

Somalia. Rwanda. Sierra Leone. Kosovo. East Timor. International military forces have intervened in some recent conflicts to protect civilians caught up in human rights crises. In others, they have failed to do so. Does military force help? When is it appropriate? Who should approve its use? Governments, military experts and diplomats have struggled to agree on what should guide good policy.

NGOs that work to protect the victims of armed conflict and human rights have a clear interest in this debate. Yet, though individual organisations have endorsed or opposed intervention in particular instances, NGOs have no shared view about how to respond to such crises satisfactorily. On the contrary, they have sharply disagreed about the merits of military interventions.

This report looks at how human rights NGOs deal with situations in which armed force is proposed to protect civilian lives. It evaluates criteria, compares the approach of human rights and humanitarian organisations, and discusses some of the difficult dilemmas that arise.

A postscript assesses the "campaign against terrorism", and *The Responsibility to Protect*, which was recently published by the International Commission on Intervention and State Sovereignty.

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Human Rights Crises NGO Responses to Military Interventions

The International Council on Human Rights Policy

The International Council on Human Rights Policy was established in Geneva in 1998 to conduct applied research into current human rights issues. Its research is designed to be of practical relevance to policy-makers in international and regional organisations, in governments and intergovernmental agencies, and in voluntary organisations of all kinds. The Council is independent, international in its membership, and participatory in its approach. It is registered as a non-profit foundation under Swiss law.



Human Rights Crises

NGO Responses to Military Interventions

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Human Rights Crises NGO Responses to Military Interventions

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Cover illustration: © The British Museum. Chertsey tiles. Richard and Saladin, medieval, about AD 1250-60.

The honourable Saladin and Richard “the Lion Heart” were famous adversaries during the Third Crusade (1189 –1192). The artist took the liberty of implying, falsely, that Saladin died at Richard’s hand – an early example of propaganda in favour of military intervention.

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The report includes written contributions from: **Cynthia Brown**, currently an independent consultant on human rights issues and formerly Programme Director at Human Rights Watch; **David Petrasek**, a Research Director at the International Council, who co-ordinated the project and **Robert Archer**, the Council's Executive Director.

Two background papers were prepared for the meeting:

Military Intervention in Human Rights Crises: Responses and dilemmas for the human rights movement by **Liam Mahony**, and

Military Intervention to Protect Human Rights: The humanitarian agency perspective by **Hugo Slim**.

The report draws on both papers, which may be found at www.ichrp.org/115/1.pdf and www.ichrp.org/115/2.pdf

In addition, written comments on a draft version of this report were received from:

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INTRODUCTION

Military interventions in human rights crises have been much discussed in recent years: Somalia, Bosnia, Rwanda, Sierra Leone, and Kosovo followed one another in quick succession during the 1990s. The last of these in particular, NATO's intervention in the former Yugoslavia in 1999, caused human rights organisations to disagree sharply over whether to support or oppose the use of military force to protect human rights.

Over the same period, a number of efforts were made to discuss the problems associated with such interventions. The United Nations convened several high-level meetings to consider its responsibilities, including those of the Security Council; partly as a result, the Brahimi Report, presented on 21 August 2000, made a number of proposals for political and military reform. Several governments chose to review the legal and political foundations of their policies on this question. Military reforms were also initiated in several countries, with the purpose of improving the capacity of modern armies to intervene swiftly and effectively in foreign crises using flexible and low-key forms of military force. Humanitarian organisations, finally, reflected at length on their performance in Somalia, Rwanda and other crises, and on the challenges that military interventions pose to their political and operational independence.

By contrast, little attention has been given to the policy dilemmas that confront human rights NGOs during such interventions. With this in mind, in April 2001 the International Council brought together representatives of organisations from sixteen countries to discuss the difficult issues – of policy and communication, of legitimacy, and of impact and effectiveness – that regularly arise during such events. For NGOs dedicated to protecting life, what response is appropriate when armed force (and therefore violence) is used to save life? What are the responsibilities of human rights and humanitarian organisations in the face of military interventions of this sort?

**For NGOs dedicated to protecting life,
what response is appropriate when armed
force is used to save life?**

In initiating this discussion, the Council was particularly eager to obtain the views of human rights activists in countries where interventions have taken place. How had military intervention affected civil society? What role had local NGOs played before and after the arrival of foreign troops? Had intervention – in their view – been successful, and how did they measure 'success'? Different, but no less difficult questions arise for NGOs in countries where

calls for military intervention have gone unnoticed. Does indifference and the lack of a credible threat to use force strengthen the hand of those who are responsible for mass killings? Is it possible to judge in advance whether the benefits of military interventions will outweigh the damage they cause? Can such judgements ever be made?

Is it possible to judge in advance whether the benefits will outweigh the damage?

Drawing on discussions at the meeting, a draft report was prepared and widely circulated for comments from September 2001 to January 2002. This final report takes account of the comments received. By and large the response was positive. Much of the structure and content of the present report, therefore, remains unchanged. However, two new questions have been addressed in separate postscripts. The initial draft of this report was prepared just before the attacks on the United States in September 2001. What relevance does the 'international campaign against terrorism' led by the United States have to the military interventions we consider here? Secondly, in November 2001 the International Commission on Intervention and State Sovereignty published its report, *The Responsibility to Protect*, following extensive international consultation. The Commission was established by the Canadian Government in September 2000. To what extent are its findings relevant to NGOs?

Purpose of the report

In organising the meeting in March/April 2001, and in preparing this report, the Council has aimed *to describe and analyse the debate* within and among NGOs on the use of force. We started from the position that it would be both unwise and unnecessary to seek to prescribe NGO positions. Some of those who commented on the draft criticised this non-prescriptive approach. They argued that the report should advise human rights groups on how to react to proposals for military interventions, and state in what circumstances NGOs ought to endorse or oppose them.

It is not the Council's intention to forge an NGO consensus on the appropriateness of military interventions to protect human rights. As the report makes clear, such a consensus is unlikely given the range and diversity of groups involved. It is our view, however, that NGOs have not thought deeply enough about their responses to military intervention. In many organisations, staff have been troubled by the willingness or the failure of their organisation to endorse particular interventions. Visible tensions and disagreements can be detected between national and international NGOs on these questions, and between different types of NGO that share a concern to

protect human life. Sometimes the points in dispute are clear, at other times less so. There is plenty of confusion and no shortage of contradiction in NGO responses. While this short report cannot resolve fundamental dilemmas that are bound to arise in relation to military intervention, we hope it will assist NGOs, and staff working in them, to think more critically about the positions they take (or choose not to take).

There is plenty of confusion and no shortage of contradiction in NGO responses.

Definitions

Terminology is important. Many of the comments we received on the draft report concerned the use of terms, and in particular, disagreement over what different terms were meant to imply.

'Humanitarian' intervention

Use of the term 'humanitarian' in conjunction with military deployment or bombardment has been criticised, particularly by relief groups. They consider that such language threatens the foundation of humanitarianism, which is impartiality. For such organisations, international military action that favours (or is perceived to favour) one side in a conflict should not be described as having a humanitarian purpose (which requires protection of all the civilian population). A further concern is that use of the adjective 'humanitarian' in the context of military intervention legitimises the use of force. Recognising these concerns, we try to avoid the term 'humanitarian interventions' and usually refer to 'military interventions' or just 'interventions'.

It should be made clear, however, that this report examines armed interventions by foreign troops for the stated purpose of protecting civilian lives.

Human rights NGOs

The terms 'human rights NGO' or 'human rights advocate' might include a wide variety of organisations, including international and national organisations that campaign on the basis of international legal standards, peace campaigners, organisations focusing on particular sectors or particular rights (e.g., campaigners for children's rights or against censorship), religious and solidarity groups, and numerous professional, academic, and trades union associations. Public opinion, at least in Northern countries, tends to associate 'human rights NGOs' with the narrower sub-set of organisations that base their activity in international human rights standards and which, like Amnesty International and Human Rights Watch, have a high international and media profile.

As the popularity of human rights increases, however, a growing number of groups and organisations are likely to identify themselves with human rights. A broad range of groups already engage in activities relevant to the defence or promotion of human rights. Further, human rights are being 'mainstreamed' in the UN system, and many groups working on development or relief of poverty increasingly accept that their efforts promote and protect human rights. Many people speak of the human rights 'movement', although this could imply a degree of coherence that simply does not exist.

An increasing number of groups and organisations are likely to identify themselves with human rights.

Problems also arise when different types of human rights groups are described. People speak of 'international' versus 'national', 'local' or 'regional' human rights groups. Is an NGO 'international' when it works in (or reports on) more than one country? May an NGO claim international status if it has no international membership, or is governed by people from one country? Few human rights NGOs meet both criteria. Many NGOs who describe themselves as 'international' are based essentially in one country, but monitor and report on human rights issues beyond their own borders.

These problems are not just theoretical. Different types of NGOs are subject to different expectations. If an NGO is described as 'international' it is expected to monitor and report globally on issues within its mandate. For some, the label also implies that the group is more objective or impartial than a local NGO – an observation that may or may not be borne out in practice. Though rarely admitted, labelling NGOs as 'international' or 'national' reflects issues of power. 'International' can also be shorthand for Northern NGOs, usually better financed and with better access to powerful governments, media and the UN system.

In general, this report examines the responses of 'national' and 'international' professional NGOs that formally describe their mandate and activities in terms of human rights.

Humanitarian NGOs

The terms 'humanitarian agencies' or 'relief agencies' refer principally to the large, specialised international organisations (including UN agencies) that deliver humanitarian assistance and relief. Humanitarian action includes a wide range of activities designed to protect people's rights, lives, and well being. Not all this work takes place in the context of war. Most large agencies are also involved in dealing with the consequences of natural disasters; many have a wider mission involving relief of poverty and underdevelopment. The large international agencies often work with national NGOs, which also provide emergency relief and aid. However, national NGOs have not participated fully in discussions on military interventions. As indicated, in this report we have attempted to include them more. By contrast, there has been substantial debate within international relief agencies and much has been written about their responses and the dilemmas they face when interventions occur. This report does not address all facets of that discussion, concentrating as it does primarily on human rights groups. In speaking of humanitarian agencies, in general we are referring to non-governmental organisations dedicated exclusively to a humanitarian mission. We are not generally referring to government bodies, private companies or troops, though these may implement humanitarian missions in accordance with international humanitarian law.

National NGOs have not participated fully in discussions on military interventions.

Outline

In addition to this introduction, the report has four chapters. The first describes the context for the discussion. Chapter 2 identifies key issues that human rights and relief groups grapple with when they confront the prospect or fact of military intervention to protect civilian life. In Chapter 3 these issues are discussed in more detail. Chapter 4 draws attention to issues that need further debate and reflection. A postscript summarises the findings of *The Responsibility to Protect*, the report of the International Commission on Intervention and State Sovereignty, and discusses how that report's conclusions are likely to impact on NGO approaches. A second postscript assesses the relevance of the 'international campaign against terrorism' to discussions of military interventions on human rights grounds.

I: DEFINING THE PROBLEM

In September 1999, in a speech to the General Assembly, the UN Secretary-General urged the international community to re-think rules of sovereignty that shielded oppressive governments from the risk that outside forces might intervene in their countries to save civilian lives. Kofi Annan spoke at the same time of the risks posed by the development of new international rules that would legitimise such interventions, not least the risk that powerful states might use such rules to justify interventions that were not humanitarian. The Secretary-General recognised that a norm which favours intervention “to protect civilians from wholesale slaughter... will arouse distrust, scepticism, even hostility”. He nevertheless argued that “on balance we should welcome it... because it does show that humankind today is less willing than in the past to tolerate suffering in its midst, and more willing to do something about it”.

“Armed intervention must always remain the option of last resort, but in the face of mass murder, it is an option that cannot be relinquished.” UN Secretary-General Kofi Annan

The immediate context for the Secretary-General’s speech was NATO’s intervention in Yugoslavia in the spring of 1999 and the decision to place an Australian-led force in East Timor (albeit with the consent of the Indonesian Government) in September 1999. On several occasions during the previous decade, however, military intervention had been proposed or initiated on the grounds that it was necessary to prevent large-scale abuse of human rights.

The intervention debate – context

In 1991 – in a landmark decision – the UN Security Council determined that the danger Iraqi forces posed to fleeing Iraqi Kurdish civilians was a threat to international peace and security, and called on Iraq to withdraw all its military and security forces from northern Iraq. The resolution authorised other countries to send troops to the area to protect the returning Kurdish refugees. After the international troops were withdrawn, the US airforce stayed on in neighbouring Turkey and continues to enforce a no-fly zone over northern Iraq. (In addition, the US and British enforce a no-fly zone over southern Iraq, also put in place with the rationale to protect civilians – in this case the Shia Muslim population.)

In 1992, when civil war exacerbated a serious famine after Somalia's government collapsed, the UN sent 'blue helmets' and later authorised a military intervention, led by the United States, to ensure the delivery of emergency food supplies. Eventually the troops were given authority to confront Somali armed groups and in ensuing clashes hundreds of Somalis, including many civilians, as well as many of the international troops, were killed. The international force eventually departed; it failed to improve the relief or security situation significantly.

In 1993, a small UN peacekeeping contingent was sent to Rwanda. It had no human rights component despite warnings that one was needed. When government forces and allied militias engaged in a genocidal attack on Tutsi civilians in April 1994, the UN Security Council did not reinforce these troops and did not authorise them to use force to protect civilians; indeed, troop strength was reduced. The remaining UN force was unable to prevent hundreds of thousands of deaths. Much too late, the Security Council eventually authorised a limited military intervention by French forces. The impact of this intervention was politically controversial.

When war broke out in Bosnia-Herzegovina in 1992, the Security Council did not initially authorise the use of force to protect civilians. Though thousands of civilians (primarily Bosnian Muslims) were arbitrarily detained, tortured and killed, and hundreds of thousands forcibly expelled, the UN confined its military response to the protection of relief supplies. Over the next three years, the Security Council gradually expanded the mandate of UN-authorised forces but force was not used to protect civilian lives in Bosnia until 1995. When Serbian forces captured Srebrenica, a UN 'safe haven', the UN and key states did not intervene to stop the slaughter of thousands of men captured in the town.

Though thousands of civilians were killed, the UN confined its military response to the protection of relief supplies.

In 1999, without Security Council authorisation, NATO intervened in the Federal Republic of Yugoslavia, and Kosovo in particular, on the grounds that this was necessary to protect ethnic Albanians from severe human rights abuses. The absence of Security Council approval and the nature of the campaign – NATO's strategy was to bomb from the air rather than deploy ground troops – were among the intervention's controversial aspects. It succeeded militarily and ended the immediate emergency; its broader long-term political and human rights impact, like many other interventions, remains a subject of debate.

Different forms of intervention may be distinguished. In some cases, governments have consented in one way or another to the presence of foreign troops under a UN mandate that authorised them to protect civilians (this was true, for example, of the Australian-led intervention in East Timor in September 1999). In other cases, intervention has been undertaken with UN approval, but without the consent of the government concerned. In a second category of cases, foreign troops have intervened under the authority of a regional grouping of states, sometimes with and sometimes without the consent of the government concerned (and sometimes with or sometimes without UN approval). Finally, some countries have acted alone, intervening unilaterally in order, they have argued, to protect civilian lives. Wherever interventions have taken place without UN approval (that is to say, approval from the Security Council), they have raised important issues of legitimacy. Lawyers and diplomats have asked not only whether such interventions are appropriate and will be effective, but also whether they are legal.

Wherever interventions have taken place without UN approval (that is to say, approval from the Security Council), they have raised important issues of legitimacy.

In this report, we are specifically interested in interventions that involve the use of foreign troops. Of course, other instruments are available to compel countries and warring parties to respect human rights. They include use of economic and other forms of sanctions, and international criminal prosecution of individuals responsible for abuses. In addition, international organisations can employ a broad range of softer compliance mechanisms. They can send fact-finding visits, deploy human rights monitors, and apply diplomatic pressure (for example, by passing critical resolutions at international meetings). It is important to remember that sending foreign troops to protect civilians from those who persecute them is an extreme response. It stands at one end of a broad spectrum of actions that are available to states, regional organisations and the United Nations.

Sending foreign troops to protect civilians from those who persecute them is an extreme response at one end of a broad spectrum of actions available to states.

Since the Kosovo intervention, several initiatives have been taken to think through the implications of using international forces more frequently to protect human rights. A number of governments have convened task forces to review their policies. The Office of the UN Secretary-General led an important consultation in 2000 that considered how the United Nations should manage and respond to such cases. Many academic conferences have taken place, particularly on international legal issues. Most recently, the Canadian Government sponsored the establishment of an International Commission on Intervention and State Sovereignty (ICISS) that issued a report at the end of 2001.

“Unhelpfully divided” – the NGO debate

Human rights and relief NGOs have also frequently discussed intervention. Many were deeply involved in formal reviews of the crises in Somalia, Rwanda, Kosovo and elsewhere. During all or almost all of the higher-profile human rights crises in the period, international advocacy groups criticised the UN and major states for failing to act or for not acting decisively. During the 1990s, NGOs regularly called on the international community to give more attention to the victims of conflict. Of course, these appeals did not necessarily imply that military intervention was appropriate. Even so, after the genocide in Rwanda, few NGOs excluded it in principle. There was widespread agreement that UN troops in the country should have been strengthened and should have been expressly authorised to intervene, with whatever force was necessary, to stop the killings.

In this context, some human rights and humanitarian NGOs have broadly welcomed the Secretary-General's challenge, while others were disquieted by it. The issue re-emerged very sharply for human rights organisations during the NATO intervention in Kosovo, which caused intense disagreements. Overall, the response of human rights NGOs (and, although perhaps to a lesser degree, humanitarian organisations), has been cautious, often sceptical or openly critical, but above all uneasy. Organisations and individual activists are in two minds, and have found it difficult to respond clearly and consistently to different interventions as they occur.

For some, this state of affairs, which perhaps reflects honestly the complexity of the issue, is unsatisfactory. In several key areas steps have been taken in the last decade that strengthen the protection of human rights. They include the creation of the Office of the UN High Commissioner for Human Rights, the

agreement to establish an International Criminal Court, new treaties banning landmines and recruitment or use of child soldiers, a new willingness on the part of the Security Council to condemn human rights abuses and (at least for the former Yugoslavia and Rwanda) the creation of tribunals to try to punish perpetrators of war crimes and crimes against humanity. Progress on all these matters was encouraged and assisted by the support of broad coalitions of human rights advocates from all world regions. On the subject of military interventions to protect civilian lives, by contrast, NGOs do not communicate a well-defined or coherent point of view. While individual NGOs have endorsed or opposed intervention in particular instances, no broad NGO coalition has emerged that is able to articulate clear points of reference on this issue. As the ICISS report comments:

International NGOs have been significant advocates of cross-border human protection action, extending in some cases to military intervention, and their positive influence in stirring response – especially in the West – has been great. Yet they too, from the perspective of the decision makers they seek to influence, can have their limitations as advocates: they are seen often as lacking in policy making experience, frequently as unhelpfully divided over which precise policy course is optimal, and sometimes reluctant publicly (as distinct from privately) to endorse coercive measures which may be necessary, but which are not easy for governments or intergovernmental institutions to deliver without overt support.¹

NGOs do not communicate a well-defined or coherent point of view – no broad NGO coalition has emerged that is able to articulate clear points of reference on this issue.

Why is this? Are the ‘right’ people being asked to comment? Many national human rights groups – in Bosnia, Kosovo, Rwanda and Sierra Leone, among others – have spoken out in support of intervention in their countries. Being organisations on the ground, close to the populations concerned and, like them, at risk, their views undoubtedly have legitimacy. In many cases, the affected populations themselves also appear to favour intervention. In a survey of public opinion sponsored by the International Committee of the Red Cross (ICRC) in 12 war-torn countries, 66 per cent of people wanted additional outside intervention, and only 17 per cent less. In some countries, such as Colombia and Cambodia, nine in ten people interviewed favoured

¹ ICISS, *The Responsibility to Protect*, Ottawa: IDRC, 2001, p. 73.

more intervention; only in Bosnia and the Philippines was the proportion lower than 50 per cent². Despite this, in many of these situations international NGOs (and NGOs in other countries) have not felt impelled to endorse military interventions, and there has certainly been no general endorsement.

One explanation might be that many people active in human rights organisations take pacifist or broadly anti-war positions. A 'hard' pacifist position – implying outright opposition to war, grounded in ethical principles of a religious or secular character – will not yield because the purpose of the war is ostensibly to prevent greater human suffering. In this view, killing or the threat of killing (which military intervention must include) is inherently wrong. Even where abuses are extremely serious and sustained, and even where military intervention may result in good, it will also result in harm because some people, including civilians, are likely to be killed. From this perspective, the ends do not justify the means where the means involve killing.

There is no necessary link between pacifism and the defence of human rights.

There is, however, no necessary link between pacifism and the defence of human rights. Of the many thousands of NGOs that work on human rights, very few would describe themselves as pacifist. And, although one purpose of the UN is to prevent war and promote the peaceful resolution of disputes, the UN Charter clearly recognises that force might be used in certain circumstances. The Universal Declaration of Human Rights itself, in its preamble, recognises that rebellion against tyranny might be necessary "as a last resort".

What then are the reasons underlying the widespread reluctance among human rights and humanitarian NGOs to take a stand on this issue? Do they have good reasons for hesitating to endorse new norms that might make interventions easier to legitimise? Much of the remainder of this report is devoted to exploring these issues from different perspectives, and noting points of agreement as well as differences where they exist.

Before proceeding, we should put this discussion in context. NGOs are only one actor in a much broader debate. Focusing primarily on their concerns and dilemmas might create the risk that one would privilege their point of view, or appear to disregard the very comparable difficulties that other actors confront. In practise, governments that face domestic pressure to commit troops abroad (or must approve such interventions in the UN) will confront even more acutely than NGOs the difficult choices that are inherent in

decisions about whether to go to war to protect human rights. At the end of the day, at least where governments are genuinely accountable to their electorate, they must be in a position to justify their readiness to risk soldiers' lives and significant resources abroad. If they decide to oppose intervention, or withhold their troops, they will be accused of appeasement or lack of concern for human rights. If they decide to intervene, they may be accused (as in Kosovo) of causing murderous retaliation against local civilians, killing local civilians as a result of their actions, or provoking mass displacement of the civilian population. Similar problems confront decision-makers in the UN and regional organisations. After Rwanda and Srebrenica, UN staff are acutely aware of the dangers of inaction – but also of the dangers of ignoring concerns about sovereignty or supporting intervention when available military resources are not up to the task.

Governments confront even more acutely than NGOs the difficult choices that are inherent in decisions about whether to go to war to protect human rights.

In this sense, NGOs are not a special case. We do not focus on their views because they are more important or more interesting or because NGOs face unique dilemmas when they decide whether to endorse or oppose military intervention to protect civilian lives. We do so in the belief that the issues they face have not been explored sufficiently, at least at the international level.

A comment should be made, finally, about the particular difficulty of bringing order to discussion of events that, in practice, are inherently disordered and confused. Fast-moving political crises, involving widespread violence, do not lend themselves to calm and rational analysis. In the pages that follow we have categorised issues and questions, and used convenient dividers to explain how NGO positions relate to different aspects of the intervention debate. We hope this assists efforts to understand the dilemmas but we are also conscious that the picture we present might seem rather too tidy or abstract. Serious crises where military intervention might be proposed are characterised by widespread confusion and distress, deep mistrust between the political actors concerned, economic disorder and violence. In such conditions it is exceptionally difficult to predict the future or determine a best course of action. In many cases, it is difficult to gather reliable information about the scale of human rights violations, and even more difficult to demonstrate that military intervention is the best and safest short-term course of action to save lives. For those abroad who are considering intervention, taking decisions is neither tidy nor comfortable – and those on the spot may be too swamped by events to engage in a legal and ethical

² Greenberg Research, Inc., *People on War*, Geneva: ICRC, 1999, p. 54.

discussion of alternatives to the use of force. It is obvious, but worth stressing, that the debate on intervention is so passionate precisely because taking positions is so difficult, and all sides are conscious that human lives hang upon the decisions that are taken.

The debate on intervention is so passionate because human lives hang upon the decisions that are taken.

II: IDENTIFYING THE ISSUES

The focus of a discussion on military intervention will depend on the professional concerns of those involved. Governments consider international law, and weigh the political consequences of action and inaction and their country's national interests. International lawyers focus on legality. Under what circumstances does existing international law permit foreign interventions to protect human rights? When do rules protecting sovereignty yield to rules protecting human rights? What new international rules are needed? International relations and foreign policy analysts discuss whether human rights crimes are security threats that justify the dispatch of troops. Soldiers and military scholars concentrate on capacity and logistics. Are forces in place that are equipped to carry out the types of intervention needed? Are rules of engagement and other military doctrines appropriate for 'new' wars in defence of human rights?

Most of these questions are relevant to human rights and relief NGOs, but they will grapple with them in a different way. In particular, their determination to remain independent of governments will have a crucial bearing on how they think. This chapter discusses some of the preoccupations and characteristics of human rights NGOs and humanitarian NGOs, and some of the 'tests' or criteria that influence their attitude to international military intervention.³

NGOs' determination to remain independent of governments will have a crucial bearing on how they think.

Five criteria are commonly held to be relevant when determining whether resort to armed force is justified:

- Just cause – are violations so severe as to warrant outside intervention?
- Correct authority – has a legitimate authority approved the resort to armed force?
- Right intentions – does the intervention genuinely aim to protect civilian lives (or is its 'humanitarian' motivation a smokescreen)?

³ This chapter draws on two background papers prepared for the meeting organised by the International Council on Human Rights Policy in April 2001: Liam Mahony, "Military Intervention and Human Rights Crises: Responses and dilemmas for the human rights movement", and Hugo Slim, "Military Intervention to Protect Human Rights: The humanitarian agency perspective". They are available at www.ichrp.org/115/1.pdf and www.ichrp.org/115/2.pdf

- Last resort – would measures other than resort to force succeed?
- Proportionality⁴ – are the means employed proportionate to the desired result?

These or similar criteria have been put forward by a number of authors and commentators including, most recently, a list proposed by the International Commission on Intervention and State Sovereignty in November 2001. Categorising the issues in this way can make the debate appear easier or tidier than it is in practice. It is not a checklist, nor does it imply that decisions on intervention can be a mechanical process. The aim is simply to break down into broad headings some of the issues that are most important to human rights and humanitarian groups when they consider military intervention.

Just cause

Human rights abuses are widespread in many countries. It is clear that military intervention will only be justified in the most extreme situations; it is less clear where to draw the line. Establishing the facts of a given case is the first step; once the facts are established, some situations are seen to go beyond what the international community should permit. Put starkly, a military intervention may be justified where large numbers of people are suffering extreme abuse, and when a measured military response (consistent with international humanitarian law) can be expected to halt that abuse.

When is the level of abuse so serious that it warrants intervention?

Many human rights groups set out to monitor and document human rights abuses and therefore should have relevant expertise to comment on the *scale* of abuses. The problem, of course, is to determine when the level of abuse is so serious that it warrants intervention.

This difficulty of judgement is exacerbated by the fact that claims of abuse have been exaggerated in the past precisely in order to justify interventions. In order to build public support for intervention, some governments may allege that abuses are widespread, when this has not been confirmed. For

⁴ International humanitarian law includes a proportionality rule that prohibits attacks that are likely to cause "incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated". (Article 51, Protocol I., Geneva Conventions.) We use the term in a much broader sense, though the category does include a concern that an intervention be conducted in accordance with humanitarian law.

some observers, Kosovo provides an example of this danger. Politicians made inflated claims of genocide in the months preceding the military intervention (though, given the experience in Bosnia, it was not unreasonable to fear that the level of abuses might rapidly escalate). Reports also often failed to note that the rebels in Kosovo were deliberately trying to provoke a NATO intervention. Killings and displacement accelerated *after* the bombing began, which complicated the problem of causality.

Correct authority

Military interventions to protect civilian lives involve a contest between two fundamental international legal principles. The first asserts that states are not permitted to wage aggressive war on other states; the second that the manner in which states treat their citizens is a legitimate subject of international concern. Both principles are found in the UN Charter. The authority to balance them lies with the UN Security Council.

Military interventions to protect civilian lives involve a contest between two fundamental international legal principles.

Unfortunately, the Security Council's record on this matter has been widely criticised as erratic. It failed to act decisively to halt or prevent catastrophic humanitarian crises in Bosnia and Rwanda and the issue of correct authority re-emerged forcefully when NATO intervened in Kosovo without the Security Council's formal approval. Most observers believe NATO circumvented the Security Council precisely because the latter would not have authorised its intervention.

Given this record, some activists favour circumventing the Security Council's authority when necessary – that is, whenever human rights violations pass a certain threshold of severity. Against this view, others argue that ignoring the Security Council is irresponsible because protection of human rights is crucially dependent on international legal rules. If these rules are ignored when they are inconvenient, the credibility of the system as a whole will be weakened.

This concern is at the heart of current international debate about the limits that should be set on prosecution of the 'international campaign against terrorism' which the United States declared following the attacks on its territory in September 2001. (See Postscript II.)

Right intentions

A 'humanitarian' intervention will only be seen as legitimate if its central purpose is to protect human rights and civilian populations. States should not use the cover of humanitarian motives to pursue their own political, strategic or economic goals. There is little disagreement on this point. Similarly, seasoned human rights NGOs will be well aware of the risk that information on human rights abuses will be co-opted by governments and used for their own purposes, including in extreme cases to justify military interventions.

However, this criterion is not simple to apply. Governments inevitably take account of different factors when they decide policy. National interest is one of them. A government that ignored national interest when it made decisions would be considered irresponsible, not least by its own people. Saying this is not the same as saying that governments never act from principle. It is entirely feasible for a government to act in support of a moral or international legal principle on the grounds that it is in its country's national interest to do so. Clearly, however, separating principle from interest, in relation to government decisions, will never be transparent or simple in practice.

A government that ignored national interest when it made decisions would be considered irresponsible

Inconsistency compounds this problem. The United Nations has authorised sanctions against some countries with abusive records, but not others. It has taken up humanitarian crises in some areas but failed to allocate comparable resources for equally serious conditions elsewhere. It has delayed or avoided confronting issues – Chechnya, Kosovo, Rwanda, Tibet – that cause discomfort to permanent members of the Security Council. Some activists believe this history of selectivity discredits the claim that intervening governments can have right intentions.

Other activists argue that action should be taken where it can save lives – accepting that it is unrealistic to expect pure humanitarian motives on the part of intervening governments. When a policy goal to save lives co-exists alongside other policy objectives, they argue, the duty of human rights activists is not to ensure that governments have pure motives but to monitor their performance closely to ensure that the 'humanitarian' dimension of their interventions is not corrupted or subordinated to other political interests.

Last resort – alternatives to the use of force

Most would agree that resort to military force should be the last option. Measures short of intervention should have been tried, and should have failed

or been shown to be inadequate. The presumption should be that no other measure on the spectrum of possible international responses would be effective in preventing or ending the human rights crisis. There is little theoretical disagreement on this point, either among governments or among NGOs prepared to contemplate intervention.

The difficulty lies in determining when all non-military options have been explored in good faith and exhausted.

The practical difficulty lies in determining when, in fact, all non-military options have been explored in good faith and exhausted. The US military action in northern Iraq in 1991 followed upon active US encouragement of the Kurdish rebels; military intervention was chosen over other, non-military solutions to the refugee crisis that resulted. Prior to the US military action in Somalia, support for existing civil society groups was not seriously explored as a solution to the problem of delivering food to the starving, displaced population. In the Balkans, diplomacy and other non-military approaches were mishandled for a decade rather than thoroughly pursued; and the NATO decision to bomb in Kosovo (at a moment when some argue the human rights crisis was slightly abating) may have had less to do with rescuing Kosovars than maintaining NATO's own credibility.

Some observers detect in governments a distorting tendency to determine current actions by reference to preceding crises. So, it is argued, the humiliation of their intervention in Somalia caused the UN and US to hesitate to intervene in Rwanda, with disastrous consequences. Similarly, NATO's frustrating experience in former Yugoslavia, where hesitant engagement of international force was politically manipulated and led to shameful events like Srebrenica, caused NATO to intervene aggressively in Kosovo, though some believe conditions there did not justify such a response.

Human rights and relief NGOs frequently lament the failure of key international actors (governments, UN and regional organisations) to act earlier and to pre-empt emerging crises. These critics have often spent much time and energy documenting abuses and demanding action when non-military means might still have had some chance of success. Many NGOs, therefore, are keen to ensure a serious debate on alternatives to the use of force.

Proportionality

Will an intervention cause more harm than good? The intervention must succeed, and must do so not only militarily but also by causing less damage than it is attempting to prevent or halt. Calculating this in advance is self-evidently complex. Any human rights organisation supporting a military

intervention in a humanitarian crisis is, at least implicitly, commenting on military strategy. In response to NATO's intervention in Kosovo, for example, some NGOs explicitly called for ground troops rather than bombing. It can be argued that human rights groups lack the expertise to advocate strategy in the military realm. Some decline to take any position on military interventions for this reason.

Will an intervention cause more harm than good? Calculating this in advance is self-evidently complex.

In this area, NGOs need to acquire enough knowledge to give their recommendations a sound, reasonably precise basis. Different military strategies will provoke different counter-strategies from the party under attack. In Kosovo, large numbers of ethnic Albanians were killed after NATO began bombing. Some allege that these killings were reprisals, in response to the bombing. If this were true, it could be argued that the intervention did more harm than good. In fact, human rights groups took divergent positions on whether the bombing should be stopped, or took no position.

An aspect of proportionality that NGOs can more easily assess is the warring parties' conformity, or not, to standards of international humanitarian law. They need to accept, however, that once an intervention is in progress their demands that the laws of war are fully respected may go largely unheeded.

Human rights and humanitarian organisations

Pacifists should not be dismissed as naïve by law-based campaigning organisations.

In the introduction, we noted that a wide range of organisations identify with, and promote 'human rights'. They include national NGOs, specialised international NGOs, church organisations, trades unions, etc. It is important to respect the differences of perspective that follow from this. Pacifists should not be dismissed as naïve by law-based campaigning organisations. US or European advocates of intervention in Kosovo should not necessarily be denounced as tools of imperialism by national NGOs in South Asia or Sub-Saharan Africa. The viewpoints, positions and methods of work of NGOs in different countries will vary with their types of membership and social base. Given their diversity, human rights NGOs are unlikely to act as one on most issues, and this is particularly true where armed intervention is concerned.

It is also worth noting that human rights and humanitarian NGOs respond similarly to many of the dilemmas that arise in relation to military intervention. Both are committed to the protection of human life. Many national NGOs engage in both human rights and humanitarian work. Some international human rights NGOs primarily investigate human rights abuses. Others offer training and capacity building and in doing so provide services similar to humanitarian agencies. Similarly, many humanitarian organisations increasingly take account of human rights standards in their work, and engage in public advocacy.

At the same time, some significant differences separate the two kinds of organisations. Most human rights NGOs are intensely loyal to international human rights law, which provides a key foundation of their legitimacy. Though their loyalty is to the *values* that human rights law claims to represent, they rely heavily on legal principles in judging the performance of governments. Some humanitarian agencies, most obviously the ICRC, whose mandate is to implement international humanitarian law, share this legal approach. The great majority of relief agencies, however, are far more pragmatic both in the way they develop policy and in the way they draw upon international human rights standards and humanitarian law. They consider the latter to be useful rather than defining instruments; their core purpose is to assist those in need. These differences of approach influence how the two groups of organisations respond to military intervention.

Access to populations that need assistance is a crucial issue for humanitarian agencies.

Other differences need to be mentioned. Unlike human rights NGOs, relief agencies manage large volumes of physical goods and services (food, shelter, etc.). This explains the particular interest they take in the operational aspects of intervention (logistics, security, the role of the military in providing aid) that are of less concern to human rights groups. Access to populations that need assistance is also a crucial issue for humanitarian agencies. Whereas human rights organisations need access for information gathering, their work does not require them to be consistently and publicly present in emergency situations. Human rights reporting and advocacy can be done in a variety of ways, using information from refugees and other sources if access to a war zone is not possible. By contrast, humanitarian agencies often give overall priority to maintaining access to persons in need. Being operational also raises specific concerns about the security of their staff. International military interventions may improve access and security, and this is one reason why relief agencies may be willing to support them.

Impartiality is important to both groups but it is pursued in distinct ways. As advocates for victims, human rights NGOs strive to report impartially and to make impartial recommendations to governments. From this perspective, impartiality means speaking out in defence of human rights solely on the basis of breaches of international human rights law and regardless of the politics, nationality, or religious creed of the victim or perpetrator. Of course, many factors constrain the ability of human rights NGOs to ensure such impartiality in practice. Further, the fact that denouncing human rights abuses by particular governments will often appear to support the foreign policy positions of other governments can give, at least to outsiders, a political 'feel' to human rights reporting.

For humanitarian groups, impartiality implies commitment to respond with equal readiness to all persons in need. It lies at the heart of their mission. In practice, especially in emergency conditions, achieving this objective is extremely difficult. Agencies may not have enough aid to meet need, may not have the information required to gauge need, and may not have access to the needy. Numerous relationships with local and international organisations are required to operate effectively in an emergency, and many of these – especially when international troops are involved – are politically sensitive and can give rise to political mistrust that undermines the capacity of agencies to deliver assistance and services fairly.

Bearing in mind both the differences and similarities in approach, we now consider briefly how the two types of NGOs have responded to military interventions.

The responses of human rights NGOs

At the outset, some human rights activists claim that human rights NGOs need not or should not involve themselves in debates about military interventions because these are primarily political questions that are properly the domain of governments and the UN.

Some human rights activists claim NGOs should not involve themselves in debates about military interventions.

This has been the position of Amnesty International. Throughout the 1990s, it has refused to advocate or oppose military action under any circumstances, whether or not that intervention is aimed at preventing human rights abuses. It argues that this position is necessary in order to distance the organisation from selective actions of governments and to maintain Amnesty's strict impartiality, which protects the group from government manipulation.

Amnesty will monitor how interventions are carried out, and insist that intervening forces respect human rights and adhere to the laws of war.

As their influence has grown, however, many human rights NGOs have concluded that they ought to comment when governments propose the use of armed force to protect human rights. Amnesty's own position has been criticised from within the organisation, for example. In cases of genocide – such as Rwanda, where influential governments refused to act – critics say that Amnesty's silence affects its credibility with activists and victims and may be used by governments to justify inaction. There have been internal policy reviews and consultations within Amnesty's membership but this has not yet led to a change in policy.

Critics say that Amnesty's silence affects its credibility and may be used by governments to justify inaction.

Human Rights Watch has spoken out in favour of military intervention by international forces in Bosnia, northern Iraq, Rwanda and Somalia. Its policy is to consider each case separately, and support intervention on the basis of criteria including the scale of abuses, whether non-military means have been exhausted or would prove effective, and whether the intervention is likely to do more good than harm. It also insists that the intervention be carried out in full compliance with international humanitarian law. The organisation did not take a formal position on NATO's intervention in Kosovo, on the grounds that non-armed options had not been exhausted. It monitored NATO's actions for compliance with the laws of war.

Some human rights NGOs did speak out forcefully to support the intervention in Kosovo. Physicians for Human Rights (PHR), a US-based group, advocated military intervention in Kosovo as of August 1998, when human rights abuses were at their peak. By January 1999 PHR was pressing for ground troops and a larger civilian monitoring contingent, and cautioning against the probable impact of a bombing campaign on civilians. When bombing started, PHR criticised its civilian impact but did not call for its cessation. The positions of other groups reflected various degrees of discomfort with NATO's bombing tactics. There were serious disagreements among members of the different Helsinki Citizens Associations as to whether it should be halted. There was outright opposition by peace groups such as War Resisters International and the International Fellowship of Reconciliation.

Where human rights groups take positions on intervention, the decisions they make can generally be related to one or more of the five 'tests' or criteria we listed earlier in this chapter. The crucial issue for such groups is not the

tension between intervention and sovereignty, which preoccupies states, but that between the obligation to protect victims and the inevitable injury and harm that military intervention causes. When, if ever, is it morally legitimate (and/or necessary) to advocate killing for human rights? Various risks clearly accompany any degree of approval for military action. One is the risk of echoing the selectivity of the UN and powerful states. Another is the risk of being, or being seen to be, at the service of US or Northern or other state interests. Moreover, any military intervention, once launched, will cause some harm to civilian lives and property that will reflect on an organisation that has called for the use of force. On the other hand, is an organisation dedicated to the protection of the vulnerable acting in a responsible manner if it calls on governments to act but refuses to say how? Or if it demands that certain kinds of protection be set in place without admitting that such protection requires a foreign military presence? Or, finally, if it remains silent when outside military intervention appears (as in Rwanda) to offer the only realistic alternative to saving tens of thousands of lives?

Is an organisation dedicated to the protection of the vulnerable acting in a responsible manner if it calls on governments to act but refuses to say how?

The responses of humanitarian agencies

Overall, though they face similar dilemmas, humanitarian agencies appear somewhat more willing to accept the use of military force to protect human life. They have two broad categories of concerns. One is whether a given military intervention is morally and practically justified. On this matter, the five 'tests' are all relevant, even if most humanitarian organisations, being more pragmatic and less legalistic, have not systematised their thinking to the same degree. The second relates to the operational responsibilities of humanitarian organisations as they deliver assistance during military interventions by UN or other international forces. In this area, humanitarian agencies raise issues that are particular to them.

One is use of the term 'humanitarian' in the context of conflict. As noted already, impartiality is a fundamental principle for humanitarian organisations. Because military interventions are not impartial but preserve or change the balance of political power, some agencies – including the International Committee of the Red Cross and *Médecins Sans Frontières* (MSF) – have opposed all use of the term 'humanitarian intervention'. They believe that describing military action as 'humanitarian' will undermine the work of impartial relief agencies because local actors will perceive them to be

associated with or politically influenced by the interests of the states or agencies that have intervened. Some humanitarian agencies, in fact, prefer the term 'human rights interventions' – though this would certainly offend some human rights groups for similar reasons.

Field relations with military forces are a second concern particular to humanitarian agencies. Field staff often require military transport and protection; they need to co-operate with local or international military forces on the logistics of aid delivery, and to negotiate agreements with military forces in order to move around. Such associations involve risk. One side or another may perceive that humanitarian groups are allied to particular military forces. Various forms of pressure may be exerted on them by such forces. Forces with a poor reputation can profit from association with international agencies, or taint their reputation. On the ground, it is frequently extremely difficult to sustain humanitarian programmes and at the same time maintain an appropriate distance from the military.

One side or another may perceive that humanitarian groups are allied to particular military forces.

An additional factor is the involvement of international troops in the delivery of aid. In Zaire (in 1994-95) and in Kosovo (in 1999), the same forces provided both aid and military protection to the civilian population. The Kosovo case was particularly troubling for some agencies, because the international troops concerned were belligerents in the conflict – and the aid itself was provided by NATO states that were belligerents. As a result, it became very difficult for all parties to separate aid policy from the political interests of NATO governments. Similar concerns have arisen in Afghanistan – as international forces are both actively engaged in combat and assisting in the delivery of relief supplies (albeit under different mandates.)

Few humanitarian agencies have developed institutional positions on the morality of the use of force. Like many human rights organisations, they have taken positions case by case – or avoided taking a position on the grounds that it is not appropriate for them to do so. Humanitarianism is not a pacifist ideology (though some pacifist organisations do provide humanitarian aid and assistance). Many, like the International Committee of the Red Cross, draw upon the Geneva Conventions when they define their positions on violence and behaviour that is appropriate and proportionate in war. Above all they focus on the protection of the civilian population. This said, many are critical of the impact of international military intervention in practice. Based on their direct experience in societies like Somalia, Rwanda and Kosovo, many relief workers are sceptical that military action can produce a just or sustained

peace. They are acutely conscious that widespread violence, social dislocation and the destruction of social and political institutions hugely complicate the processes of reconstruction after conflict has ended. Many consider that, even if some interventions are necessary, they alleviate symptoms temporarily and cannot solve basic problems.

Many relief workers are sceptical that military action can produce a just peace.

In practice, humanitarian and development agencies have taken various positions on specific interventions. MSF, OXFAM, and Christian Aid issued public calls for UN intervention in Rwanda during the genocide. MSF took out a full-page appeal in *Le Monde*. The ICRC focuses exclusively on how wars are conducted, and does not comment on the moral dimension of military actions. Tacit support or disapproval for interventions has been more common. In many cases, including that of Kosovo, humanitarian agencies – like human rights agencies – did not take public positions because of internal differences.

III: DISCUSSION OF KEY ISSUES

Identifying policy choices is, of course, easier than taking decisions to apply them. In this chapter, we examine the various concerns that arise for relief and human rights NGOs when they work through these choices. While all the points raised in the previous chapter are important, in our discussions and consultations the following issues predominated.

Taking sides

Whatever terminology is used, a military intervention to protect human rights implies armed conflict or war. Necessarily, therefore, the social and political context is extremely polarised and the issue of taking sides will confront anyone involved. Though most human rights and humanitarian organisations now consider that they have some responsibility to comment on political crises involving threats to life, and to propose solutions to governments, there are also good reasons for caution. NGOs should be wary of overestimating their influence. The language and findings of human rights groups can be manipulated or inflated by governments on one side or the other. The work of humanitarian groups in the field can be distorted or controlled by military forces.

The findings of human rights groups can be manipulated by governments on one side and the other.

Many NGOs are concerned that, because governments need to build public support for intervention, their official propaganda may dehumanise the populations involved in a dispute. Human rights groups have a duty to exercise enormous care not to facilitate such distortions, even as they denounce abuses. In the media coverage in NATO countries before NATO intervened in Kosovo, ethnic Serbs and ethnic Albanians were too often described collectively as if all members of one group were oppressive and all members of the other victims.

The pressures on large international NGOs as major international crises develop can tend to distort their priorities. The demand for up-to-date information, from media and governments, tends to drive such organisations' decisions on how many staff to assign, what to focus on, and how frequently to publish information. The pace of activity increases; internal discussions multiply; extra resources and funding are required. Shared services are drawn away from other serious human rights situations, as is the attention of senior staff. While it is part of the mission of human rights organisations to inform,

in order to protect victims and those at risk, it is valid to question this pattern and ask whether it responds solely to needs on the ground. At moments of crisis, international NGOs often appear guilty of the same sins of omission as governments: they become over-preoccupied by 'headline' issues, while ignoring other matters that have a lower public or media profile.

At moments of crisis, international NGOs become over-preoccupied by 'headline' issues.

NGOs in affected countries also suffer during this process. In many cases, they are not properly included when international debates on intervention develop. In their own countries, as the crisis deepens, they work under increasing pressure, amid growing disorder and confusion, in a political climate that is polarised and often violent. When international colleagues and governments take positions – for example, by supporting victimised groups or calling for international intervention – local human rights NGOs can face exceptional risks, as their governments, and elements of the population, may perceive and treat them as traitors.

Government motives

The extent to which governments do or do not act from humanitarian motives is a recurring theme in NGO discussions on intervention. NGOs are inherently suspicious of official motives, and this lies behind their sceptical attitude towards military interventions that are justified in human rights terms.

As noted already, governments have an obligation to act in their national interest; but this is not necessarily incompatible with principle. Some governments list promotion of human security and protection of human rights, for example, among their main foreign policy objectives. Where this is genuinely the case, national interest and humanitarian motives may coincide. Nevertheless, most NGOs are reluctant to accept at face value government claims that an intervention is for altruistic purposes. (Commenting on this point, some outside the NGO community argued that civil society groups do not have a monopoly on virtue – and in practice may defend their institutional interests with as much vigour as governments or business.)

Setting thresholds

How might human rights groups define, and consistently apply, thresholds for different types of international action (especially, though not exclusively, military intervention)? Such an exercise is fraught with difficulties. Genocide, for example, appears to be a clear threshold; yet it may be difficult to define or apply in specific situations. In hindsight, Rwanda was clearly a case of genocide but, as reports of mass killings emerged at the time, governments,

the UN *and* NGOs debated anxiously about whether it was right to use the term. A consensus that genocide had occurred emerged after several weeks of systematic killing. After Rwanda, many now consider that use of the term genocide requires action. This in turn will mean that it will be employed more readily – with all the risks of diluting its force and thereby creating further doubt. These issues need further discussion. Given that human rights groups do have expertise in reporting on the extent of abuses, they will be expected to comment.

Setting thresholds is fraught with difficulties.

Defining thresholds also brings risks. NGOs willing to endorse calls for military action agree that the scale of actual abuses (or evidence for fearing an imminent and massive increase in abuses) needs to be very high for use of force to be justified. Though hundreds of civilians were killed in the year prior to NATO's intervention in Kosovo, and though political repression was widespread in the province, some NGOs, including Human Rights Watch, did not consider that the level of abuse was serious enough to warrant a call for military action. Does this imply that NGOs have a duty to indicate when their assessment of a situation differs from that of governments that support intervention? It seems reasonable to suggest that, if NGOs are prepared to support intervention in some situations, they should be prepared to denounce interventions which, in their view, falsely claim to be justified on human rights grounds. Similarly, a human rights group that has supported an intervention should be prepared to withdraw its support if the intervention or the tactics used to effect it subsequently fail to match the criteria or objectives which originally justified it.

In reality, unfortunately, events rarely allow for such clear-cut distinctions. Withdrawing support will require admitting error, or can be cast as support for the oppressor. Human rights NGOs will also be extremely reluctant to say publicly that abuses are not as grave as others claim. They will fear that subsequently it will be discovered that they under-stated the problem or failed to protect victims. The information that NGOs possess may be sketchy or unreliable. Where it is clear that at least some serious abuses are taking place, no responsible advocate would want to make statements that could be used as an excuse for inaction.

Legality

NGOs hold diverse positions on the legal grounds for legitimate interventions. As indicated above, the essential debate is between those who insist that conformity with international law is a clear and fundamental requirement for any legitimate intervention, and those who argue that the basis for legitimacy

is the protection of civilian lives. According to the latter view, a narrow legality should not prevent a willing coalition of governments from intervening to stop crimes against humanity. Would those who insist on Security Council authorisation really have objected if one or more states had taken unilateral action against the Hutu militias in Rwanda? Circumventing the Security Council when its inability to act is widely criticised may not only save lives but, it can be argued, also accelerate necessary reform. At the same time, circumventing the Security Council brings grave risks. In particular, many human rights NGOs are concerned not to undermine the international legal order in which human rights protection is grounded.

Would those who insist on Security Council authorisation really have objected if one or more states had taken unilateral action against the Hutu militias in Rwanda?

Some of those who believe that the UN should be more ready to intervene – to avoid the paralysis that occurred during Rwanda's genocide or the prolonged hesitation that occurred over Bosnia – support reform of the Security Council's mandate and decision-making process. It is interesting on this point to note that two recent international panels have concluded that paralysis in the Security Council should not be a bar to intervention where it is necessary to stop genocide or crimes against humanity. Though their reasoning differs, both the International Commission on Intervention and State Sovereignty and the Kosovo Commission appear to accept (although only the latter does so explicitly) that intervention in Kosovo was justified. It was 'legitimate' even if it was not legally authorised. (These reports are discussed in more detail in Postscript I.)

Selectivity

We noted above that NGOs tend to doubt that governments are honestly motivated by humanitarian concern. Justifying this scepticism, many point out that powerful governments are selective in their support for military interventions. Without financial, political and logistical support from rich countries – and notably from the United States, France and the United Kingdom, which are all permanent members of the Security Council – the UN is not in a position to intervene effectively. The inconsistency of these governments was famously pointed out by former UN Secretary-General Boutros Boutros-Ghali, who compared the glaring differences in global attention and resources that conflicts in Europe (Bosnia) received compared with conflicts in Sub-Saharan Africa.

Memories of colonialism colour contemporary attitudes, and many people in societies that were formerly colonised are suspicious of any type of foreign intervention. Where former colonial powers (such as France, Britain or the United States) are directly involved, such suspicion will be strengthened.⁵

Many people in societies that were formerly colonised are suspicious of any type of foreign intervention.

However, selectivity is also a charge that can be levelled against NGOs, who are often selective in their advocacy and activities. International humanitarian agencies tend to follow the UN's lead, often flooding a country with assistance once the UN is involved. The availability of funds is too often a determinant of where aid will be provided. Their programmes should be bolder and less tied to the decisions and priorities of governments. With regard to international human rights NGOs, the charge is made that they too are selective, demanding intervention in some cases but not in others, even though the scale of abuses might be comparable.

Some explain selectivity by the fact that military interventions (of the sort we are discussing) are relatively new. As with other efforts to create an enforcement regime for international human rights law (through an International Criminal Court and use of universal jurisdiction to prosecute perpetrators of crimes against humanity and war crimes), precedents must be created for these new efforts to succeed. One can only create precedent by pursuing cases that will lead to effective international action. On this basis, therefore, it makes no sense to demand military intervention when there is no prospect that it might take place. This argument, however, carries the risk of being seen to promote a double standard that, if true, would undermine the moral authority of human rights advocates.

Measuring success

A successful intervention will save lives. It would seem safe to argue that a cost/benefit analysis of intervention should concentrate on the degree to which it prevented mass killings and war crimes. As with thresholds, however, such tests are deceptively difficult to apply in practice.

⁵ One participant in our discussions noted that, in the Democratic Republic of Congo (DRC), 'humanitarian' intervention is regarded as a new expression of colonialism. Whereas the latter claimed to be a *mission civilisatrice* — inspired by Christianity, imposed by foreign troops and sustained by a foreign civilian administration — the new interventionism replaces religion with humanitarianism, but persists with use of foreign troops and administrators. To serve its own purposes, the DRC government had amplified public suspicion by recalling the UN's unpopular intervention in 1960.

Military interventions have unforeseen consequences. First of all, civilians will usually die. Some 500 civilians were killed in Kosovo and Serbia in NATO attacks. Leaving aside the matter of whether such deaths are accidental or could have been avoided, they must be weighed in the balance when the overall impact of intervention is measured. Did intervention create new problems as serious as those it sought to address? Interventions can themselves generate new cycles of abuse or discrimination. There are unforeseen costs in damage, deaths and disruption. The costs of lost opportunity also need to be considered, as when local conditions and options are not recognised sufficiently. Further, when an intervention is widely viewed as flawed, as in Somalia, the concepts of human rights and humanitarianism lose credibility.

Discussion of this subject is made difficult by the obvious problem that it is not possible to know what might have occurred had a different course of action been followed. It will always be easier to assess the actual and measurable impacts of an intervention than to determine what would have occurred had it not taken place. Specifically, it is impossible to count non-existent numbers – violations that occurred before an intervention can be counted; violations that did *not* occur because of an intervention cannot.

Some national NGOs are sceptical, on the basis of experience, that international military involvement brings benefits. In Sierra Leone, for example, ECOWAS interventions (under Nigerian command) were unable to prevent displacement of civilians or wholesale looting and killing by the national army. Nigerian soldiers were also responsible for abuses. On the other hand, the decision to deploy British troops to defend Freetown from attacks by the Revolutionary United Front (RUF) was widely supported in Sierra Leone – precisely because they were effective.

Is short-term military intervention linked to long-term political strategies that will remove the causes of human rights abuse?

It is important to measure the long-term impact of interventions. What will happen after the international military force leaves? Will intervention provoke more serious abuses than would occur if no intervention took place? Is short-term military intervention linked to long-term political strategies that will remove the causes of human rights abuse? What accountability or control are people in the affected society offered?

Establishing consent

In the context of intervention, 'consent' usually refers to the agreement of a state to allow foreign troops to enter its territory. In relation to NGO responses, consent refers primarily to whether NGOs and sectors of civil society in affected countries agree that outside forces should intervene. The presence or absence of local consent to an intervention will influence the views of international NGOs. NGOs and civil society organisations are an irreplaceable source of information about the situation, before and during interventions, and play a crucial role in supporting efforts to prevent crises from getting out of hand and processes of reconstruction after conflicts have been controlled. Despite this, local NGOs are not adequately consulted by international actors prior to military interventions. Though more consultation occurs once the decision to intervene has been made, international actors – both governments and international NGOs – generally fail to tap national NGOs' expertise on, for example, options short of military force.

It is far easier, however, to recognise the need for some form of consent from the local population than to ascertain whether in practice it has been granted. Who is entitled to speak on behalf of the local population? In some cases, a democratically elected government asks for outside intervention to assist it to prevent abuses by armed groups and militias (or to arrange and monitor a cease-fire or peace agreement that includes monitoring human rights). The tougher cases, of course, arise where the government, even if democratically elected, is itself responsible for abuses or is perceived to be illegitimate by the people who need protection. In such cases, it is appropriate to take careful account of the views of local activists and civil society groups. Even in such cases, however, consent is not easy to measure or establish. Local activists and populations may not agree. Different oppressed groups may have different wishes. Armed and unarmed movements may be competing for influence.

Who is entitled to speak on behalf of the local population?

Other issues arise. International military intervention is subject to international law. Local leaders and civil society organisations may be unfamiliar with, and may not share the vocabulary used by international NGOs. The meaning of core concepts contained in the UN Charter, or international humanitarian law, are not always self-evident. A debate that is already abstract at the international level must be brought to local people. This is not simple in the stressful and mistrustful environment of civil conflict.

This may be illustrated by the NATO intervention in Kosovo. An overwhelming majority of Kosovars welcomed the NATO intervention, and NGOs in Kosovo called for the use of force. The armed opposition group – the Kosovo Liberation Army (KLA) – supported intervention. However, Ibrahim Rugova, leader of the League for a Democratic Kosovo, which was not armed, did not endorse the intervention. Moreover, representatives of Serbian civil society, including many human rights groups who had actively opposed the Milosevic regime and its abuses in Kosovo, were opposed to the NATO action. Whose views count? Giving priority to those speaking on behalf of the victims in Kosovo is not so straightforward when one considers that bombs were also falling on Belgrade.

Whose views count?

The notion of consent is therefore complex. While the views of the local population must be of great importance, in politically or ethnically polarised societies there may not be consensus as to whether military intervention is justified, either among NGOs or within civil society more broadly. But the fact that this issue is difficult should not prevent human rights and humanitarian organisations from seriously exploring it. Although international NGOs will take their own decisions about whether they oppose or support interventions, they have a duty to *consult* and also to *inform* local NGOs and civil society organisations with which they have relationships. In relation to consultation, international NGOs should go beyond surveying local partners' opinions and genuinely factor local opinions into their policy decisions and recommendations, including press statements. Exchanging information is no less important, because many national NGOs feel marginalised during the period when international discussions take place prior to intervention. Local NGOs cannot expect to determine the decisions of international NGOs and NGOs in other countries, even if they are concerned first and foremost by the intervention concerned. They can expect to be consulted, to be informed and to participate in international discussion of such interventions – and international NGOs have a duty to help them do so.

Many national NGOs feel marginalised during the period when international discussions take place prior to intervention.

Consent and consultation remain important at the end of conflicts as well, when governments and international humanitarian NGOs formulate longer-term goals and programs of assistance. An obvious point, which nevertheless requires more attention, is that local NGOs should be integrated

systematically into such discussions, to comment on root causes of human rights abuses, on strategies for pursuing justice, and on institution-building priorities. When local groups are divided, the difficulty of doing this is obviously increased – but this does not mean it is a challenge that international agencies should avoid.

Alternatives to the use of force

Few would disagree that alternatives to the use of force should be explored. Those who are opposed in principle to military solutions for ending large-scale violations of human rights will search most actively for alternatives. Yet NGOs prepared to endorse interventions readily agree that alternatives to force are preferable. Most disagreements occur around timing. Those who favour intervention are impatient with prolonged debates on alternatives when, as they see it, force is the only action that will quickly stop mass killings. Even here, however, it should be noted that few human rights crises emerge without warning. In most cases, they develop gradually and their progress can be monitored. For this reason, preventive measures deserve more attention both from NGOs and governments.

The UN's machinery to protect human rights is notoriously under-funded, over-politicised and ineffective and needs to be strengthened.

Among existing measures, the UN's machinery to protect human rights is notoriously under-funded, over-politicised and ineffective. The ability of the UN Commission on Human Rights to take effective action to prevent human rights abuses needs to be strengthened – for instance, by ensuring follow-up on the many recommendations contained in the reports of its rapporteurs. Similarly, the role of the panels that scrutinise whether states are fulfilling their human rights treaty obligations could be significantly enhanced. There could be greater recourse to placing UN human rights monitors in countries where abuses are widespread, to both report publicly when rights are violated but also identify ways to reform institutions like the police and judiciary. The deployment of international civilian human rights monitors has sometimes reduced abuses, notably in El Salvador and Kosovo. Unarmed monitoring of human rights is also carried out by unofficial bodies. Peace Brigades International, for example, has developed techniques of accompaniment where foreign volunteers are continually present with local activists whose lives have been threatened. Such techniques deserve more systematic study and application.

Some forms of sanctions, including arms embargoes are worth pursuing but only where their impact effectively targets those responsible for abuses, and does not punish the general population. Alternatives to force should include incentives as well as punishments. To develop ways of engaging abusive governments, rebels or ethnic communities, human rights and humanitarian NGOs need to be more creative with proposals for constructive non-partisan international involvement. Local NGOs and organisations, particularly those that promote tolerance and create space to mediate social tensions, need to be supported. The work of the Pakistan-India People's Forum provides an example of effective work to bridge ethnic and national divides. In the past decade it has formed chapters throughout both countries. In 1996 it hosted the first peace convention since the 1940s and its members in both countries called for peace when India and Pakistan tested nuclear devices. Human rights organisations need to expand their work beyond civil and political rights, in order to examine root causes of social divisions. In the most acute and complex crises – those that involve governmental collapse as well as repression – neither humanitarian nor human rights groups have focused enough on supporting the development of effective institutions, such as the judiciary and police, that are essential to preventing human rights abuses.

The case for an international police force

A military force is confrontational and aims to win; it is not well equipped to maintain order impartially and non-confrontationally.

Security and equal protection are critical concerns after a conflict. In the aftermath of several military interventions during the past decade, international troops have been required to maintain law and order, a role for which they are not trained or suited. A military force is confrontational and aims to win; it is not well equipped to maintain order impartially and non-confrontationally. Many of those consulted in the course of preparing this report thought more attention should be given to the idea of forming an international police force, which might play a role in protecting civilians during crises and during reconstruction afterwards.

In general, international military forces are reluctant to take on police functions. In Kosovo, where the existing police force could not be trusted to operate impartially and was being reconstituted, NATO troops were accused of failing to prevent ethnic crimes and standing by when returning Albanians burned the homes of non-Albanians. Currently, no non-military multinational force exists that is suitable for deployment during reconstruction after conflicts. Yet police are often urgently needed to pursue human rights investigations and maintain order using a minimum of force.

In Colombia, where multilateral military intervention is not contemplated but human rights abuses are extremely serious, an international police contingent could help prosecutors to bring human rights violators to justice. In the former Yugoslavia, the first president of the UN's ad hoc tribunal stressed the need for police agents to enforce the tribunal's orders of arrest. In the refugee camps of eastern Zaire (now DRC), there was an enormous need for impartial police, which Zaire could not supply.

At the same time, international police forces will not be effective where well-organised military forces oppose an intervention and are responsible for the abuses giving rise to it. Police can maintain public order only in conditions where the government and its armed forces do not actively oppose their presence, and where violence is between communities rather than professional troops. The recruitment of military troops for international missions is easier in part because the military's role has evolved over decades, while the possible international role of police is still being debated and developed. Humanitarian agencies have been discussing this option for some time. The UN's Department of Peacekeeping Operations has also recognised the need to expand its competence in this area.

Long-term commitment

Governments preparing to launch military interventions rarely plan for the day when fighting stops. Plans for reconstruction or strategies for preventing future conflicts are too often left to be worked out later. The purpose is to have an immediate impact and, almost from the day troops arrive, political and military leaders begin thinking about exit strategies. At the same time, experience in a variety of countries shows that military action, on its own,

Almost from the day troops arrive, political and military leaders begin thinking about exit strategies.

stops the worst abuses only for a short time. To prevent abuses from recurring requires the commitment of more resources for a longer period. The UN and many Member States are uncomfortable with multi-dimensional, state-rebuilding interventions that have become more common in the past decade. These are highly complex, since the nature and causes of killings in each situation are different, and the operations are costly and demanding in terms of troops and civilian expertise. Governments therefore recoil at the dangers of longer-term commitment.

The character of military interventions has changed in important respects in recent years, and this is influencing government policies and attitudes to intervention. In the past, most UN or authorised international military interventions were politically neutral, and also neutral in relation to human rights. The majority separated warring forces and oversaw and enforced cease-fires. By contrast, more recent interventions have tended to contain civil conflicts that threatened to become regional. Such interventions are much broader in scope – and political neutrality is harder to sustain. In a third group of cases, intervention has gone further still and tended to involve fundamental assistance to support the state and wholesale social and political reconstruction. State building is not politically neutral, nor is it neutral in relation to human rights. This development poses new challenges to the powerful governments that sit on the Security Council and fund such interventions. They are increasingly reluctant to become involved in expensive, politically risky and open-ended commitments of this sort. As a result, states are avoiding action where they can, policy is becoming more incoherent as a result, and interventions are increasingly driven not by policy but by ad hoc responses to media and political pressure. NGOs should be deeply concerned by this trend.

Local NGOs are often swept to the margins at the start of crises.

International actors of all kinds often expect quick results, although it is evident that the effects of conflict cannot be overcome rapidly. International NGOs are under enormous pressure in crisis – from government donors as well as competing NGOs – to set up their programmes quickly. International agencies tend equally to move on as soon as public concern wanes (and resources fall away). As a result, local NGOs are often swept to the margins by international NGOs at the start of crises, because the latter control more resources, have more experience, impose their own programmes, and enjoy better access to governments and funders. International groups may then recruit the most experienced staff of local NGOs for their programmes, weakening the latter considerably. To complete the pattern, international agencies later invest large sums in building up local capacity as reconstruction starts – and then exit, leaving (often overgrown) local NGOs high and dry without funding. The significant power imbalance between even experienced local NGOs and international agencies is a major issue at every stage of most crises.

Responsible advocacy

NGOs have responsibilities when interventions occur or are proposed. First among these is the obligation to remain properly independent of governments. This implies that NGOs should be careful to ensure that their public reporting and actions do not simply endorse a government position. Nuances are easily lost in media ‘noise’ during crises. It was noted, for example, that neither Human Rights Watch nor Amnesty International endorsed the NATO intervention in Kosovo. The organisations took no formal position for or against it. Nevertheless, many people, including many human rights activists, believed they supported it. This impression was created, in part, by the additional reporting and stream of press statements that both organisations issued during and before the intervention. Similar problems of communication have emerged in other crises, and relief groups suffer comparable difficulties.

Other responsibilities arise for relief organisations with staff in the field. They must balance the safety of staff and considerations of access against the benefits of speaking out. In some intolerable situations, access has been sacrificed, most famously by *Médecins Sans Frontières* in the Rwandan refugee camps of eastern Zaire. It was also pointed out that speaking out can sometimes improve access, as it did in 1999 in Congo Brazzaville. With hundreds of thousands of displaced persons needing assistance and protection from human rights abuses, *Action Contre La Faim* (ACF) and later MSF put their programmes in jeopardy by publicly demanding access to the displaced – and they were successful. One option for humanitarian agencies is to channel information on abuses to human rights groups. They do so quite frequently, especially since the mid-1990s. Information-sharing works well where advocacy goals coincide, but this is not always assured.

Human rights and humanitarian NGOs claim to be altruistic, yet many of their actions generate institutional advantages to which they cannot be indifferent.

Institutional interest also plays a role. Unlike governments, which accept they act in the national interest, human rights and humanitarian NGOs claim to be altruistic. At the same time, many of their actions generate institutional advantages to which they cannot be indifferent. Crises are opportunities for international human rights and humanitarian NGOs. They generate income, they raise the organisations' media profile, they strengthen public support, they develop the skills of staff etc. This raises difficult issues within organisations, which need to act disinterestedly, even though they derive material and political benefits in consequence.

This is one reason why international agencies should, even more than at present, consult and inform local NGOs and civil society partners during periods of crisis and when decisions about intervention are taking place. It also reinforces the argument that, when international interventions do occur, one of the primary objectives of international human rights and humanitarian organisations should be to use the additional resources and higher political profile from which they benefit to strengthen the capacity of local NGOs in the countries concerned. This will improve the accountability of international NGOs; it will also improve the ability of those societies, post-intervention, to recover and sustain the process of reconstruction.

When international interventions occur, international human rights organisations should use the additional resources and higher political profile from which they benefit to strengthen the capacity of local NGOs.

As discussed earlier, national NGOs are often ill-equipped to lobby at the international level. Though they may be consulted by international NGOs, they are often unable to frame their advice in terms that fit the expectations of the UN or foreign governments. They feel, and often they are, marginal to the policy debate. International NGOs, which have the experience and capacity to lobby the UN, the EU and other international bodies, should do more to involve local NGOs in their advocacy, and could usefully provide training in techniques for effective international lobbying in crisis situations. Additionally, international NGOs should take the views of local civil society partners and local NGOs into account and reflect, in their advocacy, the policy recommendations of local activists concerning intervention, reconstruction and prevention of future conflict. Before and during military interventions, international voices too often drown out the voices of those who are most directly affected.

IV: PROSPECTS

In given cases, some human rights and humanitarian organisations (local and international) have called for international military intervention to halt human rights abuses, while others have opposed the use of force or abstained from taking a position. The discussions we held in the course of preparing this report suggest that human rights and relief organisations are not likely to agree about the desirability of endorsing or opposing military interventions aimed at protecting human rights, either in general or in specific cases.

This is not surprising. The debate on military intervention raises profound moral questions. For human rights advocates, the question is whether they are prepared to advocate killing in order to defend civilian lives. Answering that question involves an extremely difficult process of weighing potential harms against expected (but unproven) benefits, and different groups will attach different significance to the many factors that must be considered when intervention is proposed.

Even where the moral lines are sharply drawn, many of those working in NGOs will find it difficult to take clear positions. The tradition within which those who work in relief and human rights NGOs operate is one that involves distance from or opposition to government. Where governments initiate offensive action (as in Kosovo), the first reaction of NGO staff is to be wary. Their innate scepticism of government motives will certainly deepen if, as seems likely, future interventions merge security objectives (in relation to suppression of terrorism) with 'human rights' objectives (protection of civilians). In such a context, the dilemmas that face NGO actors whenever interventions occur may become significantly more difficult to manage.

The tradition within which those who work in relief and human rights NGOs operate is one that involves distance from or opposition to government.

Our discussion highlighted two questions. What criteria would NGOs like governments and the UN to apply when they decide to intervene forcefully to protect human rights? And secondly, what responsibilities do NGOs themselves have when such decisions are taken, and when interventions occur?

In relation to the first question, it seems that most NGOs could reach agreement on some criteria. Intervention should be limited to the most serious cases. It should be considered only when it is likely to help and when

other options have not worked or would not be effective. Wherever possible, interventions should have clear legal authority. The states involved should act from humanitarian motives. Selectivity should be avoided. Interventions should achieve more good than harm. The forces involved should act with scrupulous regard for international human rights and humanitarian law.

These points can be agreed in principle and most governments would readily agree to them as well. (The criteria set out by the International Commission on Intervention and State Sovereignty are also broadly along these lines.) However, none are straightforward for NGOs to define or apply. It is perhaps unreasonable to expect that governments should apply them with any greater ease.

None of the criteria are straightforward for NGOs to apply. It is perhaps unreasonable to expect governments should apply them with any greater ease.

On at least one point – that more good than harm should be achieved – NGOs are in a strong position to remind governments of the need to think ahead and plan for the long-term. Governments providing intervention forces will have exit strategies. In practice, these are currently too short: if interventions are to create conditions in which human rights are respected durably, outside actors need to stay engaged for much longer – and certainly long after fighting ends. Local NGOs in countries where intervention takes place have a crucial role in long-term reconstruction, and international NGOs should focus attention on long-term strategies and assist and strengthen local NGOs and local civil society more than they do at present.

With regard to their own responses, our discussion suggested a number of issues to which NGOs should give more attention. First, given their antipathy to the use of force, NGOs should actively study and explore alternative strategies. Several might be used: they include targeted ('smart') sanctions, UN human rights monitors, and greater use of international procedures to force compliance with international standards. NGOs should develop measures that do not depend on states to implement: for example, community based conflict resolution and use of unofficial civilian monitors. It might be fruitful to think creatively about new forms of non-military pressure to protect human rights. It is clearly essential to improve international policing: NGOs should contribute to thinking about different ways of improving policing before and after conflicts, and the merits of establishing an international police force.

As we stated at the beginning, use of military force stands at the extreme end of a continuum comprising many types of 'interventions' that outside actors can take to stop or mitigate human rights abuse in a country. The military option will only rarely be used. It follows that, in the majority of situations, governments and other actors will need to rely on other means. In several existing situations, the level of human rights abuse might justify intervention but no one is seriously considering it, and more such cases are sure to arise. Should NGOs not, therefore, devote more effort to strengthening the effectiveness of other 'intervention' tools at their disposal?

In several existing situations, the level of human rights abuse might justify intervention but no one is seriously considering it.

On this point, the report of the International Commission on Intervention and State Sovereignty is clear. "Prevention is the single most important dimension of the responsibility to protect"⁶. Both governments and NGOs focus too much on situations of acute crisis. Though this is understandable, it is essential that both do more to analyse the root causes of political problems so as to better foresee emergencies and be better equipped to advocate sound preventive (or, if necessary, reconstruction) efforts. Above all, institutional reform needs to be given a higher priority, with the aim of preventing crises more effectively. Areas of concern include the UN's human rights mechanisms, the Security Council, and international policing capabilities and accountability. At national levels, the focus must be on strengthening and/or reforming institutions of government and supporting strong civil society institutions.

Whatever one's view of the desirability of military intervention, however, the option exists – and from time to time, even if rarely, it will be used or proposed when human rights crises erupt. It is true that many interventions are perceived to have been flawed or to have failed; but this has not undermined the general case for intervention, though it has weakened the resolve of particular countries to finance their cost or contribute troops. In several countries, military forces are working hard to improve their ability to fight 'humanitarian' wars. Indeed, the perception that such wars will be required is a major consideration for several governments as they modernise the equipment and capacity of their armed forces.

⁶ ICISS, *The Responsibility to Protect*, Ottawa: IDRC, 2001, p. xi.

In this context, NGOs have an opportunity to contribute to the development of guidelines and criteria for determining when force is warranted and how it should be used. This report has not considered international legal rules concerning intervention in detail. However, clear tension exists between an emerging norm that allows intervention to stop crimes against humanity, and an established rule that protects state sovereignty (unless the Security Council determines otherwise). This will remain an issue and NGOs with expertise in international law could contribute significantly to that debate. Similarly, human rights NGOs have considerable experience in judging the seriousness of particular patterns of human rights abuse. Though difficult, it should be possible to develop means of evaluating when intervention is warranted.

If local actors feel excluded from the debate it does not bode well for the success of any type of outside engagement in their countries.

A last point can be made. National NGOs in the countries affected should play an active part in intervention debates, and international NGOs should help them do so. Differences of view will persist, on the advisability of intervention in particular cases, on alternative strategies, on priorities during reconstruction. Arguing the virtues of co-operation between different NGO actors is straightforward: making it work is not. Nevertheless, if local actors feel excluded from the debate (and this was one of the key messages we heard in our discussions) it does not bode well for the success of any type of outside engagement in their countries.

POSTSCRIPT I: A COMMENT ON THE PROPOSALS OF THE INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY

The International Commission on Intervention and State Sovereignty (ICISS) set out to propose criteria that would enable governments to judge when interventions to protect human rights are warranted, who should authorise them, what they should seek to achieve, and how they should be implemented. Titled *The Responsibility to Protect*, its report was published in December 2001. It is the most comprehensive attempt so far to address the issue. It was welcomed by the UN Secretary-General, and is perceived to be serious and credible because the Commission's membership was international and it gathered views from all regions of the world. For all these reasons, the Commission's recommendations are likely to inform international discussion when the next human rights crisis occurs.

It is therefore sensible to ask whether the Commission's framework and recommendations will be helpful to NGOs as well as governments. Will they assist NGOs to make the difficult moral and policy decisions that consistently arise during human rights crises, and enable them to act more consistently or effectively? Are the proposed criteria likely to satisfy NGOs that have been reluctant in the past to endorse interventions? Do the criteria make it likely that in the future interventions to protect human rights will be made when they are warranted and not otherwise?

Will the Commission's framework and recommendations be helpful to NGOs as well as governments?

The responsibility to protect

The Commission's most important conclusion is that the debate should be cast in different terms. Policy makers should focus on the 'responsibility to protect' rather than on the 'right to intervene'. If this were done, the report argues, decisions would then be determined by the needs and rights of affected populations rather than the interests or disputes of states. The Commission argues that the primary responsibility for protecting individuals at risk falls on their own state; but, where states are unable or unwilling to provide protection from serious human rights abuses (and, of course, where the states are themselves sponsoring abuse), it falls on other states to do so. The 'responsibility to protect' is defined broadly. It includes not only the duty to 'react', for example by intervening when warranted, but also the duty to 'prevent' abuses from occurring and, after intervention, the duty to 'rebuild'.

The notion of a 'responsibility to protect' is not new. As the Commission itself points out, some basis for it can be found in international law, for example in the Convention against Genocide which affirms that states have a duty to stop genocide in other countries. It is also less novel for NGOs than for states. In the past, many NGOs have criticised the UN and Member States for being excessively preoccupied with sovereignty to the neglect of affected populations. In addition, where NGOs have made demands for intervention, these have often been grounded in notions of duty or responsibility to those populations. In this sense, the Commission's report is evidence of the influence of NGOs.

NGOs will also certainly welcome the Commission's emphasis on prevention and post-intervention re-construction. The report concludes that preventive measures are the most important component of the 'responsibility to protect'. As we have seen, NGO staff emphasise these points consistently.

In addition, the Commission suggests criteria that should guide decisions on resort to force.

NGOs will welcome the Commission's emphasis on prevention and post-intervention re-construction.

Problems of definition

With respect to *just cause*, the Commission concludes that military intervention must be an exceptional measure, appropriate only in cases of 'extreme abuse'. More precisely, it states:

... there must be serious and irreparable harm occurring to human beings, or imminently likely to occur, of the following kind:

- large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or
- large scale 'ethnic cleansing', actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape.⁷

⁷ ICISS, *The Responsibility to Protect*, Ottawa: IDRC, 2001, Synopsis, p. xii.

At first sight, these criteria do permit more precise discussion of the types of situations in which military intervention might be warranted. As with all criteria, however, it is easier to propose than apply them.

'Irreparable harm' is the essential point of reference, but it is not applied with clarity.

'Irreparable harm' is the essential point of reference, but it is not applied with clarity. Forced expulsion, for example, may be remedied if those who are expelled are permitted later to return. The term 'large scale' is also deliberately left undefined. The report notes that "... while opinions may differ in some marginal cases (for example, where a number of small scale incidents may build cumulatively into large scale atrocity), most will not in practice generate major disagreement". On the basis of experience, this view seems unreasonably optimistic. For example, it is estimated that some 1,500 Palestinian civilians have died at the hands of Israeli forces since September 2000: is this 'large scale'? By comparison, about 1,500 civilians were killed in Kosovo in the year preceding NATO's intervention. (Thousands more were killed and tens of thousands forced to flee after the campaign got underway.) Nor is an attempt made to define 'ethnic cleansing' in legal terms. Is it limited to expulsion across international frontiers?

The Commission put forward a number of other common sense criteria: that intervention should have a reasonable chance of success and should not cause more harm than good; that the means used should be proportionate to the humanitarian objective sought; that military intervention should be a measure of last resort. All would win widespread support among human rights and relief NGOs; but none are easy to apply in practice.

Purity of motive

Wherever motive can be linked to political or economic self-interest, in fact, claims of altruism will be open to challenge.

The Commission addresses the issue of motive, but not especially successfully. It argues that "[t]he primary purpose of the intervention, whatever other motives intervening states may have, must be to halt or avert human suffering".⁸ If the intervention is to qualify as 'humanitarian', this is

⁸ Ibid.

surely true. Yet, as we have noted, in practice the motives of governments are always mixed, and it is not easy to determine the degree to which protecting human rights is the primary influence on policy. Even where humanitarian impulses are evidently present (or paramount), 'other motives' may prejudice the legitimacy of an intervention. (An example of this might be the intervention in northern Iraq in 1991.) Wherever motive can be linked to political or economic self-interest, in fact, claims of altruism will be open to challenge. The Commission suggests that purity of motive can best be shown if interventions are multilateral, are supported by the victims in the country concerned, and have the backing of 'regional opinion'. These are sensible tests, but once again they are difficult to apply in practice. Victims will, understandably, usually welcome liberators, and may not ask whether they will become future oppressors. As we have seen, victims may also disagree with one another. Neighbouring governments and their peoples have their own interests to defend, and their opinions may not provide a reliable guide. (To give one example, the intervention in East Timor in 1999 was not supported by most Indonesians or Southeast Asian governments.) In short, the Commission's proposals are unlikely in practice to reassure those who fear that the language of human rights will be misused to disguise wars fought for other reasons.

Legitimate authority

In all discussions of intervention, the question of legitimate authority (or legality) is a key issue. For most actors (and certainly for governments) the central question is – can interventions be legal (have legitimate authority) if they are not authorised by the UN Security Council? The Commission strongly endorses the pre-eminent role of the Security Council, and says that prior approval must be sought from the Security Council before an intervention 'for human protection purposes' takes place: this is a condition of its legitimacy. Where the Security Council fails to authorise an intervention, however, the Commission suggests as alternative options that a regional organisation may authorise the intervention (and later seek Security Council approval), or the matter may be put to a vote in the UN General Assembly. Both possibilities are arguably in line with the overall scheme of the Charter.

The Commission appears, however, to allow that interventions may be legitimate even when they are not authorised by the Security Council:

The Security Council should take into account in all its deliberations that, if it fails to discharge its responsibility to protect in conscience-shocking situations crying out for action, *concerned states may not rule out other means* to meet the gravity and urgency of the situation – and that the stature and credibility of the United Nations may suffer thereby. (Emphasis added.)⁹

In adopting this position, the Commission appears to have joined views with the Kosovo Commission, established by the Swedish Government to consider NATO's intervention in 1999, which concluded that the "the NATO military intervention was illegal but legitimate". The Kosovo Commission reasoned that NATO's intervention "was not legal because it contravened the Charter prohibition on the unauthorised use of force", but refused to condemn it and focused instead on developing criteria to guide decisions to intervene when permission from the Security Council was absent. In their words, "[r]ecourse to the UN Security Council is not conclusive".¹⁰

Though both commissions emphasise the importance of the Security Council, both also refuse to rule out – at least in explicit terms – interventions that proceed without Security Council authorisation. This ought to be considered carefully by those on the NGO side who hold fast to a narrow legality. ICISS chose not to make ambitious recommendations for UN reform. It advanced one new proposal, that, to diminish the risk of inaction in the Security Council, the Permanent Five should agree rules in advance whereby none of them would apply their veto "to obstruct the passage of resolutions authorising military intervention for human protection purposes" in matters where "vital state interests" are not involved.¹¹

In this crucial area, little greater clarity has been achieved.

The studied ambiguity of the positions adopted by both the Kosovo Commission and the ICISS may reflect political realities and their assessment that significant reform of the UN in this area is unlikely, at least in the near future. Their positions, however, are unlikely to reduce concern among those NGOs who fear that international military interventions will encourage the spread of arbitrary power, and undermine the application and authority of international law. In this crucial area, little greater clarity has been achieved.

Scope of the duty

In setting out its criteria, the Commission referred to "loss of life" – rather than killing, assassination or murder (though these are obviously included). This language was deliberately chosen: on page 33 of its report, the Commission

⁹ ICISS, *The Responsibility to Protect*, Ottawa: IDRC, 2001, Synopsis, p. xiii.

¹⁰ The Kosovo Report, Report of the Independent International Commission on Kosovo, Oxford University Press 2000, at pages 4, 290 and 293.

¹¹ ICISS, *The Responsibility to Protect*, Ottawa: IDRC, 2001, Synopsis, p. xiii.

argues deaths arising from famine or other natural disasters might also justify military intervention.

This approach is consistent and logical, but vastly broadens the potential application of the notion of a responsibility to protect. Hundreds of thousands of lives are lost from malnutrition, preventable disease and other causes that can be attributed to 'state neglect or inability to act'. If the Commission's language is applied straightforwardly, it implies that 'the responsibility to protect' requires governments to intervene – though not necessarily militarily – to prevent suffering and loss of life due to a wide range of causes. It would imply a very considerable extension of the idea of international solidarity between states and nations, applied not just to extreme cases of oppression (or natural disasters), but endemic failures of government to deliver health, wealth and education to their peoples.

If the 'responsibility to protect' means that outsiders have moral and legal obligations 'to react' and 'to protect', can this responsibility reasonably be confined to situations in which political atrocities occur?

In some cases, also, 'neglect' may be attributed to foreign states that do not have direct responsibility for the victims in question. Just as states that support oppressive governments can be accused of complicity with political oppression, so states that enforce health or trade policies that directly cause ill-health or impoverishment can be accused of complicity with denial of social or economic rights. This is indeed the foundation of claims that rich countries should not promote the export of tobacco products to poor countries, and should ensure that international patent rules do not prevent poor countries from providing affordable life-saving drugs to HIV sufferers. The Commission's report raises but does not address a crucial question: If the 'responsibility to protect' means that outsiders have moral and legal obligations 'to react' and 'to protect', can this responsibility reasonably be confined to situations in which political atrocities occur? Yet, if consent were given to a wider application of the principle, in numerous domains the implications for international policy would be enormous.

Do criteria help?

The ICISS report makes an interesting and useful contribution to discussions of intervention. Viewed from the perspective of NGOs, however, it is unlikely to quell misgivings or promote consensus when the next crisis erupts. The criteria the Commission proposes are similar to other criteria advanced in the past, and those that are new appear to create new difficulties.

The notion that there is a 'responsibility to protect' is certainly useful. This is particularly true if it is understood to include preventive action and long-term reconstruction after intervention. As we argued above, military interventions in human rights crises will occur rarely. Given this fact, it seems sensible to concentrate more attention on measures short of force that might help ensure respect for human rights.

Too much energy is spent on debating guidelines, principles and criteria. Difficult political judgements lie at the heart of good policy.

A weakness of the ICISS report, one that is common to much discussion of this issue, is that too much energy is spent on debating guidelines, principles and criteria. Such approaches appear to assume that disagreements about what to do during human rights crises arise from intellectual or moral confusion, which the application of criteria and principles can remove. In truth, confusion is inevitable in such crises. Proposals to intervene are rarely discussed in an orderly political context, or one in which the application of precise criteria will lead to more timely, effective and consensual action. At best, criteria help to frame the issues clearly. Human rights crises, and decisions about whether international intervention is appropriate or not, generate hard choices. Complex and difficult political judgements lie at the heart of good policy. In practice, it is not likely that a rule-based approach will ever make such judgements simple or comfortable.

POSTSCRIPT II: THE 'INTERNATIONAL CAMPAIGN AGAINST
TERRORISM' AND INTERVENTIONS IN HUMAN RIGHTS CRISES.

By coincidence, a draft version of this report was released on 10th September 2001. The very next day, the attacks on New York and Washington profoundly transformed discussion of military intervention in all its forms. Is the 'international campaign against terrorism' that emerged in response to the attacks a new kind of war? To what extent do legal and political justifications for it correspond to traditionally accepted justifications for military action? To what extent, too, is the justification for that campaign based on claims that resemble the arguments that support military interventions to protect the human rights of civilians?

Use of military force has always required justification, and this has been more explicitly the case since the United Nations came into being. UN Member States must, as a condition of membership, commit themselves to peaceful resolution of international disputes. The resort to war is only permitted in certain circumstances. As this report has discussed, it has increasingly been accepted that military intervention from abroad might be permitted if it is the only means to stop widespread human rights abuses. The principal justification, nevertheless, is self-defence. Under the UN Charter, states are permitted to go to war to defend their territory and citizens from attack. Those states involved in the 'international campaign against terrorism' justify the use of force on grounds of self-defence. The UN Security Council authorised military action in Afghanistan, by the United States and by allies acting in its support, in those terms.

The self-defence justification differs fundamentally from the justification of 'humanitarian' military intervention. The first is based on the principle of state interest, the second on notions of altruism. Indeed, it has been necessary to develop legal arguments for 'humanitarian' intervention, and somewhat difficult to obtain international consent for it, precisely because it represents an exception. In general, international law and the UN Charter place sovereign states – and their rights and interests – at the heart of the international system. Historically, altruism has not been expected of states.

**Historically, altruism has not
been expected of states.**

Moreover, a justification based on self-defence directly engages the self-interest of the state concerned, and also its citizens. Wars fought to defend civilians in other countries can also be justified in terms of self-interest, for example to prevent refugee crises, but such arguments are manifestly less compelling than an immediate threat to home and community. For the same

reason, while the threat appears real, governments will find it easier to win public support for dispatching troops abroad, and there will be greater determination to bring the war to a convincing conclusion. Furthermore, if the war is truly for survival, it will politically be more difficult to argue for restraint and for strict adherence to the laws of war. A government that goes to war on grounds of self-defence thus faces far fewer political and military constraints – at least within its own borders.

It is important to emphasise, however, that the self-defence arguments which the United States advanced to justify the military action it took with its allies in the context of the ‘international campaign against terrorism’ were not of the traditional kind. Further, the novelty of the arguments used tends to blur the distinctions between self-defence and ‘humanitarian’ rationales.

The self-defence arguments which the United States advanced were not of the traditional kind.

First of all, there is no claim that those who attacked the US in September have territorial ambitions. Their aim is not to conquer United States territory. Secondly, the military response first envisaged in Afghanistan was not against another state but against an informal force (Al Qaeda), many of whose members were present in the country. The decision to attack and overturn the Taliban Government in Afghanistan was based on its refusal to co-operate with American demands to extradite or cease protecting the leaders of Al Qaeda. The Taliban Government was attacked on the grounds that, by shielding Al Qaeda, it was complicit in Al Qaeda’s alleged acts of terrorism and thereby made itself an enemy of the United States. This represents a second departure from classic understanding of the self-defence justification, which traditionally assumed that both parties – the attacked and the attacker – would be states.

Thirdly, the self-defence justification for the military response to September 11 was not confined to a specific enemy or specific territory. The new doctrine asserts, in effect, that all parties that support or harbour terrorists who have ambitions to target United States property or citizens are enemies and subject to attack. On grounds of self-defence, the United States claims that it is entitled (at least theoretically) to intervene militarily on the territory of any state where ‘international terrorists’ operate, and to attack any state that harbours and protects such people – anywhere. This both widens the application of the self-defence justification, and greatly reduces its precision.

Though the self-defence and the ‘humanitarian’ justifications are separate in principle, in practice this is not so clear in the case of military action taken in

the context of the ‘international campaign against terrorism’. Partly because the self-defence argument advanced after September 11 was not in its usual form, and partly because of the nature of the attacks themselves, similarities can be detected between the arguments for international ‘humanitarian’ intervention discussed in this report, and the arguments for military action that were used by the United States and its allies after September 11.

Though the self-defence and the ‘humanitarian’ justifications are separate, this is not so clear in the case of military action taken in the context of the ‘international campaign against terrorism’.

First of all, the attacks themselves were directed against civilians and civilian (as well as military) targets. The fact that whoever initiated the attacks was willing to kill thousands of civilians gives weight to the self-defence argument, because most of the civilians attacked were American; but equally it raises the issue of protection of civilians in general, since the attacks were indiscriminate and citizens from many other countries were also killed. The response was certainly justified in terms of self-defence: the United States did indeed go to war *primarily* to defend the lives of US civilians. But it was justified, secondarily, on the grounds that it was necessary to protect civilian lives *in general*. Other governments, when they supported the United States, did so because it had been attacked; but equally they recognised that their own citizens, *and citizens in other countries*, were at risk if action was not taken. In this secondary motive, governments moved closer to justifications of military action to protect human rights. The argument is that it is in the interests of all states to ensure the security of citizens in all countries from acts of terror, even if the danger in some countries is much greater than in others.

Furthermore, when the United States and its allies were preparing to attack the Taliban Government in Afghanistan, they put weight on the fact that it was responsible for systematic human rights violations. The first and foremost victims of the Taliban were indeed Afghans, especially women and members of non-Pashtun ethnic groups. To some degree at least, the United States and its allies argued that military intervention in Afghanistan would result in improved respect for human rights – as a direct result of replacing the government by force – and, at least by implication, that this gave the military intervention further legitimacy.

Initially, the United States Government and its allies also claimed to be addressing the issue of famine and malnutrition in Afghanistan. Food parcels

were dropped from military aircraft in areas where malnutrition was concentrated. Arguments were made that intervention would ensure better access for relief organisations to those in need. Mismanagement and abuse by the Taliban Government (in addition to natural forces) were held to be responsible for the disastrous state of the country's economy. Action to remove the government, it was inferred, would permit the introduction of programmes to feed and protect the civilian population from famine. In the end, military objectives predominated. Nevertheless, the link was made – in part because it was forced upon the United States and its allies. Here too, a clear self-defence justification became tangled with humanitarian motives, or at least with claims that intervention triggered a duty to provide assistance to civilians at risk.

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The claim that military intervention triggers humanitarian obligations goes further. We have argued in this report that military intervention to secure human rights cannot be justified if it is confined to military defeat of the repressive forces or regime concerned. If such interventions are to have a lasting beneficial effect, it is increasingly recognised (certainly by NGOs) that those who intervene (or the 'international community') must remain in place for some time to guarantee stability and assist local actors to (re)construct their institutions and restore legitimate and effective government. In Afghanistan, the governments associated with the 'international campaign against terrorism' were very soon obliged to address the same questions. This is true even of the United States administration, which originally distanced itself from multilateral proposals for reconstruction. A military intervention to defend American security (by overturning the Taliban regime and the 'terrorist' network it protected) in practice rapidly became indissociable from a longer-term project of political and economic reform designed to restore the country's economy and eventually protect the population from starvation, ill health and illiteracy. Reform in Afghanistan is perceived to be a condition of permanent removal of the Taliban and Al Qaeda (or similar organisations). Here too, therefore, a self-defence argument collapsed into, or came to complement, arguments that closely resemble justifications of interventions to protect human rights.

Though the argument made here relies to some extent on legal distinctions, it is important at this point to say that legal arguments are not the only – or perhaps even the most important – issue to consider in this context.

International lawyers and diplomats are no doubt quick to see crucial legal distinctions between 'humanitarian' and 'self-defence' interventions, and between the interventions in Haiti, Kosovo or Sierra Leone and the intervention in Afghanistan. Most casual observers, however, are likely to put all such interventions in the same box – as actions to overturn dictators or repressive regimes. Most will not distinguish between General Aideed, General Raoul Cedras, Osama bin Laden, Slobodan Milosevic or Mullah Omar.

Most casual observers will not distinguish between General Aideed, General Raoul Cedras, Osama bin Laden, Slobodan Milosevic or Mullah Omar.

To what degree, then, is the 'international campaign against terrorism' likely to transform or marginalise discussion of international military interventions to protect human rights? Military scenarios certainly dominate current international discussions: the military campaign of the United States and its allies in Afghanistan (including treatment of prisoners and detainees); the crisis in the Middle East, including Israel's military response to Palestinian violence; the possible extension of US military action to other countries; the threat of further attacks on the US or US allies. To a degree unknown since the end of the Cold War, a frontier has appeared between those who believe that recourse to military force is an acceptable, indeed indispensable precondition of effective international action, and those who believe that military force will be counter-productive unless it is subordinate to (or at least complements) diplomatic, economic and other forms of peaceful multilateral action.

In this new context, will foreign military interventions become more frequent – or more acceptable? Will they tend to be more or less respectful of international human rights and humanitarian law? Will the troops involved be more or less punctilious with respect to the lives and property of non-combatants when they use force? While it is much too early to say, during the short period that has elapsed since September 11 it has become more difficult to answer such questions positively.

The war in Afghanistan, and any future conflicts fought in the context of the 'international campaign against terrorism', will certainly influence the debate about interventions in human rights crises. Just as a human rights rationale is likely to become more prominent if the war in Afghanistan continues, so it is likely to emerge in other 'anti-terrorist' conflicts, if only in a secondary role. As noted above, it can very often be argued that it is necessary to defeat

'terrorist' groups militarily (or the states that sponsor them) in order to protect civilian lives – and, just as often, that it is necessary to protect civilian lives (from misgovernment, illiteracy and poverty) in order to defeat 'terrorist' groups or those who sponsor them.

In the short-term, moreover, human rights crises are not likely to trigger a military response (at least one that involves the United States) unless there is a plausible connection to the 'international campaign against terrorism'.

Military interventions justified in terms of humanitarian objectives, and interventions to defeat 'terrorists' will tend to merge or fold into one another.

For all these reasons, it is probable that military interventions which are justified in terms of humanitarian objectives and interventions to defeat 'terrorists' will – at least in the short-term – tend to merge or fold into one another. For the purposes of this report, one likely effect of this trend will be to cause human rights NGOs to become even more sceptical than they are at present about the use of military force to protect human rights abroad.

ANNEXE 1: LIST OF PARTICIPANTS

Meeting hosted by the International Council on Human Rights Policy, *Military ("Humanitarian") Intervention and Human Rights: Responses and Dilemmas for Human Rights Organisations* – 31 March-1 April 2001, Geneva

- CHAIRPERSON: Ambassador Thomas Hammarberg, Sweden
- Tapan Kumar Bose General Secretary, South Asia Forum on Human Rights, Kathmandu
- Mark Bowden Adviser on Conflict Management, UK Foreign and Commonwealth Office
- Cynthia Brown Freelance Consultant on Human Rights, New York
- Binny Buchori Director, NGO Forum on Indonesian Development, Jakarta
- Christian Captier Director of Programmes, Action contre la faim Paris
- Claudio Cordone Director, Research and Mandate Program, Amnesty International, London
- Larry Cox Human Rights and Governance Program, Ford Foundation, New York
- Aderito De Jesus Soares Director, East Timor National Jurists Association, Dili
- Vojin Dimitrijevic Director, Belgrade Centre for Human Rights
- Louise Doswald Beck Secretary General, International Commission of Jurists, Geneva
- Julian Filochowski Director, Catholic Fund for Overseas Development, London
- Gustavo Gallon Giraldo Director, Colombian Commission of Jurists, Bogota
- Franklyn B. Kargbo Director, Manifesto 99, Sierra Leone
- Irene Khan (as of August 2001) Secretary-General, Amnesty International
- Liam Mahony Consultant, New Jersey
- Jess Messer Program Assistant, Carnegie Council on Ethics and International Affairs, New York
- Thierry Nlandu Program Officer, Law Group, Democratic Republic of the Congo

Michael O'Flaherty	Asia-Pacific Coordinator, UN Office of the High Commissioner for Human Rights, Geneva
Jelena Pejic	Legal Adviser, International Committee of the Red Cross, Geneva
Dimitrina Petrova	Executive Director, European Roma Rights Centre, Budapest
Kenneth Roth	Executive Director, Human Rights Watch, New York
H.E. Mohamed Sahnoun	Co-Chair, International Commission on Intervention and State Sovereignty
Christophe Sebudandi	President, Ligue des droits de la personne dans la region des grands lacs, Burundi
Hugo Slim	Senior Lecturer, Oxford Brookes University, Oxford
Manisha Thomas	Humanitarian Affairs Officer, International Council of Voluntary Agencies, Geneva

FURTHER READING

As part of its work, the International Commission on Intervention and State Sovereignty produced a comprehensive bibliography of relevant resources.

The bibliography – of some 100 pages – is well organised and includes material related to all aspects of the debate.

It can be accessed at www.iciss.gc.ca

ABOUT THE INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY

The International Council on Human Rights Policy was established in 1998 following an international consultation that started after the 1993 World Conference on Human Rights in Vienna.

The Council's Mission Statement reads:

The International Council on Human Rights Policy will provide a forum for applied research, reflection and forward thinking on matters of international human rights policy. In a complex world in which interests and priorities compete across the globe, the Council will identify issues that impede efforts to protect and promote human rights and propose approaches and strategies that will advance that purpose.

The Council will stimulate co-operation and exchange across the non-governmental, governmental and intergovernmental sectors, and strive to mediate between competing perspectives. It will bring together human rights practitioners, scholars and policy-makers, along with those from related disciplines and fields whose knowledge and analysis can inform discussion of human rights policy.

It will produce research reports and briefing papers with policy recommendations. These will be brought to the attention of policy-makers, within international and regional organisations, in governments and intergovernmental agencies and in voluntary organisations of all kinds.

In all its efforts, the Council will be global in perspective, inclusive and participatory in agenda-setting and collaborative in method.

The Council starts from the principle that successful policy approaches will accommodate the diversity of human experience. It co-operates with all that share its human rights objectives, including voluntary and private bodies, national governments and international agencies.

The International Council meets annually to set the direction of the Council's programme. It ensures that the Council's agenda and research draw widely on experience from around the world. Members help to make sure that the Council's programme reflects the diversity of disciplines, regional perspectives, country expertise and specialisations that are essential to maintain the quality of its research.

For further information, see the Council's website www.ichrp.org

MEMBERS OF THE INTERNATIONAL COUNCIL

- Theo van Boven*** United Nations Special Rapporteur on Torture; Professor of International Law, University of Maastricht. The Netherlands.
- Stanley Cohen*** Professor of Sociology, London School of Economics. United Kingdom.
- David Fernández Dávalos** Education Assistant, Jesuit Mexican Programme; former President, Instituto Tecnológico y de Estudios Superiores de Occidente (ITESO University). Mexico.
- Maria Marta Delgado** Active in the Civil and Political Rights Programme at the Uruguayan chapter of SERPAJ (Servicio Paz y Justicia in Latin America). Uruguay.
- Yash Ghai** Chair, Constitution of Kenya Review Commission; Sir Y K Pao Professor of Public Law. Hong Kong.
- Thomas Hammarberg*** General Secretary of the Olof Palme International Centre. Sweden. Regional Adviser for Europe, Central Asia and the Caucasus, Office of the United Nations High Commissioner for Human Rights. Sweden.
- Bahey El Din Hassan** Director, Cairo Institute for Human Rights Studies. Egypt.
- Ayesha Imam*** Consultant on women's human rights. Nigeria.
- Hina Jilani*** United Nations Secretary General's Special Representative on Human Rights Defenders; Director, AGHS Legal Aid Cell, Lahore. Pakistan.
- Walter Kälin*** Professor of International Law, Institute of Public Law, University of Bern. Switzerland.
- Virginia Leary** Former Alfred and Hanna Fromm Professor of Law, Hastings College of Law, University of California. United States.
- Goenawan Mohamed** Poet; founding director of Utan Kayu Community; former editor of Tempo Magazine. Indonesia.
- Bacre Waly Ndiaye** Lawyer; Director, Office of the United Nations High Commissioner for Human Rights, New York. Senegal.
- Margo Picken** Director, Cambodian Office of the United Nations High Commissioner for Human Rights. United Kingdom.
- N. Barney Pitsoana** Vice-Chancellor and Principal, University of South Africa.

Daniel Ravindran	Founder, Asian Forum for Human Rights and Development (Forum-Asia). India.
Thun Saray	President, Cambodia Human Rights and Development Association.
Eyad El-Sarraj	Psychiatrist; Director, Gaza Community Mental Health Programme; Director, Independent Commission of Human Rights in Palestine.
Dorothy Thomas	Consultant, Shaler-Adams Foundation and Ford Foundation. United States.
Renate Weber	Co-President, Romanian Helsinki Committee. Romania.

PUBLICATIONS BY THE INTERNATIONAL COUNCIL

This publication

Human Rights Crises: NGO Responses to Military Interventions, 2002, ISBN 2-940259-35-6, 80pp., CHF 24 (Swiss Francs) plus postage. Available in English.

Already published

Journalism, Media and the Challenge of Human Rights Reporting, 2002, ISBN 2-940259-23-2, 140pp., CHF 40 (Swiss Francs) plus postage. Available in English.

Analyses how the media report human rights, by examining a range of geographical and thematic case studies.

Beyond Voluntarism: Human Rights and the Developing International Legal Obligations of Companies, 2002, ISBN 2-940259-19-4, 174pp., CHF 36 (Swiss Francs) plus postage. Available in English.

Argues that there is a basis in international law for extending legal obligations to companies in relation to human rights, and describes the scope of existing law.

Racial and Economic Exclusion: Policy Implications, 2001, ISBN 2-940259-27-5, 32pp., CHF 18 (Swiss Francs) plus postage. Also available in French and Spanish.

Examines the economic factors that contribute to racial discrimination and identifies a combination of policies to remedy the exclusion that occurs when racism and economic disempowerment combine.

The Persistence and Mutation of Racism, 2000, ISBN 2-940259-09-7, 26pp., CHF 15 (Swiss Francs) plus postage. Available in English, French and Spanish. Also available in Arabic from the Human Rights Information & Training Centre, PO Box 4535, Taiz, Yemen, Tel: 9674-216277, Fax: 9674-216279, hrtic@y.net.ye. *Surveys some of the main issues that preoccupy people who suffer from racism or who study its effects.*

Ends and Means: Human Rights Approaches to Armed Groups, 2000, ISBN 2-940259-02-X, 79pp., CHF 36 (Swiss Francs) plus postage. Available in English.

Sets out a framework for analysing the problem of armed groups and respect for human rights and discusses strategies for preventing human rights abuses by armed groups.

* Member of the Executive Board

Local Perspectives: Foreign Aid to the Justice Sector, 2000, ISBN 2-940259-04-6, 125pp., CHF 36 (Swiss Francs) plus postage. Available in English.

Examines the effectiveness of human rights assistance programmes from the perspective of beneficiaries. Research focused on the administration of justice in several countries.

Performance and Legitimacy: National Human Rights Institutions, 2000, ISBN 2-940259-03-8, 132pp., CHF 36 (Swiss Francs) plus postage. Available in English.

Assesses the extent to which national human rights institutions are acquiring social legitimacy and meeting the needs of vulnerable groups. Field research was undertaken in Indonesia, Mexico, and Ghana.

Hard Cases: Bringing Human Rights Violators to Justice Abroad – A Guide to Universal Jurisdiction, 1999, ISBN 2-940259-01-1, 57 pp., CHF 15 (Swiss Francs) plus postage.

Also available in Spanish from: Instituto de Defensa Legal, José Toribio Polo 248, Lima 18, Peru. Tel: 5114-410192, Fax: 5114-424037. *Summarises the universal jurisdiction argument and sets out the issues that need to be considered when prosecuting human rights violators abroad.*

Taking Duties Seriously: Individual Duties in International Human Rights Law – A Commentary, 1999, ISBN 2-940259-00-3, 80pp., CHF 13.50 (Swiss Francs) plus postage. Available in English.

Collects together the references to individual duties in international human rights standards.

All publications from the International Council are available on our Internet site at www.international-council.org or www.ichrp.org. A link on the home page will direct you to a list of all the publications, then simply follow the instructions.

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