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Has Humanitarian Intervention Become an Exception to the Prohibition on the Use of Force in Article 2(4) of the UN Charter?

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Introduction

One of the topics that have always engaged various scholars is the notion of humanitarian intervention. It has been subject to numerous debates in political, social, moral and ethical terms. The current paper, however, is interested in the legal perception of humanitarian intervention and, more specifically, in the relation between humanitarian intervention, customary international law and Article 2(4) of the United Nations Charter. Customary law from the pre-Charter period generally recognises the right of intervention for the protection of human rights, despite strong disapproval.[1] On the other hand, Article 2(4) says that states should refrain from acts which are against the sovereignty of other states or in contradiction with the purposes of the United Nations (UN).[2] Military intervention not authorised by the Security Council (SC) to preserve international peace and security[3] or not for self-defence[4] constitutes such an unlawful act. However, through sporadic practice[5] and *opinion juris*[6] states have recently emphasised their duty to intervene, even militarily, in other states to alleviate human suffering, despite the continuing controversy. Thus, the current legal scholarship has witnessed a slight change in the overall perception of humanitarian intervention although there is still no universal agreement that humanitarian intervention is legal under the UN Charter. Therefore, the main thesis of the present paper is that humanitarian intervention, although not yet an exception to the prohibition on the use of force in Article 2(4), is steadily transforming into such. However, to minimise the chances of abuse of the principle, certain conditions on humanitarian intervention are needed.

What is humanitarian intervention?

In this paper, humanitarian intervention is defined as "legitimate use of force by states against another state for the purpose of alleviating human suffering in the latter." Legitimacy is derived from wide-spread agreement that the international community has to intervene in a state where the population suffers from human rights abuses. The suffering of a population which necessitates humanitarian intervention is caused by wide-spread violence either

[1] J.P. Fonteyne, 'The Customary International Law Doctrine of Humanitarian Intervention: Its Current Validity Under the UN Charter' (1973-1974) 4 Cal. WJIL 203 at 235
[2] UN Charter, Article 2(4)
[3] UN Charter, Article 42
[4] UN Charter, Article 51
[5] T. Franck and N. Rodley, 'After Bangladesh: The Law of Humanitarian Intervention by Military Force' (1973) 67 AJIL 275
[6] *Legality of Use of Force* (Request for the Indication of Provisional Measures), ICJ, Oral Proceedings, CR 1999/15

because of state authorities' acts[7] or because the state cannot fight against the perpetrators of these acts and asks for assistance.[8] Such instances of gross violations of human rights "shock the consciousness of mankind"[9] and oblige the international community to intervene. Thus, humanitarian intervention does not necessitate a link between the victims and the intervening states,[10] which emphasises the need for international approval and support. Protection of nationals abroad, although often confused with humanitarian intervention, is not part of the doctrine anymore.[11] On the other hand, pro-democratic intervention finds some support that it constitutes humanitarian intervention.[12]

Pre-Charter period

Customary international law permitted the use of force for the purpose of humanitarian intervention, although this principle had not been accepted until the nineteenth century.[13] An overview of early works on the topic demonstrates that the struggle was between the power of the sovereign and the law of nature.[14] In the 19th century, however, the debate changed because of the new ideas about nationalism, sovereign powers and non-intervention on one hand and humanitarianism on the other hand.[15] The main argument of those supporting non-intervention was that humanitarian intervention was against the principle of state independence and that other states could not properly evaluate whether an internal situation violated human rights.[16] In addition, as long as internal oppression did not affect other states, no international wrong was committed.[17] Therefore, the proponents of non-intervention emphasised the idea that whatever was the human rights situation in a country, it was an exclusive internal matter and other states did not have the right to intervene unless this situation affected them directly. The defenders of humanitarian intervention, however, claimed that although intervention was generally illegal, sometimes states had the duty to adopt a policy of justice and humanity which would justify the right to intervene in certain

[7] R. B. Lillich, 'Forcible Self-Help by States to Protect Human Rights' (1967-1968) 53 Iowa Law Review 325 at 332
[8] *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)*, Merits, Judgment, ICJ Reports 1986, p. 14
[9] Lillich (1967-1968) 53 Iowa Law Review 325 at 332
[10] Ibid at 332
[11] R. B. Lillich, 'Humanitarian Intervention through the United Nations: Towards the Development of Criteria' (1993) 53 ZaoeRV 557 at 560
[12] M. Shaw, *International Law* (6th ed, OUP 2008), p 1158; not discussed in the current paper
[13] Fonteyne (1973-1974) 4 Cal WJIL 203 at 206; Lillich (1967-1968) 53 Iowa Law Review 325 at 334; Lillich (1993) 53 ZaoeRV 557 at 559
[14] Fonteyne (1973-1974) 4 Cal WJIL 203 at 214-215
[15] Ibid at 215
[16] Ibid at 216
[17] Ibid at 217; Lillich (1967-1968) 53 Iowa Law Review 325 at 333

circumstances, under certain conditions.[18] Numerous events[19] seemed to support the view that humanitarian intervention was *de facto* considered permissible under international law towards the end of the 19th century,[20] although often these events were analysed *ex post facto* as based on humanitarian grounds[21] or involved private political considerations.[22] Toward the end of the nineteenth century, most scholars favoured the idea that humanitarian intervention was an exception to the non-intervention principle and permissible under customary international law.[23]

The debate in the 19th-early 20th century was focused primarily on various policy considerations but there was no complete list of conditions under which humanitarian intervention would be permissible until the publication of Rougier's *"Le Théorie de l'Intervention d'Humanité."*[24] In his work, he rejected the idea of unilateral intervention while promoted collective intervention because it satisfied the conditions of states' disinterestedness and high authority. What he meant was that humanitarian intervention was not a means of states to accomplish their own interests; at the same time, not all states were considered equal and intervening states needed to have authority in order to initiate humanitarian intervention.[25] Rougier's ideas, however, are both idealistic and realist. On one hand, he assumed that states would intervene on humanitarian grounds without pursuing their own interests. The wars on the Balkans during the 1870s, however, generated criticism against Russia that its aim was to secure its access to the Straits and control over the Balkans rather than to alleviate the suffering of the Christian population. The political situation in the 19th century and even nowadays is such that state disinterestedness is difficult to be expected; states would rarely intervene unless they would derive benefits from such an intervention, otherwise the political cost would be very high. Furthermore, Rougier's differentiation between the authority of various states, although still valid in political terms, contradicts with future developments in the sphere of international law which have established the principle of

[18] Fonteyne (1973-1974) 4 Cal WJIL 203 at 218-219; Lillich (1967-1968) 53 Iowa Law Review 325 at 333
[19] Greece (1827-1830), Syria (1860-1861), Crete (1866-1868), Bosnia, Herzegovina and Bulgaria (1876-1878), Macedonia (1903-1908, 1912-1913)
[20] Fonteyne (1973-1974) 4 Cal WJIL 203 at 207-213, 223; T.M. Franck and N.S. Rodley (1973) 67 AJIL 275 at 279-283
[21] I. Brownlie, 'Humanitarian Intervention' in J.N.Moore (ed) *Law and Civil War in the Modern World* (JHUP, 1974), p. 220-221; I. Brownlie, *International Law and the Use of Force by States* (Clarendon Press, 1963) p. 339
[22] Franck and Rodley (1973) 67 AJIL 275 at 285; I. Brownlie (1963) p. 339-340
[23] Fonteyne (1973-1974) 4 Cal WJIL 203 at 223
[24] Ibid at 228-232
[25] Ibid; Brownlie (1963) p.338

equality of states, no matter whether politically influential or not.[26] Therefore, although Rougier came up with the first comprehensive list of criteria for the legality of humanitarian intervention, he based these criteria on political rather than legal norms, which do not help existing international law with humanitarian intervention.

UN Charter and Article 2(4)

The UN Charter introduced a new legal norm in the international sphere: the prohibition on the unilateral resort to force unless under Articles 42 and 51, although it did not expressly condemn humanitarian intervention. What the Charter did was to establish rules which would govern the use of force so that international peace and security are not endangered by individual states. However, political struggle in the SC, which was vested with the right to control the resort to force, made Article 2(4) a subject to controversial interpretations. The International Court of Justice (ICJ) discussed the phrase "territorial integrity or political independence of any State" in the *Corfu Channel Case*[27] between the United Kingdom and Albania. The dispute arose after British cruisers and warships, which were sweeping mines in the Corfu Channel, were fired at by an Albanian battery. The Albanian government claimed that the UK had violated Albanian sovereignty because the British ships had passed though Albanian waters without prior permission.[28] On the other hand, Britain, narrowly interpreting Article 2(4), said that the actions of the British Navy "threatened neither the territorial integrity nor the political independence of Albania. Albania suffered thereby neither territorial loss nor any part of its political independence."[29] The Court noted that "respect for territorial sovereignty is an essential foundation of international relations."[30] It considered the actions of the British Navy as violation of Albanian sovereignty and as a manifestation of a policy of force, which would give rise to abuses by powerful states.[31] Therefore, the Court rejected the narrow interpretation of Article 2(4) because it feared that such interpretation would lead to misuse of the norm. Furthermore, the *travaux préparatoires* of the Charter did not envision a narrow interpretation because such would open more uncertainties in state

[26] UN Declaration on Principles of International Law (1970) speaks about the principle of sovereign equality of States: "All States enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature. […]" (text omitted)
[27] *Corfu Channel Case*, Judgment of April 9th (Merits), 1949, ICJ Reports 1949, p. 4
[28] Ibid, p. 33
[29] *Corfu Channel Case*, Pleadings, Vol. III, p. 296; reprinted in DJ Harris, *Cases and Material on International Law* (6th ed, Sweet and Maxwell, 2004), p. 892
[30] *Corfu Channel Case*, Merits, p. 35
[31] Ibid

relations. On the contrary, Article 2(4) was meant to cover all legal rights of a state, especially because it was also meant to give specific guarantees to small states.[32] The final provision in Article 2(4), "or in any other manner inconsistent with the Purposes of the United Nations", was again not intended to restrict the interpretation of the overall article but rather to reinforce the prohibition on the use of force.[33] One might also argue that, following the obligation not to contradict with the purposes of the UN, states are once again reminded of the role of the Security Council as the body vested with the exclusive right to authorise the use of force.

Article 2(4) is in the basis of the post-1945 rule of military non-intervention. It was reinforced further by UN resolutions and declarations and through the practice of the ICJ. The General Assembly adopted in 1965 a Declaration on the Inadmissibility of Intervention[34] which forbids all forms of intervention in the internal or external affairs of other states. Military intervention and the threat or use of force are condemned separately from other forms of intervention.[35] Furthermore, the member states are again reminded that any kind of intervention is against the spirit and purposes of the United Nations.[36] The 1970 Declaration on Principles of International Law[37] duplicates word by word both Article 2(4) and the 1965 Declaration. Its language is even stronger than the 1965 Declaration because the 1970 Declaration speaks of the duty of states not to intervene. Therefore, what the General Assembly has done is to reaffirm the existing international legal principle of non-intervention without considering possible modifications. If one considers only these UN documents in relation to the permissibility of humanitarian intervention, the only possible conclusion is that humanitarian intervention is not allowed under international law.

The conclusion is supported by the state practice from the period. Immediately after 1945 the international community avoided intervention in the internal affairs of states even when human rights were massively violated. The cases of the murdered Chinese in Indonesia, the war against Southern Sudanese, the events in Rwanda, Burundi, Kashmir, Naga and South Africa[38] would have justified humanitarian intervention but states have not engaged themselves in the protection of the affected population and thus have reaffirmed the existing

[32] Brownlie (1963) p. 267-268
[33] Ibid p. 268
[34] Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty GA Resolution 2131 (XX), adopted 21 December 1965
[35] Ibid, para 1
[36] Ibid, para 3
[37] Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations, UNGA Res 2625 (XXV), adopted 24 October 1970
[38] Brownlie (1974) p. 224; Franck and Rodley (1973) 67 AJIL 275 at 295-298

principle of non-intervention. Even the interventions in the Congo and the Dominican Republic were based primarily on the grounds of protection of nationals abroad rather than the mitigation of the humanitarian situation of the local population. Perhaps only the Bangladesh intervention by India might be interpreted as unilateral military intervention on humanitarian grounds, although India itself claimed self-defence as justification of its actions;[39] however, the existence of one precedent is not enough to modify the entire international law.

The ICJ proved itself more open to changes in international law and permissible to new forms of intervention. The *Nicaragua Case*[40] from 1986 concerned a claim by Nicaragua that the USA assisted rebels who wanted to overthrow the new government.[41] Nicaragua further claimed that the USA had violated Article 2(4) of the UN Charter and customary international law obligation to refrain from threat or use of force.[42] In its judgment, the Court examined the relationship between the UN Charter and customary international law and concluded that "customary international law continues to exist alongside treaty law"[43] even when the two have almost identical provisions.[44] More specifically, after analysing the customary and treaty law provisions on non-intervention and the permissible use of force, the Court reached the conclusion that non-intervention "forbids all States or group of States to intervene directly or indirectly in internal or external affairs of other States."[45] Furthermore, the Court defined prohibited intervention through the use of various methods of coercion, including the use of force,[46] which was already asserted in the General Assembly declarations. Nevertheless, the Court admitted that international law is not static but state practice accompanied with *opinio juris* can change it: "[r]eliance by a State on a novel right or any unprecedented exception to the principle [of non-intervention] might, if shared in principle by other States, tend towards a modification of customary international law."[47] Therefore, the Court was unable to formulate new rules in international law when state practice and *opinion juris* did not support such modifications but what it could do was to note the normative changes in custom and apply them in future disputes.

[39] Franck and Rodley (1973) view the intervention in Bangladesh as humanitarian while Grey (2009) disagrees with this interpretation.
[40] *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)*, Merits, Judgment, ICJ Reports 1986, p. 14
[41] Ibid, para 20
[42] Ibid, para 23
[43] Ibid, para 176
[44] Ibid, para 177
[45] Ibid, para 205
[46] Ibid
[47] Ibid, para 207

Shortly after the delivery of the Court's decision and the end of the Cold War, the international community proved itself more willing to collectively intervene in other states on humanitarian grounds. The Security Council adopted several resolutions on the situations in Iraq,[48] Somalia[49] and Kosovo[50] and other countries[51] which not only condemned the grave humanitarian situations in the countries but also authorised member states "to use all necessary means to [...] restore international peace and security in the area."[52] In the case of Somalia, the Security Council, acting under Chapter VII, authorised the member states to "use all necessary means [including the contribution of military forces][53] to establish as soon as possible a secure environment for humanitarian relief operations in Somalia."[54] Although there was no SC resolution authorising the use of force against Yugoslavia, the members of the Council warned the Yugoslav government that "failure to make constructive progress towards the peaceful resolution of the situation in Kosovo [would] lead to the consideration of additional measures[.]"[55] In further resolutions, the Security Council was even more precise when it decided that "should the concrete measures demanded [...] not be taken, to consider further action and additional measures to maintain or restore peace and stability in the region[.]"[56] Although the use of force is not explicitly endorsed, it is not rejected either.

While the Iraqi case concerned the attack of a third state, in Somalia and Kosovo the human rights violations were triggered by armed conflicts within these states and, as in Kosovo, deliberately organised by the government against an ethnic minority. Therefore, the significance of these interventions[57] is that they mark an important development in international law in contrast to the principle of non-intervention affirmed by Article 2(4) of the UN Charter and the consequent 1965 and 1970 GA Declarations. Moreover, the interventions were not based on a link between the intervening states and the suffering population and did not directly affect the former. Furthermore, having in mind the variety of states sitting in the Security Council and supporting (or not condemning) these interventions, the scope of engagement of the Council is a proof of the shift concerning the permissibility of humanitarian intervention. In addition, the Security Council recognised the idea that certain

[48] *Inter alia* S/Res/678, adopted 29 November 1990; S/Res/688, adopted 5 April 1991
[49] *Inter alia* S/Res/794, adopted 3 December 1992
[50] *Inter alia* S/Res/1160, adopted 31 March 1998; S/Res/1199, adopted 23 September 1998
[51] Haiti (1994), Rwanda (1994), the Great Lakes (1996), Albania (1997), Sierra Leone (1997); C. Grey, 'From Unity to Polarisation: International Law and the Use of Force against Iraq' (2002)13 EJIL 1
[52] S/Res/ 678 (1990), op. para 2
[53] S/Res/794 (1992), op. para 11
[54] S/Res/794 (1992), op. para 10
[55] S/Res/1160 (1998), op. para 19
[56] S/Res/1199 (1998), op. para 16
[57] Including the ones listed in *supra note* 51.

internal matters, such as the observance of human rights, *de facto* constitute a threat to the international peace and security and impose a duty on the international community to act by resorting to all necessary means, including military force.

Nevertheless, the actions of the Security Council demonstrate a gradual approval of humanitarian intervention only when authorised by the Council itself. Such a condition ensures legitimacy of the humanitarian intervention and thus a longer support for the actions undertaken by the international community. Unilateral humanitarian intervention continues to be considered unlawful because there is no state practice or *opinio juris* which would modify relevant international law. State actions such as the no-fly zones over Iraq, which were justified by implied Security Council authorisation, although undertaken for the protection of the local population, have spurred controversy because they were not explicitly endorsed by the Council.[58] Even the intervention in Kosovo by a regional organisation, although not condemned by the Council and further tacitly approved by the Council's engagement in the administration of the province, raised concerns about its legality.[59]

The developments within the Security Council concerning humanitarian intervention can be observed also in the official positions of some states. After the Kosovo campaign, Yugoslavia submitted to the ICJ a case against 10 NATO states.[60] The Yugoslav government claimed that the campaign was in breach of international law because, first, there is no accepted doctrine of humanitarian intervention[61] and, second, even if there were, the aircraft strikes were not proportionate to the aim of humanitarian intervention.[62] Belgium, on the other hand, based its arguments on the deteriorating humanitarian catastrophe in Kosovo and the gross violations of human rights in the province.[63] The Belgian representative stated that there was an absolute and compelling need for the armed operation.

> But we need to go further and develop the idea of armed humanitarian intervention. NATO, and the Kingdom of Belgium in particular, felt obliged to intervene to forestall an ongoing humanitarian catastrophe, acknowledged in Security Council resolutions. [...] To safeguard, [...], essential values which also rank as *jus cogens*. [...]
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> Thus this is not an intervention against the territorial integrity or political independence of the former Republic of Yugoslavia. The purpose of NATO's

[58] Grey (2002) 13 EJIL 1 at 9
[59] Belarus, India and the Russian Federation: Draft Resolution S/1999/328 (26 March 1999)
[60] *Legality of Use of Force* (Memorial of the Federal Republic of Yugoslavia), ICJ, 5 January 2000
[61] Ibid, para 2.1.9 at 302
[62] Ibid, para 2.1.14 at 303
[63] *Legality of Use of Force* (Preliminary Objections of the Kingdom of Belgium), ICJ, 5 July 2000

> intervention is to rescue a people in peril, in deep distress. For this reasons the Kingdom of Belgium takes the view that this is an armed humanitarian intervention, compatible with Article 2, paragraph 4, of the Charter, which covers only intervention against the territorial integrity or political independence of a State.[64]

Therefore, the Belgian government claimed that the NATO intervention was based on the doctrine of humanitarian intervention which needs to be developed and accepted so that *jus cogens* values are properly protected by the international community. The British position also indicates a shift from rejection of humanitarian intervention[65] to its acceptance.[66]

Nevertheless, humanitarian intervention is still not considered an exception of the prohibition on the use of force. The Russian ambassador to the UN, in the discussions following the start of the NATO campaign against Yugoslavia, said that the justification of the air strikes with the need for humanitarian intervention was completely untenable.[67] The Chinese delegate, however, focused on the authority of the Security Council and rejected any action which would challenge this authority.[68]

Conditions for humanitarian intervention

The overview of the state practice and *opinio juris* demonstrates that, although humanitarian intervention becomes acceptable in international law, it is still not an established exception. It is deemed to contradict with the idea of non-intervention and to challenge the authority of the Security Council. It is true that any use of force, including humanitarian intervention, breaches the territorial integrity and even political independence of the attacked state because the government is coerced to make decisions against its sovereign will. Furthermore, a narrow reading of Article 2(4) affects the overall legal relations between states and weakens the current system of protection of states, which relies on non-intervention. However, international law has developed to such an extent that nowadays states cannot rely on their sovereignty to avoid responsibility for violations of human rights principles. These principles constitute fundamental rights of every human being guaranteed by the UN Charter and their

[64] *Legality of Use of Force* (Request for the Indication of Provisional Measures), ICJ, Oral Proceedings, CR 1999/15, p. 11-12
[65] UK Foreign Policy Document No. 148, 57 BYIL 614 (1986); reprinted in DJ Harris (2004) p. 947-948
[66] United Kingdom Guidelines on Humanitarian Intervention, 71 BYIL 646 (2000); reprinted in DJ Harris (2004) p.957-958
[67] Security Council, 3988th Meeting, UN Doc. S/PV.3988, 24 March 1999, p.2-3
[68] Ibid, p. 12-13

protection corresponds to the purposes of the Charter.[69] When states do not protect these principles because of unwillingness or inability, the international community has the duty to intervene and defend the abused population. In addition, as the Court in the *Nicaragua Case* noted, international law changes. Therefore, while the founders of the UN focused on state sovereignty, nowadays the emphasis on human rights necessitates such a change in the provisions or interpretation of the Charter that adequately responds to threats on human rights. And yet, humanitarian intervention needs to be regulated to meet widespread support and to minimise abuse.

First, in accordance with Article 33 of the UN Charter, humanitarian intervention should be employed after all other non-forcible actions fail. The international community should use negotiations, sanctions and other diplomatic means before initiating an armed campaign. Second, the Security Council should be the body actively engaged in the monitoring of the situation and which would control the international actions against the perpetrators. If armed intervention is necessary, it is the Security Council which should authorise the use of force. Therefore, not only the intervention will be treated as legal but also the authority of the Council and the UN will not diminish and there will be fewer chances of abuses.

Third, if the Security Council fails to act, the General Assembly should take necessary actions under the Uniting for Peace resolution.[70] The resolution provides for the Assembly to take the appropriate measures, including the authorisation of use of force, when states threaten peace and security and commits acts of aggression.[71] Therefore, a failure of the Security Council can be modified by GA authorisation, which really represents wide international support.

Fourth, if the General Assembly also fails to act, regional organisations should intervene in order to stop the crimes. An example can be taken from the African Union Constitutive Act which asserts the right of the AU to intervene in a member state in the presence of grave circumstances such as war crimes, genocide and crimes against humanity.[72] When the state concerned is not a member of the intervening organisation, the support for the intervention should be based on agreement from as many regional states as possible. However, intervention by a regional organisation should be employed only if all previous conditions fail. The problem with regional intervention is that it might be interpreted as unilateral because of the few countries participating in it and the attack will be treated by other states as a grave violation of Article 2(4). In addition, no individual state should have the right to

[69] UN Charter, Articles 55(c) and 56
[70] A/Res/377 (V) A, adopted 3 November 1950
[71] Ibid, op. para 1
[72] Constitutive Act of the African Union, adopted 11 July 2000, Article 4(h)

intervene on humanitarian grounds because in such cases the boundary between humanitarianism and private interests is blurred.

It is important to note that no matter how humanitarian intervention is authorised, the used means should be proportionate to the sought end and the intervention should be temporal. Therefore, massive strikes which kill ordinary people, destroy hospitals, cities and such but do not affect those who commit the atrocities are not proportionate to the aim of alleviation of the grave humanitarian situation. In addition, the purpose of a humanitarian intervention is not to put the attacked state under the rule of the intervening states. After the military campaign is over, the intervening forces should leave the country and the Security Council should decide on the further steps to be taken.

The above conditions aim to minimise the abuse of humanitarian intervention and at the same time acknowledge the need for such an intervention. They balance state sovereignty and human rights protection by putting humanitarian intervention as a last resort. In addition, the requirements try to discourage states to intervene unilaterally and thus to violate international law, while at the same time emphasise the need for international cooperation and support. The role of the UN and more specifically of the Security Council is preserved as a protector of international peace and security. Therefore, legitimacy of humanitarian intervention is sought so that even the sceptics are persuaded that humanitarian intervention is a needed exception to Article 2(4).

Conclusion

The international community has evolved significantly in its perception of human rights and state sovereignty. Although customary law from the pre-Charter period considered humanitarian intervention permissible in certain occasions, there was not a widespread practice and states avoided explaining their actions solely on humanitarian grounds. The UN Charter, through Article 2(4), solidified the principle of non-intervention and for a long time states invoked their sovereignty when accused of human rights abuses. However, the evolved human rights law has necessitated a change in the international law related to humanitarian intervention. In addition, recent state practice and *opinio juris* have implied that there exists a shift in the perception of humanitarian intervention. To settle the fears of the opponents of humanitarian intervention and to minimise abuse of the principle, certain conditions are needed. Therefore, even if nowadays humanitarian intervention is not yet accepted, there is a strong trend in that direction and the near future might see humanitarian intervention as an exception to Article 2(4).

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