Christian Neuhäuser/Christoph Schuck (eds.)

Military Interventions

Considerations from Philosophy and Political Science

Nomos

International Politics:
Perspectives from Philosophy and Political Science

edited by

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Volume 1

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Introduction:
Military Interventions in the Crosshairs of
Interdisciplinary Research

Christian Neuhäuser and Christoph Schuck

Whenever normative criteria are applied, it is generally agreed that the purpose of military interventions must be to put a stop to serious abuses of human rights. For this reason, such actions are often called "humanitarian interventions."[1] However, the term is misleading for two reasons: First, it makes it sound as if the intervention itself were being conducted in a humanitarian way, which in no way describes how wars are actually conducted.[2] Second, it fails to distinguish between military and other—possibly non-military—forms of intervention, such as a conditional policy of sanctions or incentives. We find it more helpful to refer to "military interventions for the purpose of stopping serious abuses of human rights." That this leads us as editors to use the general term "military interventions" rather than "humanitarian interventions," while some of our authors continue to use the latter term in their papers, illustrates one of the important difficulties the topic faces—the lack of universally accepted terminology.

But in addition to—and even beyond—the seemingly academic question of appropriate terminology, the topic of military interventions urgently requires attention. By now it is all too clear that the dream of a lasting world peace following the end of the Cold War has not come true. The "end of history" which Francis Fukuyama proclaimed with nearly boundless optimism—anticipating the victory of liberal, i.e. democratic, sys-

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1   See also: *Ayub, Fatima/Kouvo, Sari* (2008): Righting the Course? Humanitarian Intervention, the War on Terror and the Future of Afghanistan, in: International Affairs 84 (4), 641-57, and: *Farber, Tom J.* (2004): Humanitarian Intervention Before and After 9/11, in: Holzgrefe, J.L./ Keohane, Robert O. (ed.): Humanitarian Intervention. Ethical, Legal, and Political Dilemmas, 3rd edition, Cambridge: Cambridge University Press, 53-90.
2   See *McMahan, Jeff* (2009): Killing in War, Oxford: Oxford University Press.

tems[3] following the collapse of the Soviet Union—has turned into something more closely resembling the "search for the lost security" that Ulrich Beck describes as a consequence of the "world risk society."[4] Added to the increased threat of terrorism, which gives people in countries that were once considered relatively secure the feeling that, as Herfried Münkler argues, they will never again have any kind of safety, nowhere and never,[5] wars and conflicts continue to play an important role: According to the *Heidelberg Conflict Barometer*, there were 46 armed conflicts worldwide in 2014—particularly in Africa and the Middle East, but also in Central America, South and Southeast Asia, and with the conflict in the Ukraine, also in Europe.[6] Based on these findings, it is hoped that this collection of papers will contribute toward analyzing and gaining new insights into the academically and socially important topic of "military interventions" from the interdisciplinary perspectives of Philosophy and Political Science.

In the interest of providing some cohesion within the very broad research area of military interventions, the focus here is on certain topics that are particularly useful for interdisciplinary research. Knowing that it would be impossible to discuss all relevant aspects of the subject in one volume, we have identified three topic areas that will be given a thorough, interdisciplinary examination in a particular way. The framework for the various topic areas covered in this book was created by emphasizing certain specific questions. In view of the interdisciplinary nature of this collection of papers, we believe that deliberately narrowing the focus was necessary in order to achieve a balance between an appropriate amount of information about a topic and academic accuracy. We have therefore concentrated on three topic areas, which not only have priority, but also interact with each other, and have formulated one central question for each:

Topic area 1: The Legitimation of Military Interventions—what rights and duties do the intervening parties have?

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3 *Fukuyama, Francis* (1992): The End of History and the Last Man, New York, NY: Free Press.
4 *Beck, Ulrich* (2007): Weltrisikogesellschaft. Auf der Suche nach der verlorenen Sicherheit, Frankfurt/Main: Suhrkamp.
5 *Münkler, Herfried* (2004): Die neuen Kriege, Reinbek: Rowohlt-Verlag, 202.
6 *Heidelberg Institute for International Conflict Research* (2015): Conflict Barometer 2014, No. 23, 14, in: http://www.hiik.de/de/konfliktbarometer/pdf/Conflict Barometer_2014.pdf, (25.08.2015).

Topic area 2: Analysis of the circumstances surrounding military interventions—what problems for military interventions present themselves against the backdrop of a (value-)pluralistic world?
Topic area 3: Constellations of actors in military interventions—what role do government and non-government actors play in such interventions?

1.   Rights or Duties to Intervene? On the Legitimation of Military Interventions

According to the predominant interpretation of international law, only the Security Council of the United Nations (UNSC) has the authority to legitimize military interventions.[7] However, in view of independent actions by the United States, the problematic role of China and Russia, and the fact that highly populated and economically strong countries (e.g. India, Brazil and Germany) are not permanently represented within the Security Council, one might ask how much legitimacy the Security Council itself has. This question becomes even more important when we realize that, in practice, interventions have up to now been conducted on a purely ad-hoc basis and include failed interventions like the one in Somalia, situations in which an intervention was clearly necessary, but none was carried out (Ruanda), and even interventions which at least initially were formal breaches of international law (Kosovo).[8] Neither the intervention in Kosovo nor the one in Iraq in 2003 was legitimized by the UNSC. These problems lead to the question whether other institutions might have the authority to legitimize military interventions. For example, some authors argue that the European Union or NATO could have the authority to do this,

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7   See among others: *Buhler, Pierre* (2008): Military Intervention and Sources of Legitimacy, in: Andréani, Gilles/Hassner, Pierre (ed.) (2008): Justifying War? From Humanitarian Intervention to Counterterrorism, New York, NY: Palgrave Macmillan, 167-79; see also: *Merkel, Reinhard* (2009): Basic Principles of Law as Normative Foundations of, and Limits to, Military Enforcement of Human Rights across State Boundaries, in: Merkel, Wolfgang/Grimm, Sonja (ed.) (2009): War and Democratization. Legality, Legitimacy and Effectiveness, London/New York, NY: Routledge, 16-31.
8   See also: *Schlegel, Steve/Schuck, Christoph* (2016): Internationale Gerechtigkeit, in: Goppel, Anna/Mieth, Corinna/Neuhäuser, Christian (ed.) (2016): Handbuch Gerechtigkeit, Stuttgart: J.B. Metzler.

since they are adequately supervised and include a sufficient number of democratic countries in their decision-making processes.[9] Other positions support the view that instead of considerations regarding mere formal legitimacy, questions of cost-effectiveness and the efficacy of an intervention are the most important aspects in the legitimation process.[10] For example, it can be noted that non-military alternatives to intervention, such as years of economic sanctions, in some cases have more negative consequences and more victims among the civilian populations they were meant to protect than a military intervention. If this is the case, should a military intervention continue to be regarded as a sometimes necessary last resort in order to achieve a political goal, or might it not actually be advisable to do a cost-effectiveness analysis as a basis for the decision-making process?

In this dilemma, international organizations also play an important role when the question of legitimation arises. Occasionally it has even been suggested that the Security Council be reorganized to include other countries and should have no veto power regarding armed interventions.[11] Some of the proponents of Security Council reform argue that military interventions react to serious abuses of human rights and that the prevention of such abuses should take priority over restrictive—and often drawn-out—procedures for interpreting international law. In their view, such changes could actually lead to progress in the development of international law.[12] However, the argument of serious abuses of human rights also poses the question whether there might at times be a moral obligation to

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9   For example: *Dobos, Ned* (2010): Is U.N. Security Council Authorisation for Armed Humanitarian Intervention Morally Necessary?, in: Philosophia 38 (3), 499-515.

10 See also *Lee, Steven P.* (2010): Humanitarian Intervention - Eight Theories, in: Diametros 23, 22-43.

11 See *Bellamy, Alex/Williams, Paul* (2006): The UN Security Council and the Question of Humanitarian Intervention in Darfur, in: Journal of Military Ethics 5 (2), 144-60; *Dobos, Ned* (2010): Is U.N. Security Council Authorisation for Armed Humanitarian Intervention Morally Necessary?, in: Philosophia 38 (3), 499-515; *Tharoor, Shashi* (2011): Security Council Reform: Past, Present, and Future, in: Ethics and International Affairs 25 (4), 397-406.

12 See also *Buchanan, Allen/Keohane, Robert O.* (2011): Precommitment Regimes for Intervention: Supplementing the Security Council, in: Ethics and International Affairs 25 (1), 41-63.

intervene militarily.[13] It is entirely possible that human rights not only mean governments are legally obligated to avoid human rights abuses, but that they must also actively prevent such abuses, as the "Responsibility to Protect"-Framework of the UN emphasizes.

In the first part of this volume, the strengths and weaknesses of various approaches and proposals regarding the specific question of the right or duty to intervene militarily will be examined. This discussion will focus on both conceptual and fundamental considerations related to the principle of legitimacy, examining the general question of "just" wars or interventions, as well as appropriate ways of responding to a given situation.

In this volume, four papers are devoted to this topic area:

- In "The Battle for the Better Argument. Military Interventions between Norms and Interest," Matthias Heise and Christoph Schuck analyze the entire process of military interventions from the phase of deciding to intervene, to carrying out the intervention and including the post-intervention phase. In doing this, they examine both theoretical and practical aspects. Using empirical illustrations—particularly based on the military interventions in Afghanistan and in Iraq, they place special emphasis on conflicting goals in the various phases of an intervention—for example when an intervention is conducted for moral reasons, but with an aversion to losses and demands for a rapid troop withdrawal if intervening troops suffer losses (situations which Münkler describes as a moral paradox of post-heroic societies) or when citizens of the intervening country demand that troops be withdrawn quickly even though a stabilization process would require their long-term presence. In view of the limited resources of potential intervening parties, the authors suggest that military interventions should not be rejected entirely, but should be permitted only when they can overcome very high qualitative hurdles; the universal entitlement to human rights should not be seen as a moral duty to intervene; and it should not be considered illegitimate when intervening parties not only get involved for moral reasons, but—at the same time—because it is also in their own interest.

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13   See also *Pattison, James* (2010): Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?, Oxford: Oxford University Press.

- In his paper "Is There a Duty to Militarily Intervene to Stop a Genocide?," Uwe Steinhoff examines exactly this question. He argues that, while there might be such a duty under very specific circumstances, there is no general duty of this nature. In defense of his position, Steinhoff points out that the right to intervene in no way leads to a duty to intervene, as many other authors maintain. Especially when one realizes that there can probably not be a duty to kill other human beings, there can be no duty to intervene. This is especially true for the (unintentional) killing of innocent victims, which in practice can hardly be avoided during military interventions. Furthermore, it is not clear whether soldiers from an intervening nation can be expected to risk their lives for such an intervention. It is quite possible that they signed up purely for the purpose of defending their own country. It is also true that other activities, such as providing humanitarian aid in poor countries, can save lives more effectively without endangering additional lives—which means that these alternatives are always preferable if they seem realistic. However, Steinhoff believes that a state might have a duty to intervene militarily if this is in the interest of its own citizens. But this duty only applies when the rights or interests of these citizens are directly and seriously endangered.

- In the paper "The Legitimacy of Military Interventions. An Analysis of Preemptive and Preventive Warfare and its Current Relevance," Christopher Beuter considers the question of the extent to which non-humanitarian military interventions can be seen as legitimate self-defense measures. In this context he compares Israel's pre-emptive intervention in the Six Day War of 1967 with the pre-emptive intervention of the USA and its allies in Iraq in 2003. He argues that, due to the military build-up of armies in the neighboring states, the geographical encirclement including a lack of strategically adequate depth, and the economic threat the country would face if reserves were mobilized, Israel had a legitimate right to intervene in its own defense, even though the neighboring countries had not begun to attack. In contrast, the Iraq intervention in 2003 was an illegitimate intervention that could not be considered an extended form of self-defense. In view of the vast geographical distance between Iraq and the United States, the lack of proof that weapons of mass destruction actually existed in Iraq, the secular nature of the regime and the expediency of Sadam Hussein's actions in the past, the Bush administration's claim that a preventive attack was justified because Iraq might equip terrorist organizations with weapons of mass destruction must

be rejected as un-founded. Finally, turning to the question that was discussed repeatedly between 2002 and 2015—whether an attack by the USA or Israel to destroy a possible nuclear weapons program in Iran might be justified—the author shows that the question of pre-emptive strikes is still highly relevant.

- In their paper "Dilemmas for Disaster Relief—The Cases of Myanmar, Haiti and Aceh through the Lens of National Sovereignty and International Intervention," Kathrin Rucktäschel and Steve Schlegel use three different cases to demonstrate how the dilemmas of humanitarian interventions in armed conflicts described above can also occur during operations intended to provide aid following natural catastrophes. First they refer to the cyclone Nargis, which hit Myanmar in 2008, discussing the degree to which emergency operations can be classified under the rubric of the "Responsibility to Protect" thereby making it possible to carry them out against the will of the country affected. Then they use the example of the earthquake in Haiti in 2010 to demonstrate how even operations that are entirely justified morally and by international law can increase the fear of military interventions in neighboring countries, thereby contributing to the security dilemma of international relations. Finally, using the example of the peace negotiations in Aceh following the Tsunami in 2004, they discuss the question of how natural catastrophes and the need for humanitarian aid that they involve can serve as a catalyst for peace negotiations.

2.   Challenging Interventionism in a Pluralist World—Tensions between Politics, Morality, and International Law

It is universally acknowledged that every military intervention occurs under specific—often very different—circumstances, which require a careful analysis of the situation. However, there is disagreement about how differing values and interests should influence the decision for—and even the specific form of—military interventions. In other words: In a pluralistic world are there actually universally valid norms (and interests) that should be supported by military intervention if necessary? Or are there actually constellations of factors in the real world in which the more powerful actor decides—apart from any norms—when and where to intervene? Are moral aspects misappropriated as an excuse for implementing realistic power politics? Even in a minimalistic approach, the problem is obvious: While the legitimacy of military interventions discussed above might be

fed to a limited extent by a (sincere or pretended) desire to prevent or stop only very serious human rights abuses, a number of problems remain—of which two deserve special attention:

First, it is not clear what can be considered a serious human rights abuse and how such abuses are to be measured. It is often assumed that only systematic crimes against humanity should be counted.[14] Even beyond the controversy outside of the so-called Western sphere on the question whether human rights as defined by the UN are actually universally valid, it remains unclear how violations can be clearly established. A related problem is the attempt to quantify the number of serious human rights abuses required to justify a military intervention. Even where human rights abuses are committed less systematically and are less numerous, several individuals might be harmed—without meeting any formal criteria for an intervention. However, if such abuses were taken as sufficient grounds for a military intervention, this might initially seem to be a positive development from a consequentialist point of view—if it prevents even greater suffering—but the increasing number of interventions would cause a different problem: If similar types of human rights violations under similar circumstances led to different decisions about whether to intervene or not, from a normative perspective this would soon seem unfair and would have a negative effect on the way the world views interventions. As the realist Morgenthau noted in 1948, power politics can be carried out under the cloak of morality and justice: "What is actually aspiration for power, then, appears to be something different, something that is in harmony with the demands of [...] morality and justice."[15]

Second, in view of the vast number of human rights abuses that are committed world-wide, it is obvious that neither the available military forces nor the political will of nations capable of intervening would suffice

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14 In this context s. also the so-called *Responsibility to Protect* (R2P). This responsibility encompasses the following three pillars: 1) a state's responsibility to use every appropriate and necessary means available to protect its own population from mass murder, ethnic cleansing etc. 2) the duty of the international community to support countries in carrying out their sovereign duties, and 3) if necessary, to employ all of the means listed in Chapters VI to VIII of the United Nations Charter against countries which violate international law and commit crimes against humanity.

15 *Morgenthau, Hans J.* (1993) [1948]: Politics among Nations. The Struggle for Power and Peace, Brief Edition (published by Kenneth W. Thompson), Boston, MA: McGraw-Hill, 219.

to end all human rights abuses militarily. Here one must ask what criteria should serve as the basis for selection and whether in addition to normative criteria, geopolitical, economic or strategic interests might play a role. Both academic and political discussions of this question are extremely controversial;[16] there is clearly a need for an approach combining a more realistically-oriented political science perspective with a more strongly justice-oriented philosophical perspective.

In the present volume four papers deal with this topic. Three of them explicitly focus on examples outside of the so-called Western sphere, while one refers to the importance of international law hedging both moral and political pretensions:

- In the paper "Humanitarian Intervention: Conceptual Debates in the West and in Southeast Asia," Bob Sugeng Hadiwinata looks at the question of how the concepts of Human Security and Humanitarian Intervention are understood differently in other cultures—especially in Southeast Asia—than they are in the so-called "West." After describing the development of the concept of humanitarian intervention in the context of "Western" academia, he goes on to discuss why the post-colonial countries in Southeast Asia so strongly reject this concept. At the same time, he analyses ways in which the human security concept, which is analytically ranked above humanitarian intervention, is gradually gaining significance in Southeast Asian culture. Hadiwinata concludes that although Southeast Asian countries are still highly critical of the concept of humanitarian intervention, the increasing importance of the human security concept might lead to a cautious support for humanitarian intervention if the prerequisite criteria for such an intervention were formulated strictly enough.
- In the following paper on the topic "Beyond Military Interventions? The Shanghai Cooperation Organisation and its Quest for cuius regio, eius dicio," Enrico Fels discusses the importance of state sovereignty

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16 The noted peace scholar Galtung clearly emphasises the element of interest: "You can go through the total amount of interventions […] and you will find that almost without exception the interventions are triggered by some political action that sounds like it might lead to a redistribution of wealth and power somewhere in the world" *Galtung, Johan* (2007): The State of the World, in: Journal of Future Studies (12) 1, 147.

in international relations using the Shanghai Cooperation Organisation (SCO) and the leading members of the SCO, Russia and China, as examples. Within the framework of a comprehensive discourse analysis, Fels examines key documents of the SCO as well as important speeches delivered by Russian and Chinese representatives to the UN General Assembly and at the Munich security conference. On the basis of these documents and speeches, two central arguments are presented: First, the author points out that the representatives of both nations have grown increasingly vehement about the danger that permission to conduct military interventions will lead to international anarchy—finally posing a threat to the security of all nations. Second, in spite of this, it is also clearly shown that both nations are willing and able to intervene militarily—even in disregard of the UN Charter—for their own interests. Summing up, the author concludes that although the SCO members generally tend to reject interventions, this rejection is probably due to their own geo-political weakness rather than to any normative convictions—if the SCO members became more powerful in relation to Western nations, their position on interventions might change.

- In "Turkmenistan's Policy of Neutrality: Between a Weak Military Force and the Anticipation of Potential Military Interventions by Diplomatic Means," Zarifa Mamedova focuses on the possibilities and limits of a policy of neutrality as seen from a cultural studies perspective. Here the author explains the roles played by diplomacy and economic dependencies in Turkmenistan's foreign policy, which attempts to ensure that the country will remain safe and maintain its sovereignty in spite of its geostrategically-problematic location between various major powers and trouble spots. As is demonstrated, neutrality has been a constant in Turkmenistan's politics since the country became independent, regardless of which specific government was in power, and it not only guarantees Turkmenistan's independence, but also makes international cooperation possible. According to Mamedova, playing off the interests of super powers against each other helps to stabilize the Central Asian region and prevents unilateral interventions by a super power, making Turkmenistan a model of how neutrality can ensure peace.

- In his paper "Can an Illegal Humanitarian Intervention be Justified for Moral Reasons Alone?," Reinold Schmücker takes the Kosovo-Intervention in 1999 as the basis for discussing the question whether this kind of military intervention can be legitimate, even if it is illegal

according to valid international law. In his view, this question can only be answered after the relationship between international law and morality has been fundamentally clarified. In contrast to several moral philosophers—especially those influenced by Kant—who insist that morality must always take precedence over law, Schmücker strongly presents two other arguments: First, this would require an adequately broad moral consensus on questions of military interventions, which is impossible in view of the reasonable pluralism of highly varied moral positions and abilities for enforcing these positions. Second, giving absolute precedence to morality would reduce the normative power of the law to the level of its conformity to certain morals—ignoring the genuinely independent normative character of the law. Especially in the context of international law, the law—with its clarity and applicability—provides a basis for a consistency, stability and security that could not be achieved solely on the basis of moral norms. Based on these two assumptions Schmücker claims that it is only permissible to ignore existing laws when this is based on a generally recognized core belief of universal morality. However, this presents a problem. If a particular group is firmly convinced that a military intervention is morally required, then this group will feel morally obligated to act accordingly, regardless of whether there is a general consensus outside of the group. This is particularly the case when the group in question is a powerful state and able to act as it sees fit. From this Schmücker concludes that one must differentiate between two irreducible positions: From the standpoint of a neutral observer, illegal interventions are not legitimate unless the case clearly involves a universally recognized and applicable basic moral principle. From the standpoint of a specific group, however, such interventions are not illegitimate if the group is convinced they are right.

3.   States and Non-State Actors—What Role Do and Should They Play?

In addition to norms and structures, the participants must also be considered when military interventions are analyzed. First, one must consider the highly controversial general question that is debated in both philosophical

and political science circles, i.e., which parties in an increasingly globalized world are actually authorized and able to decide to intervene and to implement such decisions?[17] While neo-realistic theories of international relations continue to point to the dominant role of states,[18] institutional (i.e. neo-liberal) approaches emphasize the importance of international regimes, i.e. behavior patterns that follow accepted rules of play.[19] Here not only nations, but above all international organizations like the UN and NATO play an important role. Even so, this debate must also give adequate attention to the role of individuals and (social) groups. It is also important to note that there are now even private security agencies that might be involved in interventions. In Iraq there were at times about as many private security forces involved as regular soldiers from the intervening countries.[20]

From a normative perspective two questions in particular must be asked in the context of actors in military interventions: Which types of actors are authorized in principle to carry out military interventions if these interventions are legitimate? What criteria must actual actors in actual situations fulfill and what rules must they follow to ensure that their interventions are legitimate? In answer to the first question, the view is gradually becoming accepted in normative circles that the central criterion for the legitimacy of participants is the effectiveness of their ability to intervene.[21] In principle this means that all types of actors are possible candidates for legitimate military interventions. However, this approach could quickly become too permissive. This leads to the question of what limiting criteria there might be in addition to effectiveness. At first glance it might seem plausible that actors in interventions should have legitimate intentions and should be authorized by a legitimate instance. However, these criteria are

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17 See, for example, *Habermas, Jürgen* (2001): The Postnational Constellation. Political Essays, Cambridge, MA: MIT Press.

18 See also, the classic by *Waltz, Kenneth N.* (2001) [1959]: Man, the State and War. A Theoretical Analysis, New York, NY: Columbia University Press.

19 See also, *Krasner, Stephen D.* (ed.) (1983): International Regimes, Ithaca, NY: Cornell University Press.

20 See, *Singer, P. W.* (2008): Corporate Warriors: The Rise of the Privatized Military Industry, Ithaca, NY: Cornell University Press; *Pattinson, James* (2014): The Morality of Private War: The Challenge of Private Military and Security Companies, Oxford: Oxford University Press.

21 See, *Pattinson, James* (2010): Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?, Oxford: Oxford University Press; *Fabre, Cécile* (2012): Cosmopolitan War, Oxford: Oxford University Press.

frequently rejected in discussions of the question. Instead, an orientation based on *jus in bello* often plays an important role. Even so, there is very little agreement on how this criterion can be established and how it can be determined in advance that actors will in fact adhere to the *jus in bello* criteria.

The second central question about the legitimacy of actors in an intervention therefore relates to the concrete assessment of their conformity to the rules. How high is the probability that they will respect the conditions of *jus in bello*? What characteristics of actors indicate that they will normally respect *jus in bello*? Another problem that has not received much attention to date is the question whether actors in a military intervention must also have responsibilities in the context of the *jus post bellum* phase in order to be legitimate. This leads directly to the question of how exactly their duties after the intervention can be defined. The complexity of these questions indicates that there needs to be an institutional framework on a global level for establishing which participants can legitimately carry out military interventions under what conditions. Of course it is possible that various parties might work together to establish this kind of framework, because it would give them both normative clarity and a reliable basis for planning.However, no such institutional framework—which itself would have to be both legitimate and effective—is currently in sight.

In this volume four papers are devoted to various aspects of this theme and to the corresponding participants in interventions, concentrating on questions that are pressing in the current institutional context:

- In their contribution **"Democratic War and Liberal Violence: On Ending the 'Silent Treatment' Between Democratic War Research and Governmentality Studies,"** Goetz Herrmann and Andreas Vasilache try, on a theoretical-systematic level, to find theories that can explain the use of force by democracies. To this end, they connect the classical political science theories of "democratic peace" (Kant, Doyle) to the concept of "governmentality" drawn from Foucault's sociology. In so doing, the authors try to overcome potential contradictions between both theoretical approaches—such as the focus of democratic peace research on formal institutions as opposed to the emphasis on informal institutions in the governmentality approach, in order to benefit from the strengths of both. The result is four points of contact at which the political science-oriented "democratic peace approach" can benefit from the sociological "governmentality approach" and vice versa.

- With her contribution "Post Military Intervention: Protecting and Empowering Women in Post-Conflict Timor-Leste," Sylvia Yazid expands the debate to include two important pillars: While on the one hand she concentrates on Timor-Leste, a case which has not been dealt with widely in the literature, she also adds gender aspects to the actor-oriented debate on military interventions. She primarily concentrates on post-conflict constellations, i.e. particularly on the rebuilding of destroyed countries and societies. In this context the example of the implementation of UNSC resolution 1325 in Timor-Leste is examined with regard to the role of women in post-conflict societies—an aspect of measures taken to help people following conflicts that has scarcely been studied. Since women not only suffer from violent conflicts, especially due to "Gender-Based-Violence" (GBV), but, like most non-combatants, are also excluded from decision-making processes after conflicts end, they have a double disadvantage that has largely been ignored in the research to date. In her case study, Yazid shows that, while on the one hand the implementation of UNSC Resolution 1325 in Timor-Leste strengthened the participation of women in society, e.g. by giving them mandates in parliament and positions as mayors, on the other hand it failed to help them come to terms with the gender-based violence they had suffered. As most of the papers in this book demonstrate, current research tends to emphasize normative considerations, political decision-making processes and the strategic conduct of interventions. It is all the more important not to lose sight of the role civilians—and especially women—play in and following conflicts.
- Anna Goppel, in "Who May Act? Legitimate Authority and Military Humanitarian Intervention," asks who is justified in using military force for humanitarian interventions. In older discussions on the theory of a just war, it was always assumed that this right pertained only to nations, and then only if they had been authorized to intervene by the UN Security Council. However, what interests Goppel is not a legal authorization, but the question of who has the right—from a moral perspective—to carry out a moral intervention. She maintains that the moral right to intervene is in no way limited to nations and is not dependent on UNSC authorization. In her view, there are *prima facie* no restrictions regarding those who can carry out interventions. In principle everyone has the right to intervene militarily in humanitarian crises if the other criteria of a just war are met. Goppel supports her position by drawing an analogy to self-defense and emergency aid within

countries. In such cases everyone is in principle authorized to help those who are in need and to ward off an aggressor if this seems appropriate, and there is a chance that the action will succeed, etc. There is no reason to assume that no such right to provide help in an emergency exists on the global level. While Goppel admits that it is normally better to involve the UN, in some cases there is no time to lose. It is also better if the intervention is carried out by someone who is willing and able to take on the duties that arise afterwards (*post bellum)*. But it is also true that in the case of a serious emergency it is better to intervene even if the intervening party is not willing or able to take on these duties. Goppel concludes that there are in principle no restrictions in the question of which parties are allowed to intervene militarily for humanitarian reasons.

- Christian Neuhäuser, in his paper "Military Interventions, Private Military Companies and Citizen Responsibility," examines the role played by private security agencies, or private military companies (PMCs), in military interventions. He describes the current state of debate on the question and comes to the conclusion that to date there have been almost no arguments against any possibility of using PMCs in military interventions. Instead it seems to depend strongly on empirical circumstances whether the usual standard objections apply or not. This has led him to formulate his own argument against the use of PMCs in military interventions. This argument is based on Margaret Gilbert's *plural subject theory*. According to this theory, both citizens and soldiers in the regular armed forces of a country belong to the same plural subject, i.e. the state. In this sense, they both bear responsibility to a certain degree for military interventions. In contrast, citizens and employees of PMCs do not belong to the same plural subject. Citizens are therefore not responsible for what the PMC employees do during military interventions. Neuhäuser argues that this difference has negative consequences for the legitimacy of military interventions in which PMCs participate. For the dignity of both unintentionally killed civilians and intentionally killed personally innocent soldiers it is important that the citizens of intervening nations bear a certain amount of responsibility for these tragic deaths. And this also has an effect on the chances of achieving a lasting peace after the intervention.

Rights or Duties to Intervene?

The Battle for the Better Argument:
Military Interventions between Norms and Interest

Matthias Heise and Christoph Schuck

Introduction[1]

Although military interventions as a means of conducting international politics are not a new phenomenon, several developments within recent years have increasingly drawn attention to such interventions. These include politically controversial, strategically difficult and often seemingly endless operations in Afghanistan (2001), Iraq (2003), Libya (2011), Mali (2012), the Ukraine (2014) and Syria (2014/USA; 2015/Russia) to name just a few. Due, among other factors, to the extreme difficulties posed by political and social consolidation following an intervention, the legitimacy of military interventions is not only questioned by political experts, but increasingly by the general public as well. Applying the usual division of the intervention process into phases before, during and after a military intervention, problems occurring in each of the three phases will be examined here.

With regard to the third phase (i.e. *post bellum*), several post-intervention regions currently exhibit constellations which would require the long-term involvement of foreign military to ensure stabilization. For example, the withdrawal of American troops from Iraq was apparently premature, since without outside assistance Iraqi security forces have not been able to establish the government power monopoly needed for social consolidation. The troop withdrawal left a power vacuum—among other things making it possible for the so-called Islamic State (ISIS) to rise and spread. Similar developments can also be expected in Afghanistan, where the country's military forces (ANA) were not able to prevent the growth of the Taliban and other anti-government forces. Even in 2011 Chaudhuri

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and Farrell (2011: 278) noted that, "ANA is quickly getting bigger but slowly getting better"—a trend which has been even more evident in recent years.[2] On the other hand, the unwillingness to occupy countries for a longer term—in spite of recognizably good reasons—is understandable. There are financial considerations and also, and most important, intervening states generally do not regard themselves as long-term occupiers and want to avoid even the appearance of neo-colonial behavior. The consequence is a conflict between the goals desired and their achievability.

Even during the phase of the intervention (i.e *in bello*) the intervening power may find it difficult to reconcile its own moral standards with the need for an efficient military strategy. When military interventions are conducted for humanitarian reasons—but not only then—methods that are considered morally acceptable are particularly important. This means that civilian casualties must be strictly avoided and even the basic human rights of enemy forces, i.e. protection from torture and from arbitrary executions etc., must be respected. While the last two examples follow international standards and—by increasing the acceptance of an intervention—are even good military strategy, in practice it is not really possible to avoid civilian casualties; and in many cases it is impossible to clearly distinguish combatants from non-combatants: In her work on the new wars, Mary Kaldor notes the new appearance of combatants who do not wear traditional uniforms (Kaldor 2006: 9), making it even more difficult to differentiate between ally and enemy. Herfried Münkler even concludes that this is a major problem for military interventions, as the intervening power would often be unable to restrict itself to acting only in situations where combatants can be clearly identified, if it did not want to lose the battle (see Münkler 2006: 275).

However, one of the most important questions—and one on which debate is highly controversial—involves the phase in which the decision to intervene militarily is made (i.e. *ad bellum*). Since the end of the Cold War this question has increasingly been considered in connection with a security concept aimed at overcoming the traditionally dominant nation

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2   The Afghan National Army is challenged by corruption, ethnic conflicts among recruits, and weak leadership on all levels. At 70 percent to 90 percent, the share of illiterates is extremely high, and the number of deserters is also striking. In light of current incidents, its partial infiltration by the Taliban appears to be another increasing problem. Even drug abuse among ANA personnel is estimated at 20 to 25 percent (Chaudhuri/Farrell 2011).

state framework (see among others Zürn 1998, Habermas 2001). We are referring here to Human Security,[3] a security concept that focuses on the individual. Two factors played a key role in this paradigmatic turn: On the one hand, new types of conflicts, primarily of intrastate nature, emerged, for example, the one in Somalia in 1992/93. On the other hand, Western democracies were confronted with the dilemma of how to stop systematic violations of human rights—if necessary through Humanitarian Interventions (HI).[4] They sought to support foreign nations in their struggle for freedom and democracy while attempting to adhere to the principle of (state) sovereignty as stipulated by international law. Tension between the two objectives emerged during NATO's intervention in Kosovo, which initially had not been legitimized by the UNSC and thus temporarily violated international law. This exemplified the difficult balancing act between the conflicting demands of self-determination and state sovereignty. Within the framework of the International Commission on Intervention and State Sovereignty (ICISS), the international community attempted to solve this problem and reconcile the aforementioned conflicting norms and demands in the report on the *Responsibility to Protect* (R2P), which has been widely recognized since 2005. However, the R2P presented two obstacles: First, the GA-Resolution 60/1 confirmed the R2P, although the R2P is not an officially binding human rights document (see United Nations 2005). And second, only in certain cases, which R2P helped to define more clearly, does the responsibility to fight crimes against humanity necessitate intervention.[5] Recent UN-Resolutions, e.g., regarding the deployment of Af-

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3   Human Security, which according to the United Nations (UN) involves more than the individually-oriented components of "freedom from want" and "freedom from fear" (UN 2000: 1) also includes the following criteria: "Its concern is the individual and the community rather than the state; menaces to people's security include threats and conditions that have not always been classified as threats to state security; the range of actors is expanded beyond the state alone; achieving human security includes not just protecting people, but also empowering people to fend for themselves" (UN 2003: 4). For a critical analysis of the Human Security concept see, for example, Schuck (2011b).

4   Here it must be noted that the term "Humanitarian Intervention" is misleading and somewhat imprecise. It would be more accurate to refer to a "military intervention to (re-)establish Human Security." However, we will use the term here because of its general use in the literature and in general public discourse.

5   The R2P is based on three principles: 1) Every state has a responsibility to protect its population from mass atrocities; 2) The international community has a responsibility to assist the state in this task; and 3) Should the state prove unable to pro-

rican Union (AU) troops in Darfur (UNSC Resolution 1706, 2006), have explicitly referred to the R2P in justifying intervention efforts (Bellamy 2008: 615, 622). Despite the document's claim of universality, nation states disagree on its practical relevance, scope and case-specific implementation (Bellamy/Davies 2009: 548).[6] With regard to the current cases of Libya, Syria, and Afghanistan[7] we can observe persistent conflicting motives and interests with regard to the humanitarian aspect of military interventions. Defined as "military interventions in a state, with or without the approval of that state, to prevent genocide, large-scale violations of human rights [...], or grave violations of international humanitarian law" (Kaldor 2007: 17), HI have become one of the dominant forms of military conflict since the end of the East-West conflict. At present, the basic legitimation of HI as the protection or reestablishment of Human Security is widely recognized. Nevertheless, a number of interventions conducted over the past 20 years, contested in their initiation and/or their implementation, have posed several theoretical and empirical questions. Regardless of the framework of authoritative norms, HI have therefore diverged widely from any supposed institutional-idealistic automatism following the initial fulfilment of the formal criteria for intervention.

Discussing the matter of *jus ad bellum* therefore requires an analysis of the philosophically derived duty to intervene and the empirical limitations of such legitimacy. As we will see, the insufficiently structured concept and inconsistent application of the Human Security approach have detract-

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tect its citizens, the international community has the responsibility to intervene using measures available in accordance with Chapters VI to VIII of the UN Charta (ICISS 2001).

6   Notably, Algeria, Sudan, and Egypt have not approved the R2P principle but have stated that they will consider it in further deliberations. Some members of the important Budget Committee of the United Nations General Assembly (UNGA) even rejected the nomination of a R2P commissioner (ibid.).

7   Although there is some disagreement on this, since 2001 the intervention in Afghanistan can also be classified as a HI, since it was legitimized de facto as such and even today the Taliban's human rights violations are periodically pointed to as the dominant parameter: According to an official German government press statement in 2010, "the human rights situation in Afghanistan has improved since the fall of the Taliban in 2001" (Presse- und Informationsamt der Bundesregierung 2010). With the exception of the formal ex ante-legitimation, Afghanistan exhibits the typical problems of HI with regard to the intervention and consolidation phases and is therefore often discussed in the relevant literature on HI, see for example Holzgrefe/Keohane (2004) and Welsh (2006).