

Human Rights and Humanitarian Intervention

Legitimizing the Use of
Force since the 1970s

Edited by

Norbert Frei | Daniel Stahl | Annette Weinke

Wallstein

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Intervening in the Name of Human Rights

On the History of an Argument

In late April 1999, British Prime Minister Tony Blair embarked on an important mission in the United States. A month earlier, NATO had begun launching air strikes on Serbia with the aim of forcing President Slobodan Milošević to order a military retreat from Kosovo. But Milošević would not budge. One of the goals of Blair's visit, therefore, was to preempt any signs of war-weariness among the American public. In television appearances, newspaper articles and in his address to the U.S. Congress, Blair put forth the argument that NATO had no choice but to maintain its pressure on the Serbian government. On 22 April, Blair held a much-lauded talk at the Economic Club of Chicago, where he presented the argument that came to be known as the Blair Doctrine: »Twenty years ago we would not have been fighting in Kosovo. We would have turned our backs on it. [...] Now our actions are guided by a more subtle blend of mutual self-interest and moral purpose in defending the values we cherish. In the end, values and interests merge. If we can establish and spread the values of liberty, the rule of law, human rights and an open society then that is in our national interests too. The spread of our values makes us safer.«¹

Blair's arguments echoed the widespread belief that Kosovo represented a break with the past, particularly in terms of the renewed emphasis given to the importance of universal individual rights. This heightened attention to the rights of the individual was believed to mark a decisive shift away from the strict adherence to the principle of sovereignty that had dominated during the Cold War. As early as 1991, during the first Iraq War, former UN official Sir Brian Urquhart published an op-ed in the *New York Times* under the title »Sovereignty vs. Suffering,« arguing that the UN Charter's »almost sacred principle« of national sovereignty

1 Tony Blair, Speech to the Chicago Economic Club, April 22, 1999. Accessed May 23, 2017, http://www.pbs.org/newshour/bb/international/jan-june99/blair_doctrine4-23.html

should be set aside in favor of providing aid to the Kurds and Shiites of northern Iraq.² For Western policy leaders, practitioners and scholars, the humanitarian crises in Iraq, the Balkans and Africa were evidence that the United Nations needed to add greater military muscle to its peacekeeping efforts, and that the international community needed to formulate a new consensus on interventions in the name of human rights. In July 1999, shortly after the end of the NATO operation against Serbia, U.S. President Bill Clinton recapitulated this newly emerging norm regarding the prevention of genocide: »We can say to the people of the world, whether you live in Africa, in Central Europe, or any other place, if somebody comes after innocent civilians and tries to kill them en masse because of their race, their ethnic background or their religion, and it's within our power to stop it, we will stop it.«³

Two Narratives

Within the field of International Relations, this »new« and more robust policy of humanitarian interventionism has received significant support. Eminent political scientist Stanley Hoffmann, for example, has emphasized that the increasingly complex system of international states had rendered inadequate the instruments available to the UN Security Council.⁴ While it would be an overstatement to speak of anything approaching an »interventionist consensus« within the field of International Relations after the Cold War,⁵ this shift did represent a clear move away from the American doctrine of Legal Realism, which had asserted that any limitations on the principle of sovereignty in the name of human rights would only serve to destabilize the system of international relations.⁶ Interna-

2 Brian Urquhart, »Sovereignty vs Suffering«, in: *New York Times*, April 17, 1991.

3 W.J. Clinton, Speech on Kosovo Agreement, June 10, 1999. Accessed May 23, 2017, <https://millercenter.org/the-presidency/presidential-speeches/june-10-1999-address-kosovo-agreement>.

4 Hoffmann, »Military Intervention.«

5 Jamison, »Humanitarian Intervention,« 366.

6 For example, at the meeting of the American Society of International Law in 1959, Hoffmann stated: »In a world in which total politicization has eliminated those areas of domestic and international affairs from which governments used

tional legal scholars, by comparison, tended to strike a more critical note. In their view, the break with the UN prohibition on force represented a »turn to ethics« and an expression of the increasing »deformalization« of international law.⁷

The argument that the humanitarian interventionism of the 1990s signified a break with the past has also found echoes within some recent scholarship on the history of human rights.⁸ In this view, the late 1960s and the 1970s witnessed a new ascendancy of human rights, international humanitarian law and a self-reflective global *moralpolitik*, which emerged within a confluence of new actors, new forms of action and new political sensibilities. This first shift was followed by a second and fundamental transformation after the Cold War. Samuel Moyn locates this transformation in the emergence of a global consciousness of the Holocaust, now coupled with a renewed awareness of the link between human rights and the prevention of genocide. This second shift represented a decisive break with the military interventions that had taken place during the Cold War, which in their overall contours continued to recall the humanitarian interventions of the late nineteenth century. Most importantly, these Cold War interventions had been justified on the basis of national security rather than on the foundation of international human rights.⁹ In a similar vein, Stefan-Ludwig Hoffmann has recently argued that the true »breakthrough« for global »human rights idealism« came in the 1990s rather than in the 1970s, as some have claimed.¹⁰

This historiography is countered by recent studies on the history of humanitarianism that draw on the insights of political and intellectual history to interrogate the ideology and practices of humanitarian inter-

to stay away, it seems to me perfectly vain to hope for an escape from politics ... To press forward in the field of universal definitions of human rights is an invitation to hypocrisy and to heightening political tensions.« See Moyn, *Last Utopia*, 189.

7 Koskeniemi, »Lady Doth,« 160; Kennedy, *Dark Sides*.

8 Moyn, »Historiographie«; Hoffmann, *Moralpolitik*; Frei/Weinke, *New Moral World Order*; Eckel, *Ambivalenz*; idem, *Schwerpunktheft*; Keys, *Reclaiming*; Werneke, *Stimme*.

9 Moyn, *Last Utopia*, 220.

10 Hoffmann, »Human Rights,« 12.

vention as a neologism with a long prehistory extending back into the early modern era. In this genealogical approach, this long prehistory must first be decoded before we can arrive at a deeper understanding of the history of humanitarianism.¹¹ This »deep history« approach is founded on a relatively broad definitional scope. Unlike studies that focus mainly on military interventions, this strand of research also analyzes the political, diplomatic, legal and economic sanctions that were imposed in response to state violations of human rights. While this genealogical approach does describe human rights, humanitarianism and interventionism as dynamic and shifting concepts, it also presumes certain continuities of meaning across time. Brendan Simms and David Trim, for example, situate the history of humanitarian intervention within a long series of precedents whose origins can be located in the Reformation and the age of religious wars. The concept of humanitarian intervention, in this view, finally came of age during the era of European and Transatlantic »high imperialism,« when a number of previously disparate discourses and practices began to coalesce.¹²

According to Simms and Trim, the emergence of a new discourse of human rights and international law also marked the moment when the problem of man-made »tragedies« became a topic of international humanitarian concern, which became associated with the demand for active intervention on behalf of endangered peoples, minorities, and individuals. Elements of coercion, force and preventive intimidation were thus constitutive of the modern concept of humanitarian intervention, and distinguished it from simple humanitarian aid: »The key element is that one state, or a non-state actor, attempts to impose its will on another state or group within it. When a state acts in another state at the request of its government and with its cooperation, it is rarely controversial (at least internationally, rather than internally). When action in another state's affairs is imposed on its government, or occurs in its despite, then inter-

11 Among the works that exemplify this approach are Wheeler, *Saving Strangers*; Bass, *Freedom's Battle*; Rodogno, *Against Massacre*; Swatek-Evenstein, *Geschichte*; Simms/Trim, *Humanitarian Intervention*; Heraclides/Dialla, *Humanitarian Intervention*; Klose, *Emergence*.

12 Simms/Trim, *Humanitarian Intervention*, 3.

vention is controversial (and, some argue, illegitimate). In consequence, just as humanitarian *action* can take place in a foreign state without *intervention*, so military action in a foreign state does not necessarily constitute intervention either.¹³ The history of the peace and security policy initiatives of the League of Nations and the United Nations also figure within this historiography as further aspects of the *longue durée* of humanitarian intervention.¹⁴

The interpretations outlined here seek to deconstruct the traditional human rights narrative of the »Westphalian age« and »Westphalian model.« Nonetheless, they remain wedded to an interpretive framework that adheres to the logic of »legal precedent« and the binary categories of modern international law. The history of humanitarian intervention is embedded within a larger history defined by the emergence of highly dynamic relations between states, the development of a transnational public, and the associated socialization of national foreign policies. In this sense, this historiography seeks to offer a counterpoint to the narrative that began to emerge, initially among international advocates of human rights, after the end of the Cold War.

The current volume seeks to mediate between these two historiographical narratives by situating the history of post-Cold War humanitarian intervention within the larger history of the twentieth century. On the one hand, we argue that understanding the post-1989 »boom« in humanitarian intervention requires that we deconstruct the narrative of the »Westphalian age.« On the other hand, we also seek to elucidate the specificities of interventionism during the 1990s – a moment when, for the first time, military interventions were being justified on the basis of the protection of human rights, rather than simply on the grounds of the protection of minorities (as during the age of empire), or as a peacekeeping measure (as during the Cold War). Bridging this historiographical gap will require embedding the history of human rights more deeply within the history of humanitarianism. Our argument rests on the assumption that, after the 1960s, the spheres of both human rights and humanitari-

13 Ibid., 5.

14 MacQueen, *Humanitarian Intervention*; Kreß, »Westphalian System«; Schulte, »Protection«.

anism remained in constant flux, shaped by the emergence of new actors, new fields of activity and new media-based pressures and opportunities.¹⁵ These parallel processes of transformation help explain why, even before the dissolution of the bipolar world order, the spheres of human rights and military interventions in the name of humanitarianism had begun to coalesce.

This volume thus rests on two key assumptions. First, we are convinced that the ongoing intertwining of human rights and humanitarian intervention is the result of developments whose origins date back to the Cold War. The shift from the minimalist forms of human rights activism of the 1970s and 1980s to the maximalist humanitarian interventionism of the 1990s and 2000s was not sudden. Rather, this shift took place in fits and starts and followed a number of circuitous paths.¹⁶ We thus regard the many ruptures in the history of humanitarian intervention not as »paradoxes,«¹⁷ but rather as an inherent feature of what had long been a highly contested field, whose development and conceptualization was determined by a large number of different actors, all with conflicting interests. For example, we see the ideological refusal of the West and the United Nations to cite human rights as the justification for various humanitarian interventions during the Cold War¹⁸ as an opportunity to interrogate the concrete circumstances and conditions under which human rights could indeed serve as a justificatory rationale for humanitarian intervention.

Second, we assume that military interventions on behalf of human rights were not simply military and political phenomena; rather, these interventions were the outcome of a confluence of social factors that at various moments attained additional amplification and force. Focusing on case studies of military intervention thus does little to explain why humanitarian attitudes and rationales could at times serve as such a powerful motivation for action. Instead, we must ask why different actors from the fields of politics, diplomacy, academia, the media and civil society seized upon the concept at various points in time, what these actors

15 Eckel/Moyn, *Breakthrough*; Villaume/Mariager/Porsdam, »Long 1970s.«

16 Moyn, *Last Utopia*, 221.

17 Geyer, »Humanitarianism,« 33.

18 Quinn-Judge, »Fraternal Aid.«

hoped to achieve, and what meanings they attached to the concept. In this sense, we do not interpret humanitarian arguments simply as a cover for interests that were actually grounded in power politics and *realpolitik*. Instead, we take seriously the humanitarian claims being made by the actors under investigation, without reproducing their often rather simplistic narratives. And we ask how the use of military force to protect human rights could be tied to a very wide array of distinct agendas. In doing so, we attend to the interests and the self-perceptions of the various actors and examine the traditions that they used to justify their humanitarian engagement. This does not mean that we deny that humanitarian interventions could also serve power-political or economic interests. However, our focus is how human rights could have attained such a central position within public debate during the 1990s that it could be suspected of serving as a cover for interests of an entirely different nature.

The historicization of the topic under current investigation is still in its infancy. For this reason, our collected volume cannot present a comprehensive survey of the topic in all its important aspects. It is also too soon for sweeping theories and wide-ranging explanations. Rather, this volume should be understood as an interdisciplinary attempt to identify and analyze the key areas of debate and the relevant scholarly literature in the field. Although this historicization is our central focus, this volume includes not only contributions by historians, but also by journalists, political scientists, and scholars of international law. Two questions appear key to our attempt at historicization: What were the developments that gave rise to the interventions of the 1990s? And what phases and trends in this history can be observed?

Genealogies and Trends

In addition to the narratives outlined above, which establish a line of continuity between the interventionism of the 1990s and forms of intervention that began in the nineteenth century, the contributions in this volume also examine the utility and limitations of other possible genealogies. For example, by placing actors rather than practices at the center of attention, a number of new potential narratives shift into

view, which trace the emergence of humanitarian interventionism from various sources, including the spirit of the Left, liberal international law, human rights, and the spirit of a specific generation.

Indeed, one could argue that human-rights based interventionism emerged out of a spirit of ideological questioning within the North Atlantic Left. The French example is particularly instructive in this respect. In response to Alexander Solzhenitsyn's exposure of Stalin's terror, as well as the crimes committed by post-colonial leftist governments, in the 1970s French intellectuals and activists began abandoning the idea of revolution. Instead, in the tradition of the leftist concept of *tiers mondisme*, they began to advocate for cross-border activism with the expressed minimalist goal of alleviating human suffering and securing fundamental human rights. Within this Left tradition, *ingérence humanitaire* was understood as the obligation of citizens to advocate for humanitarian causes outside of their own borders. However the meaning of this concept began to shift by the late 1980s, instead increasingly coming to refer to state action. It thus comes as no surprise that, after the end of the Cold War, advocates of cross-border humanitarianism such as Bernard Kouchner, Mario Bettati and Bernard-Henri Lévy were among the most important proponents of military intervention on behalf of human rights.¹⁹ It is also noteworthy that it was the left-liberal governments of the 1990s that, during a phase of reorientation, took up the cause of humanitarian intervention and incorporated it into their foreign policy programs.²⁰

The interventionism of the 1990s can also be situated within the history of liberal international law. Indeed, the concept of military intervention as an instrument of human rights became increasingly popular among American human rights scholars and activists during the 1960s, at the very same time that liberal international law reemerged from what had been years of marginalization. The question remains, however, whether and to what extent this early interventionism debate, which not

19 See the contributions by Julian Bourg and Eleanor Davey in this volume. We do not pretend to summarize the argumentation of the volume's contributors. Instead, we try to relate them to each other by identifying some of the overarching problems.

20 See the contribution by Jan Eckel in this volume.

coincidentally was taking place amid an escalating American military intervention in Indochina, was relevant to the discourse that emerged after the end of the Cold War.²¹

In a number of ways, the human rights »boom« after the 1970s helped shape the history of interventionism. The legalistic approach of human rights activism transformed humanitarianism, which had enjoyed a long tradition of political impartiality. Humanitarian actors, who depended on state cooperation in order to deliver aid in times of urgent crisis, had traditionally accepted the concept of state sovereignty without question. By the late 1960s, however, the concept of political impartiality came under increasing criticism. Citing the importance of human rights, humanitarian actors increasingly argued that state sovereignty must go hand-in-hand with the preservation of certain minimal legal standards. These two strands – the traditional humanitarian imperative to provide a life-saving response and the relativization of state sovereignty – would come to define interventionism during the 1990s.²² This »boom« in human rights would transform not only humanitarianism, but also state politics. During the second half of the 1970s, a number of Western governments, most particularly the U.S. and the Netherlands, made human rights an integral part of their foreign policy agenda, and began to criticize their allies for their use of violence against their own populations. As Jan Eckel notes, the extent to which these experiences shaped the policies of Western states during the 1990s and their understanding of the relationship between sovereignty and human rights remains an open question.²³

During the 1990s, advocates of military humanitarianism based in human rights tended to be members of the »baby boomer« generation, with British Prime Minister Tony Blair, French Foreign Minister Bernard Kouchner, his German counterpart Joschka Fischer, and U.S. President Bill Clinton among the most prominent examples. Their advocacy for humanitarian intervention was frequently greeted with skepticism on the part of the old political elite, many of whom had begun their careers during the early Cold War era, and many of whom remained convinced

21 See the contribution by Fabian Kose in this volume.

22 See the contribution by Bronwyn Leebaw in this volume.

23 See the contribution by Jan Eckel in this volume.

that any challenge to the principle of sovereignty would pose a threat to international security. This conflict was not limited to the political sphere. Indeed, this generational fault line was often evident even among the editorial staff of major newspapers and television broadcasters.²⁴

This generational shift once again raises the question of structural developments and trends. When we write the history of humanitarian intervention in traditional fashion, as a sequence of specific interventions, this question is relatively simple to answer. In this narrative, the main question is when and how many military interventions took place which were motivated at least in part by humanitarian concerns. But when we expand the scope of inquiry to scrutinize a variety of different actors, spheres of action and discourses, the narrative soon becomes more contradictory and complex.

By the interwar period, some experts on international law had already begun to question the principle of sovereignty and to argue that international law permitted the use of military force across national borders in the interests of human rights. For many years, however, such demands were relatively infrequent. It was not until the late 1960s and the Biafra conflict (1967-1970) that a lively debate began to emerge among scholars of international law regarding the question of national sovereignty and the use of military force in service of human rights. In the course of these debates, various attempts were made to influence political action, for example through appeals issued to the United Nations.²⁵

As this history demonstrates, the concept of humanitarian intervention as an instrument for the protection of human rights did not emerge out of whole cloth after the Cold War. However, the earlier debates on humanitarian intervention had little practical impact. Although a number of UN military missions were carried out during the 1970s, these missions were not justified on the basis of human rights or humanitarianism. Instead, these missions drew upon older peacekeeping mechanisms and instruments that had been adopted by the UN Charter after the Second World War and amended during the decades that followed. For example, the deployment of

24 See the contribution by Matthias Naß in this volume.

25 See the contribution by Fabian Klose in this volume.

UN troops to Sinai (1973-1979), the Golan Heights (since 1974) and Lebanon (since 1978) were legitimated as peacekeeping operations, not on the basis of human rights. Indeed, the UN often declined to take action, even in the face of massive human rights violations. Not infrequently, it was neighboring states that stepped in. In 1971, for example, mass violence and persecution of minorities in Bangladesh prompted India to provide military support to Bangladesh's efforts to declare independence from Pakistan. In 1978, Tanzanian troops marched into Uganda, which soon resulted in the overthrow of Idi Amin's brutal regime. That same year, the intervention of Vietnamese troops brought an end to genocide in Cambodia. Neither India, Tanzania nor Vietnam drew on humanitarian arguments.²⁶

The post-Cold War era also witnessed another shift. During the Cold War, debates about the use of military force to protect human rights were largely carried out on the level of high politics and among experts in the field. After the Cold War, however, the number of UN peacekeeping missions rose sharply. As a result, debates about humanitarian intervention entered the broader public sphere. During the early 1990s, the term »humanitarian intervention« was often used as a synonym for UN peacekeeping missions – a conceptual shift that led to an increased emphasis on human rights and humanitarianism as the basis for military intervention. This discursive shift was particularly evident in the debates surrounding the UN missions in Somalia and Bosnia. In both the European and North American media, there was a heated debate about questions of state sovereignty and the use of military force in response to mass violations of human rights. The genre of human rights journalism also peaked during the early 1990s, with journalists reporting directly from crisis regions in order to raise awareness among the »global public.« This »new interventionism« in turn became the subject of controversial debate among experts in international law and International Relations. NGOs demanded armed protection in conflict regions, while UN Secretary-General Boutros Boutros-Ghali issued a call for reform that aimed to strengthen the humanitarian character of UN peacekeeping initiatives.²⁷

26 Kreß, »Post-Westphalian Shifts,« 19 f.

27 Regarding journalism, see the contributions by Böhm and Naß in this volume. For a contemporary overview of the scholarly debate on »new interventionism,«

By comparison, the early 1990s saw relatively little development within the sphere of international law. The UN missions in El Salvador (1991-1995), Somalia (1992-1995), Bosnia (1992-1995) and Haiti (1993-1996) drew upon classical peacekeeping mechanisms and instruments. This also helps explain why the Security Council made only cautious reference to human rights in the resolutions mandating these missions. The 1991 resolutions went furthest in this respect. In one resolution, the UN sent troops to El Salvador to monitor and verify the human rights agreement that had been signed the previous year. Also in 1991, the Security Council authorized a no-fly zone to be established over a part of Iraq in response to its repression of Kurds and Shiites. In citing human rights violations, these initiatives did at times lend weight to the principle of human rights vis-à-vis the protection of national sovereignty. Nonetheless, the main justification for military intervention remained the endangerment of peace.²⁸

Equally significantly, UN Secretary-General Boutros Boutros-Ghali's attempted reforms in the early 1990s were largely a failure. Boutros-Ghali's proposed reforms had been prompted in part by the sharp rise in the number of peacekeeping missions during the early 1990s. Indeed, between 1988 and 1992, the budget of the peacekeeping department increased eight-fold. In his 1992 reform proposal, titled *Agenda for Peace*, Boutros-Ghali argued that the respect for human rights should become a centerpiece of UN peacekeeping efforts. However, member states were unwilling to raise their contributions to meet increased expenses incurred as a result of Security Council decisions. The United States, which was the largest financial contributor, was particularly critical of the high costs associated with the peacekeeping missions. In October 1993, after U.S. soldiers were killed in Somalia and their bodies were dragged through the streets of Mogadishu, the U.S. succeeded in pushing through its demand for more restrictive guidelines. The Security Council agreed upon a narrow catalogue of criteria that would need to be met before mandating

see Stedman, »New Interventionists.« Regarding the NGOs, see Barnett, *Empire*, 172-174. Regarding the UN Secretary General, see *An Agenda for Peace*, June 17, 1992, UN Documents A/47/277.

²⁸ Eckel, *Ambivalenz*, 835.

a military intervention. But despite Boutros-Ghali's *Agenda for Peace*, the new catalogue made no mention of human rights. Instead the key criteria were the risk that the conflict posed to international peace and the likelihood that peace could be achieved. On the basis of these criteria, and with the events in Somalia still fresh in mind, the UN chose to withdraw its peacekeeping force from Rwanda, rather than equipping it with a more robust mandate in the face of a looming genocide.²⁹

The late 1990s is often regarded as the high point of this new humanitarian interventionism. For example, both NATO's military intervention in Kosovo and the Australian-led task force in East Timor were publically advertised as humanitarian interventions that sought to prevent gross violations of human rights. A number of governments, including Great Britain and the U.S., made the global protection of human rights an important element of their foreign policy agendas. Both the Blair Doctrine of 1999 and the Clinton Doctrine of that same year proclaimed the duty to protect people around the world from genocide and persecution – a commitment that surpassed anything that any government had issued to that point. In the United Nations, Secretary-General Kofi Annan, who had taken office in 1997, revived his predecessor's failed initiative, urging the organization to harness its existing mechanisms and instruments in service of the protection of human rights worldwide.³⁰ This was also the central theme of Annan's speech marking the release of the 1999 annual report: »It has revealed the core challenge to the Security Council and to the United Nations as a whole in the next century: to forge unity behind the principle that massive and systematic violations of human rights – wherever they may take place – should not be allowed to stand.«³¹ By the late 1990s, international experts once again revived the debate on humanitarian intervention. In the U.S., in particular, the topic of humanitarian intervention had fallen into disrepute after the Somalia debacle, with leading experts arguing that military interventions in regions gripped by war and crisis were by definition unlikely to result in desirable outcomes.

29 MacQueen, *Humanitarian Intervention*, 50-55; Barnett, *Eyewitness*.

30 See the contribution by Jan Eckel in this volume.

31 Secretary-General Presents his Annual Report to General Assembly, September 20, 1999, SG/SM/7136, GA/9596.

The Kosovo conflict, however, once again changed the terms of the debate and even conservative commentators began advocating in favor of humanitarian intervention.³²

Nonetheless, by the late 1990s, UN peacekeeping, which at the start of the decade had been interpreted confidently as the agent of a »new interventionism,« was mired in crisis. The reluctance of the UN to intervene in Rwanda and its failure to prevent the July 1995 massacre in Srebrenica, where more than 8000 Bosnians were killed, met with vocal criticism and dismay, both from the international public and increasingly from the Secretary-General himself. The fact that the Security Council had been unable to agree on a mandate for Kosovo only added to this perception of failure. Media debates on questions of humanitarian intervention also markedly shifted in tone. In the early 1990s, this debate was largely shaped by the idea of a »new world order,« whose dawn had been heralded by U.S. President George Bush. By the end of the decade, the inability of the Security Council to intervene even in the case of serious human rights violations had largely caused these hopes to fade from view.³³

In the area of international law, however, the early 2000s marked the beginning of some important developments. In large part due to the urgings of Kofi Annan, the International Commission on Intervention and State Sovereignty was founded in 2001, with the stated mission of searching for new ways to reconcile the principle of sovereignty with effective and robust mechanisms for the protection of human rights. The concept of Responsibility to Protect, which was developed by the Commission, was incorporated into the outcome document of the World Summit of the United Nations in 2005, and received the support of the majority of member states. Although the original plan had been to place the Responsibility to Protect concept in the chapter on peace and collective security, it was instead moved to the chapter on human rights and the rule of law – a further illustration of the way in which the terms of the

32 Wertheim, »Solution,« 158-163.

33 See the contribution by Matthias Naß in this volume. The best-known example of this debate is Samantha Power's indictment, *A Problem from Hell*.

debate had shifted away from securing peace and towards the protection of human rights.³⁴

The expansion of the concept of humanitarian intervention was also evident in state practice. For example, the U.S. military drew upon the critical anthropology of human rights that had emerged during the 1990s to recast its own military interventions as humanitarian missions. The anthropological argument that the preservation of cultural identity was a human right was thus reconfigured to support the claim that the preservation of cultural artefacts during a military mission also constituted a form of human rights protection, a move that sparked sharp criticism from anthropologists.³⁵

At the same time, zones of humanitarian crisis – especially in Africa – increasingly became a forum for celebrity engagement. This activism brought certain kinds of violence to public attention for the first time, fostering debates about the necessity of intervention.³⁶ The controversy about U.S. military's embracement of cultural rights, along with the UN's replacement of the concept of humanitarian intervention by the doctrine of Responsibility to Protect, are both illustrative of the misgivings that greeted the increasing juridification and expansion of armed human rights intervention. These misgivings, moreover, were not limited to »usual suspects« – states that feared potential incursions on their sovereignty – but were increasingly also being expressed by human rights activists and the media. 9/11 further shifted the terms of the debate toward questions of security – and the subsequent war in Iraq served to further heighten the skepticism that greeted any engagement on the part of Western states in the so-called »Third World.«³⁷

The recent history of intervention in the name of human rights has thus been marked by the rise of mutually contradictory developments. These developments require further explanation and raise further questions, particularly in terms of the impact of such conflicting tendencies,

34 See the contributions by Oliver Jütersonke and the conversation between Gerd Hankel, Claus Krefß and Annette Weinke in this volume.

35 See the contribution by Robert Albro in this volume.

36 See the contribution by Patricia Daley in this volume.

37 See the contributions by Andre Böhm in this volume.

both in the recent past and in the present day. This question becomes all the more urgent when we consider the future of intervention in the name of human rights. Political constellations and configurations can be volatile and shift with the winds, but international law proceeds at a slower pace – and as a result, its developments tend to be more enduring.³⁸ This is only one of the issues which this volume seeks to explain.

Translated from German by Patricia Szobar.

³⁸ This argument is made by Claus Kreß in his conversation with Gerd Hankel and Annette Weinke, included in this volume.