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POINT/COUNTERPOINT

Peace, Human Rights and Accountability—The Need for a New Doctrine on International Intervention

by Juan E. Méndez

In the post-Cold War, the international community has been forced to deal with complex emergencies in multiple trouble spots. Each crisis has presented different challenges and, by any measure, the United Nations' track record is mixed at best. Yet one particular failure, in Somalia, seems to dominate the thinking. There are certainly lessons to be learned from the failed intervention in Somalia, but the world seems to be learning the wrong lessons. Because of Somalia, the United Nations bureaucracy now insists that outside assistance will be provided only if parties to a conflict express-



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ly consent to it. European skeptics have found new currency to their views that conflict in far-off lands is "ancestral" and "centuries-old" and that it is a naive mistake to attempt even to address their most immediate present consequences. In the United States, neo-isolationism feeds on the example of Somalia to press for a foreign policy that yearns for the ability to exercise power without accepting the responsibilities of leadership. The result is a dangerous tendency by the world community to shirk its duty to prevent and punish the crime of genocide (as in Rwanda), to look the other way while grave breaches of the laws of war are committed (as in Chechnya) or to acquiesce in the impunity of crimes against humanity (as in the promotion of shameless amnesties as a quick fix in Haiti).

There have certainly been serious mistakes in the way the international com-

International Intervention in Intrastate Conflict

The current attempt by the Republic of Chechnya to break away from Russia, and the strife as it initially arose in the former Yugoslavia, are two of the most glaring examples of the post-Cold War rise in intrastate ethnic conflicts. Despite the persistent increase in such disputes, the international community does not appear to have developed a coordinated or consistent policy in how to respond to the difficulties created by these kinds of conflicts. For example, the fighting in both Yugoslavia and Chechnya have been characterized by violations of human rights and humanitarian law, and yet the international community has taken very different approaches to each conflict, intervening extensively in the former controversy through embargoes and military force, and taking a largely hands-off approach to the latter conflict as an "internal Russian affair."

This apparent inconsistency in approach by the international community, and the controversial results of the United Nations' intervention in the former Yugoslavia and Somalia, provide an effective context in which to address the question: what role can and should the international community play in intrastate ethnic conflicts?

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munity has responded to crises in the last few years. But there has also been a reluctance to learn from some moderate successes. In El Salvador, in Haiti and in Cambodia, for example, the efforts of the United Nations have succeeded not only in putting an end to conflict, precarious as that end might seem even now, but also in establishing the bases for democratic institutions that offer the best hope for peaceful resolution of conflict in future years. In all three examples, the UN incorporated human rights principles during the negotiations and later

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found creative mechanisms for verification on the ground. A similar approach is showing some promise in Guatemala as this essay is being written. Typically, civilian monitors are sent to verify compli-

ance by all parties with carefully crafted accords that apply universal human rights standards to the realities on the ground. With respect to egregious abuses of the most recent past, the UN assists in the process of reconciliation by supporting "truth commissions" or similar forms of coming to grips with the demands of truth and justice.

In spite of those successes, the UN has refused to develop a "doctrine" by which human rights and accountability would become an essential part of any peace process. In Somalia, human rights and accountability were conspicuously left out of the UN-brokered negotiations between the many warring factions. There was a token and completely meaningless assignment of responsibility for human rights to one official in the extensive field operation, and there was never any attempt to monitor the behavior of the forces brought in under the UN flag for compliance with international humanitarian law. Human rights verification and insistence on accountability have been similarly left out by the UN in Angola.

In his most recent policy statement about peace-keeping, Secretary General

continued on page 12

A New Doctrine, continued from page 10

Boutros Boutros-Ghali did not include human rights or accountability as one of the conditions of UN involvement in disputes. He did, however, propose certain pre-requisites for such future ventures, mostly drawn from a sober assessment of the recent experiences. One significant condition demanded by the Secretary General is that the parties to the conflict must demonstrate a commitment to seek

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honorable solutions by expressly consenting to a UN role. It is easy to see that the lack of such consent was a decisive factor in Somalia and in Angola, at least at the time when Jonas Savimbi, leader of the National Union for the Total Independence of Angola, ignored the results of UN-monitored elections and resumed the war. Of course, consent must be sought and commitments demanded whenever possible. But erecting this as a condition amounts to a confession of impotence in those situations in which it is unrealistic to expect that consent, at least in the early stages of a crisis. Does it mean that the international community will let vulnerable populations die in man-made humanitarian catastrophes or in mass killings until one or the other party decides that there is no longer a political or military advantage to behaving in contempt for fundamental rights? If that is the case, this "doctrine" rewards uncivilized and ruthless conduct. By dampening unrealistic expectations, the UN in fact may be unwillingly contributing to the generation and expansion of future complex emergencies.

The UN also errs when it tries to exercise its traditional peace-keeping roles in situations where there are massive violations of human rights. In traditional peace-keeping, it is legitimate to expect both parties to a conflict to agree to the presence of a neutral force to ensure compliance with temporary arrangements. By definition, therefore, the peace-keepers must be scrupulously neutral to the conflict. This neutrality, however, is a hindrance when what is needed is the protection of innocent and helpless civilians who are at the mercy of a

government or a force bent on the commission of crimes against humanity. In Rwanda, for example, the conflict between the former government and the Rwandan Patriotic Front was no more than a distant backdrop to the real problem: genocide committed by pro-government forces against the Tutsi minority. Given the clear obligation in international law to prevent genocide, the international community should and could have found ways to save Tutsi lives while engaged in the peacekeeping. Instead, it found a pretext for inaction in the need to remain neutral in the internal conflict.

The theory of "age-old rivalries" is likewise also based on important grains of truth. It makes no sense to try to correct situations without an attempt to understand them. But too frequently these explanations are just as simplistic and superficial as the attitudes they rail against. Significantly, they fail to take into account that age-old rivalries and distrust are usually manipulated by politicians and demagogues for short-term gain to fuel the fires of conflict by exploiting ignorance and fear of the future among communities. Even if age-old rivalries are hard to solve in the short term, there is certainly something that the international community can and should do to prevent their descent into genocide, crimes against humanity, or war crimes. This mind set about age-old conflict is what prevails so far in the international community's response to the former Yugoslavia, and it explains to a large extent the failure to obtain results despite extensive military, humanitarian, and diplomatic intervention. Not only

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has it been impossible to prevent ethnic cleansing, but the significant effort to secure accountability embodied in the creation of a war crimes tribunal has been marred by foot-dragging and reluctance in providing it with adequate funding. Those early problems seem to have been overcome, but the fate of the tribunal is still threatened by attempts to throw it in as a bargaining chip in exchange for peace. An amnesty that would immunize the killers from prosecution is recurrently mentioned as a possible carrot for the parties to accept a

peace plan. It is not only that this "peace" that does not deserve its name would be a shameful resolution to the conflict; more immediately, it encourages continued fighting and undermines the authority and credibility of a tribunal created with the lofty goal of standing up to genocide in our time.

The current winds of neo-isolationism in the United States go far beyond the lessons of Somalia. In fact, they attempt to prevent U.S. participation even in those instances when the venture has been remarkably successful and risk-free, as in Haiti. In this sense, they betray a lack of interest or concern for the spread

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of democracy, as if poor and underdeveloped nations were not entitled to the benefits of civil and political freedom. This way of thinking about U.S. responsibilities abroad would have a healthy effect on the debate if it contributed a sense of the limitations of what armed forces can do in complex emergencies and the dangers of excessive reliance on military solutions. Unfortunately, these voices rarely scrutinize the role the military may have played in the mistakes made on the ground and instead blame all of the problems on misguided political decisions.

The problem with this tendency to withdraw from far-off and little understood problems is that it threatens to bring down not only the peace-keeping effort but all other forms of "civilian" field operations that the international community can conduct. Lack of political and monetary support from the United States can doom civilian verification missions to monitor human rights abuses, initiatives to train and rebuild administration of justice programs so that failed states can begin to restore confidence in the institutions, truth commissions and similar efforts to show victims of massive abuse that their plight is not ignored, and similar programs designed to embark on a genuine process of reconciliation and reconstruction. If the United States turns its back on these moderately priced

continued on next page

A New Doctrine, continued from previous page
but potentially highly successful ventures, even the fate of path-breaking efforts to establish a world-wide rule of law will suffer. The same pressures to disengage from conflict situations would be at work to undermine the two tribunals that have so far been created to deal with interna-

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tional crimes (former Yugoslavia and Rwanda). Their failure would breed more disaffection and hate between communities and encourage the killers to repeat their crimes, safe in the knowledge that there is no price to pay for them.

American Interests, continued from page 11
what the Council's role should be, and implicitly what it should not. Their original intent, set out in the Charter's Preamble, was "to save succeeding genera-

In the present context, the UN's record hardly makes it a likely candidate for a successful human rights champion.

tions from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind." To that end, they charged the Security Council with responding to threats to, or breaches of "international peace and security," the buzz words that both empower and limit the Council's mandate.

Even in the face of massive problems for the UN, its supporters now want it to intervene to restore stability and prevent gross violations of human rights where governments (one shrinks from calling them "nation-states") around the world are unable to maintain for themselves. This sort of peacekeeping role, once called "nation building" in Somalia by the Clinton Administration, is very different both from the Security Council's role under the Charter, and from UN peace-

The world should certainly exercise restraint in the temptation to use military might to deal with complex emergencies. Yet, when the peace and security of mankind are threatened, there is clear international law that legitimizes the use of force. Similarly, the Genocide Convention makes it clear that the duty of the international community—and individually of each State party to the Convention—is to prevent and punish this crime. Therefore, at least when it comes to genocide, the international community must be ready to use force as a last resort to protect the lives of vulnerable and unprotected victims. This option must remain in the arsenal of the world leadership, to be used judiciously but firmly if need be. It is even more important for the United Nations and for countries that play a leadership role in world affairs to create and display an array of measures short of military intervention so that the latter is truly a measure of last resort.

UN insistence on consent and on its own misunderstood neutrality, callous

keeping between states that emerged occasionally when the Council was not grid-locked by the Cold War. To suggest otherwise is both historically inaccurate and dangerously flawed.

First, UN peacekeeping did nothing to keep regional conflicts out of the broader U.S.-Soviet conflict. Indeed, the very examples of UN successes most often cited, like Namibia, Cambodia, El Salvador, and Mozambique, were precisely the scenes of Cold War surrogate conflicts. Peaceful resolutions with UN intervention there became possible only as the Cold War receded, not the other way around. Moreover, all of these examples were principally U.S. diplomatic efforts implemented by the UN. Breathtakingly, the UN's supporters ignore the most profound and dangerous regional standoff of them all - for forty long years, the division of Europe. There, NATO prevailed, the Warsaw Pact collapsed, and the UN

The UN's founders did not set out to rid the world of tragedy.

was missing in action. Thus, in the present context, the UN's record hardly makes it a likely candidate for a successful human rights champion.

Second, the interventionist doctrine ignores the carefully circumscribed limits

and culturally-determined conceits about the intractability of conflicts, and the

If the United States turns its back on these moderately priced but potentially highly successful ventures, even the fate of path-breaking efforts to establish a world-wide rule of law will suffer.

resurgent wave of neo-isolationism in the United States are trends that conspire against a sober and realistic assessment of recent experiences. Worse than that, they prompt an attitude of selfish and parochial skepticism about mankind's ability to solve the problems of man-made calamities. And in the end, this will result in another genocidal rampage going unchecked. ☹

of Security Council authority: international peace and security. Not in Somalia, not in Cambodia and not in Haiti did such a threat really exist. At best, former Yugoslavia is a mixed case, involving the

The absence of consent makes it harder both to carry out the humanitarian mission assigned to the UN, and to preserve the kind of objectivity necessary for any kind of human rights oversight.

breaking apart of one country in civil war, and the creation of several nascent new states. Even there, the long-feared outbreak of warfare throughout the Balkans (and the threat of what? World War III?) has yet to occur, belying any substantial international impact. Human rights activists sometimes concede that many of their preferred venues for UN involvement concern situations of "human" security that cause intense emotional reactions in distant capitals. Yet, they do not propose amending the Charter to encompass their expansive views, but simply ignore what the Framers drafted.

continued on page 14