pride and alarm over the precedent of unilateral Western interventions into any state it felt violated human rights strained US–Russian relations (Nichol, 1999).⁵ Russia’s Balkan envoy chimed in on the “unilateral war” by chiding the “negative tendency” of the US and allies to give preference to “the use of force instead of the norms of international law” (Moscow *ITAR-TASS*, June 21, 1999, in Foreign Broadcasting Information Services Daily Report: Central Eurasia). The “new NATO” is seen as “an expansionist alliance with offensive armed forces and operational plans,” and there is concern whether Kosovo may serve as a precedent for “humanitarian intervention” in Chechnya (Baranovsky, 2000, pp 104–109; Dobriansky, 2000).

Conclusion—destined for disappointment?

What are we to learn from the responses to humanitarian crises in the Balkans in the 1990s? How do they exemplify the problems and promise of international policing of human rights norms in the new post-Cold War era?

First, each case reminds us that human rights violations exist not in a vacuum but in the midst of conflict and political contexts that complicate things greatly from the perspective of would-be interveners. Without an automatic justice system to play judge and executioner, states decide what norms are being violated, by whom, and what to do about them. State conceptions of interest inevitably enter the calculus of decision; multiple conceptions result from the attempt by multiple states to work together, such as through the UN Security Council. The result can be one of two responses of detriment to the UN Charter framework: paralysis that permits continued atrocities, or unilateralism that whittles away the legitimacy of action and the efficacy of the UN framework guiding international law. Until a new framework supercedes that of “anarchic enforcement,” however, these problems are bound to persist.

Given this, are those concerned with the viability of the UN, international law, and human rights norms destined for disappointment? There are two reasons for cautious optimism. One is the International Criminal Court (ICC), which has emerged after Kosovo as an alternative basis for objective, collective assessment of violators and violations. An International War Crimes Tribunal was born of consensus in the UN Security Council as early as February 1993 that something ought to be done to hold individuals accountable in the Bosnian conflict. The Tribunal was incorporated into the Dayton agreement and even Russia sought to create a Tribunal for deterrence purposes, as a “serious warning to those guilty of mass crimes” elsewhere (Akhavan, 1996). An outgrowth of the *ad hoc* tribunals to address crimes against humanity in World War II and later Rwanda and Bosnia, the ICC seeks to institutionalize and de-politicize the process of identifying and responding to mass human rights violations.

The problem with the ICC is that in its fledgling existence it does not serve as a sovereign authority over the will of all states. The US among others is reluctant to be party to the institution and, ultimately, the apprehension of suspects will depend

on the will of political sovereign states for the foreseeable future (Mayerfield, 2003).

The second reason for possible optimism in compelling states to address human rights norm violations on a grand scale is the possibility of states to commit to doing “something” and thus place credibility on the line. The question of motives is too complex to settle definitively,⁶ but there is reason to believe that substantial aspects of the NATO bombing that eventually occurred in each case were based on other considerations than human rights. NATO was quite public about the Gorazde airstrikes of 1994 having been conducted “to protect a handful of UN personnel, not the 65,000 residents of Gorazde” (Barnett, 1996, p 154; Burg and Shoup, 1999, p 151). When the UN denied NATO airstrikes the Atlantic alliance’s protest was not particularly moral but based on the “humiliation of the international community’s force” and the need to make military threats credible (Barnett, 1996, p 155). Regarding Kosovo, the ultimatum of force was based on the Serb acceptance or rejection of a treaty drafted by outside powers, rather than a direct response to atrocities. NATO officials emphasized the obligation to “stop the violent ethnic cleansing” but also spoke of the need to establish “the credibility of NATO.” National Security Advisor Sandy Berger suggested the need to “demonstrate that NATO is serious,” and one commentator noted that, had NATO not intervened, “the damage to its credibility could have been devastating” (Chomsky, 1999, p 134; Kay, 2000, p 72). Regional stability seems also to have been a concern in each case. Gompert cites US fears that the Serb assault on Kosovars could spill over into Albania and potentially “pit one NATO ally against another” as Greece and Turkey contemplated responding in their own ways (Gompert, 1996, pp 136–137).

If states are more reactive than proactive, at least without compelling interests at stake, what can capture the attention of such states and start the chain of events linking inaction to credibility and, thus, eventual intervention? The media and human rights non-governmental organizations (NGOs) seem to be among the catalysts. Human rights NGOs, for good or ill, have “shaped a new humanitarian agenda” after the Cold War, in raising awareness and calling for more involved outside tools to address internal conflicts and their root causes (Chandler, 2001). The media’s ability and desire to cover sensational stories adds to what has been called the “CNN effect,” whereby faraway tragedies are beamed into the West’s living rooms, generating sympathy and pressures to “do something” (Chandler, 2001; Freedman, 2000).

Again, whether it is desirable to mobilize the coercive force of states into actual military combat is not necessarily always clear-cut, even on humanitarian grounds—for all the reasons this paper has highlighted: it is politicized and often ambiguous who is doing what to whom. Such violations occur within complicated political–military conflicts where both sides may be guilty of accused violations. Disentangling the norms and violations, being left to states at this point, is bound to be prone to disagreement and potential negative consequences among the outside powers. Some argue that Kosovo was worth it because it “saved lives”; others note that many were killed only after the NATO attack began.

Still others note it was not “worth it” because of the negative impact on US–China and US–Russia relations by resorting to the use of force many deem illegal. Others still may argue that without interests at stake the cost of noble causes may be too high (Hehir, 1998, Monshipouri, 2001; Smith, 1998). These are the puzzles of statesmen and normative theory, beyond these pages. I have simply sought to highlight the problems identifying and responding to seemingly “clear” and pressing issues of humanitarian disaster.

The machinery of the UN Charter framework remains imperfect in addressing the periodic and regrettable blemishes of gross human rights violations. So long as states remain the final arbiters of action, responses will be erratic as determined by interests and the pluralism of perspectives in international society. Inaction, as with the Holocaust and Rwanda, and in the early years of Bosnia, can result. The prevailing law and framework suggests, as Mark Evans (2002, p 146) states, that “humanitarian concerns may best be addressed when states act in concert, not least to help undermine doubts that individual states are seeking selfish advantage in unilateral action.”⁷

The problem is when this is not feasible. With the Russian veto holding further authorization of force at bay, the West had to ponder procedural legitimacy at the risk of worse ethnic cleansing or procedural violation to stave off humanitarian disaster. Motivated to act, states can choose to intervene, but this raises the danger of unilateralism and vigilante justice. International law has long been “a tool used by the powerful to coerce the weak” (Nardin, 2000, p 96). Research shows that elites will defend international norms against violations in some situations, but not others, based on different interests or perceptions involved in the situation (Herrmann and Shannon, 2001, p 11). In such a case, those who wish not to be destined for disappointment need to make states perceive situations and perceive interests in times of humanitarian disaster, navigating between the twin problems of inaction and unilateralism. Intervening states need to be sure to pay heed to international law, lest they generate fear in others about the intervener’s intentions. Signaling benign intent is best achieved by recourse to the UN Security Council and international law; when this is not possible, states should be clear to consult and coordinate with outside skeptics (Farer, 2003, p 384), as NATO did with Russia, or risk being perceived as an imperial power, one with the ability and will to play judge and executioner the world over.

Notes and References

- 1 The International Criminal Court as an impartial source of collective enforcement has emerged because of this problem of “partiality,” as Mayerfeld notes. But the ICC’s authority as “judge and executioner” has yet to be established, without state cooperation such as from the US. Thus my analysis presumes the primacy of states and the UNSC in deciding interventions.
- 2 Because of the danger of “bean counting” to assess some threshold, Cigar (1995, p 3) recommends focusing on the intent of the perpetrators.
- 3 The US declares that intent to destroy means “*specific intent*” to destroy a group in whole or “*in substantial part*”; that mental harm means “*permanent impairment of mental facilities through drugs, torture or similar techniques*”; and that the US must consent to any dispute brought before the ICJ or a tribunal. See Carter and Trimble (1991, p 398).

- 4 Arguing for humanitarian intervention contrary to the classical view are Lillich (1974), Delbruck (1992), and Teson (1997). They argue that forcible action to stop serious human rights violations is permitted by law. For countering legal arguments, see Akehurst (1984) and Brownlie (1974).
- 5 Holoboff (1994, pp 166–167) shows that some believed Yugoslavia was a “practice run” for eventual involvement in the Former Soviet Union.
- 6 Walzer (1977, p 101) suggests few cases of purely humanitarian intervention exist; rather, decisions to intervene involve “mixed motives.”
- 7 Similarly, Falk (1999, p 847) argues that genocide cannot be allowed to stand, but neither can subversion of international law via unilateralism. This begs the problem NATO faced: what to do when you must choose one or the other?

Bibliography

- Akehurst, M. (1984) “Humanitarian intervention,” in H. Bull, ed., *Intervention in World Politics* (Oxford: Clarendon Press), pp 95–117.
- Akhavan, P. (1996) “The Yugoslavia Tribunal at a crossroads: the Dayton Peace Agreement and beyond,” *Human Rights Quarterly*, Vol 18, No 2, pp 259–285.
- Baranovsky, V. (2000) “Russia: reassessing national interests,” in A. Schnabel and R. Thakur, eds, *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action, and International Citizenship* (New York: United Nations University Press).
- Barnett, M. (1996) “The politics of indifference at the UN and genocide in Rwanda and Bosnia,” in T. Cushman and S. Mestrovic, eds, *This Time We Knew* (New York: NYU Press), pp 128–162.
- Bert, W. (1997) *The Reluctant Superpower: United States’ Policy in Bosnia, 1991–95* (New York: St. Martin’s Press).
- Braun, A. (1997) “Russian policy towards Central Europe and the Balkans,” in R. Kanet and A. Kozhemiakin, eds, *The Foreign Policy of the Russian Federation* (New York: St. Martin’s Press).
- Brownlie, I. (1974) “Humanitarian intervention,” in J. Norton Moore, ed., *Law and Civil War in the Modern World* (Baltimore: Johns Hopkins Press), pp 217–228.
- Burg, S. L. and Shoup, P. S. (1999) *The War in Bosnia-Herzegovina: Ethnic Conflict and International Intervention* (Armonk: M. E. Sharpe).
- Buszyuski, L. (1996) *Russian Foreign Policy after the Cold War* (Westport: Praeger).
- Carter, B. and Trimble, P., eds (1991) *International Law: Selected Documents* (Boston: Little, Brown).
- Chandler, D. (2001) “The road to military humanitarianism: how the human rights NGOs shaped a new humanitarian agenda,” *Human Rights Quarterly*, Vol 23, No 3, pp 678–700.
- Chayes, A. and Chayes, A. H. (1995) *The New Sovereignty* (Cambridge: Harvard University Press).
- Checkel, J. (1999) “Norms, institutions, and national identity in contemporary Europe,” *International Studies Quarterly*, Vol 43, No 1, pp 83–114.
- Chomsky, N. (1999) *The New Military Humanitarianism* (Monroe: Common Courage Press).
- Cigar, N. (1995) *Genocide in Bosnia* (College Station: Texas A&M University Press).
- Clark, S. (2002) “Genocide, consistency and war,” in A. Moseley and R. Norman, eds, *Human Rights and Military Intervention* (Aldershot: Ashgate), pp 113–131.
- Cushman, T. and Mestrovic, S., eds (1996) *This Time We Knew* (New York: NYU Press).
- Davis, B. (2000) “The planning background,” in Col. R. Owen, ed., *Deliberate Force* (Maxwell Airforce Base: Air University Press).
- Delbruck, J. A. (1992) “Fresh look at humanitarian intervention under the authority of the UN,” *Indiana Law Journal*, Vol 67, pp 88–97.
- Diehl, P., Ku, D. and Zamora, D. (2003) “The dynamics of international law,” *International Organization*, Vol 57, No 1, pp 43–76.
- Dobriansky, P. (2000) “Russian foreign policy: promise or peril?” *The Washington Quarterly*, Vol 23, No 1, pp 135–144.
- Donnelly, J. (1989) *Universal Human Rights in Theory and Practice* (Ithaca: Cornell University Press).
- Doswald-Beck, L. (1985) “The legality of military intervention by invitation of the government,” in *British Yearbook of International Law* (Oxford: Oxford University Press).
- Doubt, K. (2000) *Sociology after Bosnia and Kosovo* (Lanham: Rowman and Littlefield).
- Duke, S. et al. (2000) “The major European Allies: France, Germany and the United States,” in A. Schnabel and R. Thakur, eds, *Kosovo and the Challenge of Humanitarian Intervention* (Tokyo: UN University Press), pp 128–148.
- Evans, M. (2002) “Selectivity, imperfect obligations and the character of humanitarian morality,” in A. Moseley and R. Norman, eds, *Human Rights and Military Intervention* (Aldershot: Ashgate), pp 132–152.

- Falk, R. (1999) "Kosovo, world order, and the future of international law," *American Journal of International Law*, Vol 93, No 4, p 847.
- Farer, T. (2003) "The ethics of intervention in self-determination struggles," *Human Rights Quarterly*, Vol 25, No 2, pp 382–406.
- Finnemore, M. (1996) "Constructing norms of humanitarian intervention," in P. Katzenstein, ed., *The Culture of National Security* (Ithaca: Cornell University Press), pp 153–185.
- Franck, T. (1999) "Lessons of Kosovo," *American Journal of International Law*, Vol 93, No 4, pp 857–860.
- Freedman, L. (2000) "Victims and victors: reflections on the Kosovo War," *Review of International Studies*, Vol 26, No 3, pp 335–358.
- Gallis, P. (1996) *France: Current Foreign Policy Issues and Relations with the US, Report to Congress* (Washington DC: Library of Congress).
- Gompert, D. (1996) "The United States and Yugoslavia's wars," in R. Ullman, ed., *The World and Yugoslavia's Wars* (New York: Council on Foreign Relations).
- Gow, J. (1996) "Triumph of the lack of will," in D. Rieff, ed., *Slaughterhouse: Bosnia and the Failure of the West* (New York: Simon and Schuster).
- Hansen, C. (1997) "Do human rights apply to China?" in K. Lieberthal et al., eds, *Constructing China* (Ann Arbor: Center for Chinese Studies), p 85.
- Harris-Short, S. (2003) "International human rights law: imperialist, inept, and ineffective?" *Human Rights Quarterly*, Vol 25, No 1, pp 130–181.
- Hehir, B. J. (1998) "Military intervention and national sovereignty," in J. Moore, ed., *Hard Choices: Moral Dilemmas in Humanitarian Intervention* (Lanham: Rowman and Littlefield), pp 29–30.
- Heikka, H. (1999) "Desire, identity, and Russian foreign policy," in T. Hopf, ed., *Understandings of Russian Foreign Policy* (University Park: Penn State Press), pp 57–108.
- Herrmann, R. and Shannon, V. (2001) "Defending international norms," *International Organization*, Vol 55, No 3, pp 621–654.
- Holoboff, E. (1994) "Russian view on military intervention," in L. Freedman, ed., *Military Intervention in European Conflicts* (Cambridge: Blackwell).
- Howe, B. (2002) "On the justifiability of military intervention: the Kosovan Case," in R. Norman and A. Moseley, eds, *Human Rights and Military Intervention* (Aldershot: Ashgate), pp 170–184.
- Kay, S. (2000) "After Kosovo: NATO's credibility dilemma," *Security Dialogue*, Vol 31, No 1, pp 71–84.
- Kier, E. and Mercer, J. (1996) "Setting precedents in anarchy," *International Security*, Vol 20, No 4, pp 77–106.
- Krasner, S. (1999) *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press).
- Kratochwil, F. (1989) *Rules, Norms and Decisions* (Cambridge: Cambridge University Press).
- Legro, J. (1997) "Which norms matter? Revisiting the failure of internationalism," *International Organization*, Vol 51, No 1, pp 31–63.
- Lillich, R. (1974) "Humanitarian intervention: a reply to Ian Brownlie and a plea for constructive alternatives," in J. N. Moore, ed., *Law and Civil War in the Modern World* (Baltimore: Johns Hopkins Press).
- Manas, J. (1996) "The impossible trade-off: 'peace' versus 'justice' in settling Yugoslavia's wars," in R. Ullman, ed., *The World and Yugoslavia's Wars* (New York: Council on Foreign Relations), pp 42–58.
- Mandelbaum, M. (1999) "A perfect failure," *Foreign Affairs*, Vol 78, No. 5, pp 2–9.
- Marantz, P. (1997) "Neither adversaries nor partners: Russia and the West," in R. Kanet and A. Kozhemiakin, eds, *The Foreign Policy of the Russian Federation* (New York: St. Martin's Press), pp 78–101.
- Mayerfield, J. (2003) "Who shall be judge? The US, the ICC, and the global enforcement of human rights," *Human Rights Quarterly*, Vol 25, No 1, pp 93–129.
- Monshipouri, M. (2001) "The search for international HR and justice: coming to terms with the new global realities," *Human Rights Quarterly*, Vol 23, No 2, pp 370–401.
- Morton, J. and Singh, N. V. (2003) "The international legal regime on genocide," *Journal of Genocide Research*, Vol 5, No 1, pp 47–69.
- Mueller, J. (2000) "The banality of ethnic conflict," *International Security*, Vol 25, No 1, pp 43–72.
- Nardin, T. (2000) "International pluralism and the rule of law," *Review of International Studies*, Vol 26, No 5, pp 95–110.
- Nichol, J. (1999) "Kosovo conflict: Russian responses," in F. Columbus, ed., *Kosovo-Serbia: A Just War?* (Commack: Nova Science), pp 71–82.
- O'Connell, M. E. (1997) "Regulating the use of force in the 21st century: the continuing importance of state autonomy," *Columbia Journal of Transnational Law*, Vol 36, pp 473–492.
- O'Connell, M. E. (2000) "The UN, NATO and international law after Kosovo," *Human Rights Quarterly*, Vol 22, No 1, pp 57–89.
- Owen, Lord D. (1995) *Balkan Odyssey* (New York: Harcourt Brace).
- Perry, M. (1997) "Are human rights universal? The relativist challenge and related matters," *Human Rights Quarterly*, Vol 19, pp 461–501.

- Petras, J. and Morley, M. (2000) "Contesting hegemons: US–French relations in the 'new world order'," *Review of International Studies*, Vol 26, pp 49–67.
- Reed, R. (2000) "Chariots of fire: rules of engagement in operation deliberate force," in Col. R. Owen, ed., *Deliberate Force* (Maxwell Airforce Base: Air University Press), pp 381–430.
- Shambaugh, D. (1999/2000) "China's military views the world," *International Security*, Vol 66, pp 52–80.
- Shannon, V. (2000) "Norms are what states make of them," *International Studies Quarterly*, Vol 44, pp 293–316.
- Shiraeve, E. and Terrio, D. (1996) "Russian decision making regarding Bosnia: indifferent public and feuding elites," in R. Sobel and E. Shiraeve, eds, *International Public Opinion and the Bosnia Crisis* (Lanham: Lexington Books), pp 156–165.
- Smith, M. J. (1998) "Humanitarian intervention: an overview of the ethnical issues," *Ethics and International Affairs*, Vol 12, pp 63–80.
- Solana, J. (1999) "NATO's success in Kosovo," *Foreign Affairs*, Vol 78, No 6, pp 114–121.
- Straus, S. (2001) "Contested meanings and conflicting imperatives: a conceptual analysis of genocide," *Journal of Genocide Research*, Vol 3, No 3, pp 349–375.
- Sylvan, D. and Pevehouse, J. (1999) "Deciding whether to intervene," in M. Keren, ed., *International Intervention: Sovereignty Versus Responsibility* (London: F. Cass).
- Teson, F. (1997) *Humanitarian Intervention: An Inquiry into Law and Morality*, 2nd edn (Irvington-on-Hudson: Transnational Publishers).
- Ullman, R. (1996) "Introduction," in R. Ullman, ed., *The World and Yugoslavia's Wars* (New York: Council on Foreign Relations).
- Walzer, M. (1997) *Just and Unjust Wars* (New York: Basic Books).
- Weiss, T. (1996) "Collective spineless: UN actions in the Former Yugoslavia," in R. Ullman, ed., *The World and Yugoslavia's Wars* (New York: Council on Foreign Relations), pp 59–96.
- Yunling, Z. (2000) "China: whither the world order after Kosovo?" in A. Schnabel, ed., *Kosovo and the Challenge of Humanitarian Intervention* (Tokyo: UN University Press).
- Zimmerman, W. (1996) *Origins of a Catastrophe: Yugoslavia and its Destroyers* (New York: Times Books).