

Humanitarian intervention and the intensive Iran strike

Intervention in the name of humanity has been argued to be legally and morally defensible. It is on this premise that the doctrine of humanitarian intervention rests.

BY KENETH KIPAALU

Since the outbreak of the US/Israel war with Iran, commentary about the place of international law in inter-state relations has intensified. One commentator on X wryly observed: "Law schools should stop teaching international law and replace it with US foreign policy because international law is US foreign policy."

The remark is flippant, yet it forces an uncomfortable reflection. It captures in deliberately provocative terms the widening perception that international law bends most visibly when confronted with the strategic imperatives of power-states.

In justifying the unilateral strike against Iran's leader Ayatollah Ali Khamenei that resulted in his death, the US President framed the action in moral and security terms: "This wretched and vile man had the blood of hundreds and even thousands of Americans on his hands, and was responsible for the slaughter of countless thousands of innocent people across many countries... We are undertaking this operation not merely to ensure security for our own time and place, but for our children and their children... These actions are right, and they are necessary to ensure that Americans will never have to face a radical, bloodthirsty terrorist regime armed with nuclear weapons."

It is against this backdrop that the US/Israel military action in Iran must be assessed.

The United Nations Charter in its Preamble affirms the equality of nations, large and small and under Article 2(4) obliges member States to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State. Taken together, these principles abrogate the notion that any single State may appoint itself the world's policeman or moral arbiter of another State's internal affairs.

However, history teaches us that when a State commits atrocities against its own people, when it perpetrates abuses



A woman mourns on the day of the funeral of the victims following a reported strike on a school in Minab, Iran on March 3. PHOTO/REUTERS

so grave that they shock the conscience of humanity, the matter can no longer be dismissed as purely domestic. In such circumstances, intervention in the name of humanity has been argued to be

legally and morally defensible. It is on this premise that the doctrine of humanitarian intervention rests. This is also the echo of the US President's remarks referenced earlier.

The theory underpinning humanitarian intervention is that sovereignty is not absolute; it is conditional upon a government's responsibility to protect its population. Where a regime becomes the author of mass atrocities, it may forfeit the protections ordinarily attached to sovereign status. This idea which is sometimes described as contingent sovereignty suggests that non-interference is not an unconditional shield. Whether this creates a legal duty on other states to intervene remains debated, but it certainly weakens the offending State's claim to immu-

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However, the Government of the United Kingdom in a policy paper addressing the use of chemical weapons by the Syrian government attempted to set out the pre-conditions as follows.

1. There is convincing evidence, generally accepted by the International Community as a whole, of extreme humanitarian distress on a large scale, requiring immediate and urgent relief;

2. It must be objectively clear that there is no practicable alternative to the use of force if lives are to be saved; and

3. The proposed use of force must be necessary and proportionate to the aim of relief of humanitarian need and must be strictly limited in time and scope to this aim (i.e. the minimum necessary to achieve that end and for no other purpose).

Although it remained a unilateral state articulation rather than an authoritative statement of international law, its persuasive and with it, the reader can assess the US/Israel military action on Iran and whether it passes for an act of humanitarian intervention or aggression. I deliberately choose not to descend into that arena.

In sum, in spite of the absence of the right to humanitarian intervention in normative form, it has clearly become a central feature of international relations as customary international law. States continue to invoke it in practice even without agreed legal standards to govern its scope and limits. However, as long as it remains uncodified, its application will depend largely on the political will and strategic interests of powerful states.

That reality gives substance to the cynical observation by the commentator on X noted at the beginning of this text. While exaggerated, the remark reflects a genuine concern: where the law is uncertain, power often determines how it is interpreted and applied.

Keneth Kipaalu is an Advocate, Courts of Judicature of Uganda
kk@ktaadvocates.com

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nity from external action.

There are historical instances in which intervention appears to have alleviated profound suffering. Tanzania's 1979 intervention in Uganda contributed to the overthrow of Idi Amin's brutal dictatorship. India's intervention in Bangladesh in 1971 followed widespread atrocities committed by the West Pakistani military after the Awami League's electoral victory. Millions fled into India, triggering a regional crisis. Within twelve days of open war, Pakistani forces surrendered, and Bangladesh emerged as an independent state.

Nevertheless, the record is far from uniformly redemptive. The North Atlantic Treaty Organisation (Nato)'s intervention in Libya, though justified in humanitarian terms, left the country fractured and unstable. Interventions in Iraq and Afghanistan, regardless of their initial objectives, have produced prolonged instability and unintended geopolitical consequences. These examples illustrate the central tension: humanitarian intervention can be both a shield for the vulnerable and a sword for the powerful.