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**CONSTRAINED INTERVENTION**

In the search for unifying themes in the 21<sup>st</sup> Century for the UN, some urge the primacy of security; others the primacy of democracy, despite democracy not being mentioned in the UN Charter; others believe that there can be no lasting security or democracy without the underpinning of human rights. Human rights is not an add on – but something that has been striven for in the UN from the start. Even while the war was still waging, the big Four met at the Dumbarton Oaks Conference of 1944 to plan for a post-war world. The US insisted on a reference to a Universal Declaration of Human Rights, against Soviet and British objections. On 25 April 1945 at San Francisco, the founding conference of the UN started and soon the US Secretary of State, Edward Stettinius, made clear that the US expected a Human Rights commission to be established “to promptly undertake to prepare an International Bill of Rights”. The eventual full UN Commission on Human Rights met in January 1947 at Lake Success in New York State with Eleanor Roosevelt in the chair. It was because of the underlying belief in human rights that they were firmly ensconced in the UN family.

The extension of democracy is a welcome development for most member states of the UN. But China, with the largest population of any member state, does not accept democracy as an essential aspect of human rights, let alone a contributor to progress in the widest, economic and cultural, sense. There are a considerable number of other countries in the UN too who neither espouse nor intend to espouse democratic government as the ‘*be all and end all*’ of their existence. It is unwise, therefore, for those who believe in a “responsibility to protect” to put democracy *in the conventional Western sense* at the centre of humanitarian intervention. For many democracy will remain the ultimate good. For others what matters most will be a form of constitutionally appointed government and as an extension for it to be possible for governments to be removed from office by the will of the people. There are many

what one might call “managed” democracies, notably the Russian Federation. The nature of democracy is that it cannot be imposed. It has to be rooted, wanted by the population and owned by the citizens, not the elite.

In 2011 the emergence of what has been called the Arab Spring, shows that the aspiration for democracy exists alongside calls for human rights. It comes from the Arab people who many Western political leaders had depicted in the 20<sup>th</sup> Century as being particularly resistant to democratic change. Combining human rights and democracy is the key and attaching primacy to the element for which there is the greatest demand from the peoples, seems the way forward for the UN. It may be hard initially to discern which element should be encouraged most, let alone to try to determine which should come first. But this need not be cause for concern. As in many evolutionary situations, it may be wiser to urge both rather than one at the expense of the other. Later the one that develops the greatest traction and appeal within the population as a whole will be the one to put first. At the moment in Iran it seems best to push human rights.

In the extension of human rights as a whole worldwide, there has been measurable progress. The world might have hoped that it had put the Holocaust and the Gulag, separate and distinct forms of terror, behind them. In 1948 the Genocide Convention was adopted though it took many countries a long time to ratify. The US only ratified in 1986. From 1975 the Khmer Rouge, over three years, sacrificed 1.5 million fellow Cambodians out of a population of 7 million. In Cambodia it has taken until June 2011 for a Court – The Extraordinary Chambers in the Courts of Cambodia (ECCC), to start the trial of a former head of state, Khieu Samphan. There were genocides in Rwanda in 1994, and in Srebrenica in 1995.

In March 2009 the UN Secretary General, Ban Ki-moon visited Sri Lanka and persuaded President Rajapaksa to establish an independent investigation of alleged human rights abuses. The President resiled on that commitment but the Secretary General went ahead in 2010 and set up his own independent panel of experts, whose critical report, published in March 2011, documented how thousands of people lost their lives in three months at the beginning of 2009, for the most part as a result of government shelling. It also criticized the Sri Lankan government’s own Lessons

Learnt and Reconciliation Commission (LLRC) as neither impartial nor independent. It is essential now that at the very least the UN sets up an independent mechanism to monitor Sri Lanka's reconciliation programme and, where necessary, conduct independent investigations where they suspect serious violations.

In Syria in 2011 and in Bahrain we have seen serious abuses of human rights. In Bahrain the sentencing of the doctors and other hospital staff raises profound concerns, I know, not least here in Dublin because of the links between medical schools and where Irish doctors have been prominent in their criticism. I too have tried to add my voice but so far to little effect. In Syria, Assad, who has ignored all criticism and seriously alienated Turkey, Iraq and even Iran, is under considerable pressure to step down. But the UN Security Council is still resisting serious sanctions with opposition being led by Russia. But if we are honest neither America, France nor Britain are prepared to contemplate a no-fly-zone even if we thought we could get it through the Security Council. The reasons are complex and related to Syria's position as a supporter of Hezbollah and yet still a crucial influence in Lebanon. Syria is seen by many in the region – and even for years by Israel – as a country which for all its abuses of human rights and pursuit of nuclear weapons remains containable. There is a strange consensus that though change must come we must do everything possible to avoid instability. Syria is a classic case of where the pursuit of human rights and democracy is inconsistent and constrained.

Over women's rights there has been substantial progress worldwide, but there are still many serious abuses, particularly where rights conflict with religious practices. The recent, unexpected, move by King Abdullah in Saudi Arabia to give women the right to vote and participate more fully is a limited but nevertheless welcome step forward.

It is, however, over the right to be free and to live at peace with one's neighbours and to experience a sustained and genuine liberty, where progress has been most disappointing. Armed conflict, with unilateral or multilateral military interventions, largely dominated by the five veto powers on the Security Council, has continued since 1945. This has now more recently taken the form more often of the responsibility to protect and of various humanitarian interventions from which the UN Security Council has much to learn.

In the creation of the UN, US and Soviet Union demanded a veto power justifying their demand by what had happened to the League of Nations. The UN's five permanent members were the US, UK, France, China and the USSR, now the Russian Federation. The crucial political figures in widening acceptance for a UN in the US was Senator Vandenberg. He had said acceptance of the UN Charter in 1945 would never threaten the US Congress's own claims to sovereignty. In 1946 the Soviet cast their first veto in a dispute over the successor regime when the French withdrew forces from Lebanon and Syria. To Senator Vandenberg the Soviet action was not a smack in the face but rather confirmation that "the system worked."

The UN Charter has withstood the passage of the years surprisingly well, because it reflects the realities of power structures that still dominate from 1945. The fact that there is no mention of the word democracy in the Charter is itself a reflection of the reality that the Second World War was not a victory for communism or for democracy, but a defeat for fascism.

Yet the UN cannot be static in the 21<sup>st</sup> Century. Reform is needed to reignite all member states' commitment to the UN. A Security Council in the 21<sup>st</sup> Century that does not have, at the very least, India, Japan, Brazil, Germany and an African country as permanent members, albeit without a veto, is very clearly unrepresentative and will lack that additional authority.

It is at least possible that historians looking back from the vantage point of 2045, will conclude that the first 50 years of the UN's history was more dangerous but yet more ordered than the second. Experience of those two devastating wars was so profound that most were content for many years to accept the implicit restriction in the Charter not to intervene in the internal affairs of a member state. That hands-off stance is no longer tolerated by the citizens of most member states.

The first 50 years of the UN – 1945-1995 – saw many challenges to its authority. The first landmark event was the war in Korea which started in June 1950. Intervention by the US using the UN was made possible only because of a temporary boycott of the Security Council by the USSR. We now know it was a proxy war. Stalin, in

Moscow, in April, had given the green light to North Korea to start it and Mao in May in Beijing. But for years the Chinese and the Russians blamed each other for starting the war. Both were surprised by the US reaction intervening in Korea and over the Taiwan straits with the UN Seventh Fleet. China took military action directly in Korea, over Taiwan in 1954-58, over the Indian border in 1962, in a border conflict with the USSR over the Ussuri River in 1969-71.

The wars in Indo-China in the 1950s led to the mistaken US involvement in the 1960s in the ideological war in Vietnam over communism or democracy across the divide between the South and the North. Yet while that war was still continuing President Nixon, on 9 July 1971, sent Henry Kissinger in great secrecy to Beijing followed seven months later, on 21 February 1972, by Nixon arriving in Beijing to meet Mao. As the Vietnam war wound down, the Chinese/US reconciliation created the climate for an economic transformation in South East Asia. In historic terms, it was a realignment but at a deeper level the China that has emerged is becoming very different. For example, there has been a progressive involvement of China in UN affairs. A massive increase in China's trade with the world. The Beijing Olympics. Then in 2011 the appearance of a statue of Confucius in Tiananmen Square.

In Europe, meanwhile, in the late summer of 1956, the UK and France clandestinely combined with Israel to invade the Suez Canal. This was disowned by President Eisenhower and it was clearly a political debacle. Within days, the USSR invaded Hungary. Over Hungary not even John Foster Dulles, the toughest of all US Cold War warriors, who had talked of the rollback of Soviet communism, ever seriously contemplated NATO fighting the Soviets. This continued to be NATO's position following the Soviet invasion of Czechoslovakia in 1968 and the Soviet invasion of Afghanistan in 1979. The military policy was containment. But the political policy was engagement. Change came slowly, through Ostpolitik, détente and in 1975 through the Helsinki Treaty with, for the first time, a recognition that the situation over human rights was a legitimate concern for all signatories.

The Cold War struggle was not, therefore, primarily military; the fundamental East/West clash was ideological, between totalitarianism and democracies, between the command economy and the social market economy in which it began and ended

with Berlin. First, confrontation on the ground was overcome with the airlift of 1947-48. A progressive détente with the policy of *Ostpolitik* between West and East Germany and then in 1989 with the Soviet Union into a deep-seated economic decline Gorbachev refused to give military support to East Germany and the collapse of the Berlin Wall followed.

This history demonstrates there was never a period marked by non-interference in the internal affairs of an individual UN member state. Yet despite this, non-intervention, as spelled out in the Charter, was raised to the status of a diplomatic principle in the UN in New York. It was invoked in the Security Council and more vehemently in the General Assembly. It began to be the dictator and despot's last refuge as the UN Charter protected any regime, however vile, from any form of external military overthrow. In reality, it was not the establishment of a principle, rather the recognition of an uncertain peace presided over by two superpowers with protective spheres of influence – itself a manifestation of realpolitik. A “*droit du regard*” for each superpower was openly espoused by the USSR to conduct themselves within their own sphere. The US was less overt in espousing their own sphere of influence. But it lay behind the Bay of Pigs disaster in 1961, when a newly elected President Kennedy humiliated himself and the US. Though Kennedy, in better health in 1962, handled the Cuban missile crisis with skill. Vietnam, where the US lost out, was an example of a power projection that failed. The US record of clandestine intervention in Latin America was often no respecter of human rights, nor of democracy.

In the Middle East US power projection was challenged on the night of 24-25 October 1973, when US forces were put on alert on DEFCON 3 to make the Soviet leadership back off flying Russian paratroopers into the region. Nixon was sleeping upstairs in the White House, almost certainly the worse for alcohol, after having put out a tough reply to Brezhnev's virtual ultimatum to dispatch Soviet and American troops to Egypt or the USSR would act unilaterally. In November Kissinger was in Beijing seeing Mao who apparently expressed satisfaction that the Soviets had been pushed out of the Middle East.

The Carter Presidency in 1977 began an open reinforcement and espousal of human rights worldwide, but particularly in Southern Africa. The US began to champion

freedom and attack racial discrimination in South Africa, Rhodesia and Namibia. The US was at last sufficiently self-confident to build on the remarkable achievements of President Lyndon Johnson's civil rights legislation brought about in the aftermath of President Kennedy's assassination. It allowed for a reassertion of democratic leadership worldwide which continued under President Reagan, whose nuclear arms negotiations with President Gorbachev which eased the growing economic problems of the USSR.

In September 1990, President Bush Sr forged a multinational coalition and confronted Saddam Hussein over Iraq's occupation of Kuwait. His success with this coalition which included Egypt, Syria, Jordan and Saudi Arabia, paved the way for the phrase, "the new world order". For a while, in early 1991, after what appeared a clear cut victory, the very idealism of the UN's founding fathers was recaptured; everything seemed possible even the reinstatement of the Military Staff Committee, the first casualty of the Cold War in July 1948.

When things started going wrong the US-called ceasefire was corrupted by Saddam Hussein and his forces started attacking the Kurds, pushing them up into the snowbound mountains, a humanitarian disaster was avoided by President Mitterrand and Prime Minister John Major persuading President Bush to impose two no-fly-zones, one in the north and one in the south. The Kurds, and initially the Marsh Arabs, survived. No-one believed, when it was imposed, that the northern no-fly-zone would still be operating in 2003.

But the optimism engendered by the removal of Iraq from Kuwait was soon dashed by the difficult break up of the Soviet Union and the emergence of the Russian Federation and the new nations surrounding Russia. Also the break up of Yugoslavia, where once again Balkan rivalries loomed large in the development of Europe.

Boutros Boutros-Ghali initially had US support for a wider and more active role in 1991-92. But US support withered by 1993 following the humiliation of the US-led UN intervention in Somalia with a dead US Ranger towed behind a truck in Mogadishu. The UN role in Bosnia-Herzegovina also became the scapegoat for a US

refusal to put US forces on the ground in Bosnia. It led to the US blocking, in the Security Council, UN action in Rwanda in 1994.

In the Balkans, it is easy to forget that the US in 1990, under President Bush Sr, wanted to maintain the unity of Yugoslavia, mainly because they did not wish to do anything to encourage the break-up of Gorbachev's Soviet Union. The US Secretary of State Baker visited Belgrade in June 1991 and spoke for NATO and the CSCE when he warned Croatia and Slovenia not to declare independence. But only four days later Croatia and Slovenia declared independence ignoring his appeal. Both countries felt sufficiently confident in doing so because they calculated, correctly, that the US was not prepared to take any military action to stop them. They also knew they had the more than tacit support of Austria and Germany. Yet the war in Slovenia in 1991 was over in a matter of days because there was no ethnic conflict with Serbs and fragmentation of Yugoslavia now suited Slobodan Milosevic, the leader of the Serbs.

The European Community made a major mistake by refusing to contemplate any changes in the internal boundaries of the three republics - Bosnia-Herzegovina, Croatia and Serbia - within Yugoslavia, as the Dutch Presidency proposed in their working paper of 13 July 1991. It was not inevitable that these internal Yugoslav boundaries should have become international boundaries. It would have been difficult, but not impossible, to make adjustments favourable to Croatian Serbs in the Croatian republic, Bosnian Serbs in Bosnia-Herzegovina and Bosnian Croats in Bosnia-Herzegovina. But it was a mistake to rule them out, to refuse to contemplate them. The Croats won their two wars against the Serbs and the Bosnian Muslims. The Serbs inflicted a huge loss of life on the Bosnian Muslims and crimes against humanity, including genocide. But there was no victory and much the same can be said for the Serbian aggression against the Kosovo Albanians for the Serbs. Yet today Bosnia-Herzegovina is still, over 16 years later, divided; Kosovo, 11 years later, not yet universally recognized as a nation.

The best time for outside military intervention in the Balkans was in the summer/autumn of 1991 when Vukovar was continuously shelled for three months by Serbs and when Dubrovnik was shelled from the sea, by what was left of the Yugoslav navy. Had NATO intervened from the air with strikes on Serb artillery and aircraft, NATO could have severely damaged Serb forces in the flat open territory around Vukovar and Serb ships on the Adriatic. The political will to do so, however, was absent both in the US and in Europe. A no-fly-zone, under NATO enforcement,

did start belatedly in 1993 but it was not used as in Libya to tilt the balance of fighting.

Instead of selective NATO air strikes to tilt the balance of fighting against the Serbs on the ground from 1993, as I asked for, to impose a peace settlement, the US government would only talk about "lift and strike", lifting the arms embargo for the Bosnian Muslims while striking at Serb positions from the air, but refusing to face up to the need to pull back or withdraw UN humanitarian forces, let alone use air power to help impose any of three negotiated peace plans in 1993 and 1994. On 20 May 1993 the US, supported by the UK, France, Russia and Spain, introduced, against the advice of every UN military commander, a so-called Joint Action Plan. Srebrenica was made one of five "safe havens", but without the 30,000 troops everyone knew was necessary to carry out that pledge. After the massacre of 8,000 Bosnian Muslims in the summer of 1995 in and around Srebrenica the US decided to use force against the Serbs through NATO.

At last realities on the ground were faced up to. UN forces no longer monitored any Serb heavy weapon sites around Sarajevo. The last British troops had been deliberately taken out of the "safe haven" Gorazde. The scene was set for serious and sustained NATO air attacks on Serb positions. Those few UN forces remaining were given the means to defend themselves in Sarajevo following the deployment of extra British and French troops with radar controlled artillery. America, two and a half years too late was now ready, through NATO, to impose a settlement on the Bosnian Serbs. Also ready to use President Milosevic to help them who was demanding full authority from the Bosnian Serbs to negotiate on their behalf, while the bombing of Bosnian Serbs continued. Eventually the Patriarch of the Serbian Orthodox Church was called in to witness an agreement which gave the casting vote in the Serb delegation at Dayton to Milosevic. This Milosevic used at the end to help Richard Holbrooke broker the final settlement by putting Brcko under the UN through which Serb forces from Pale would have to move to supply or reinforce their forces in Banja Luka.

On 6 April 1994, in Rwanda, President Juvenal Habyarimana and President Cyprien Ntaryamira of Burundi were killed when their aircraft was shot down as it approached Kigali, the capital of Rwanda. Within hours, violence broke out in the city and the surrounding communities. Extremists from the Hutu ethnic group soon began targeting moderate Hutu and members of the Tutsi ethnic minority for execution. Local political leaders, police and soldiers, with lists identifying those to be killed,

went from house to house. Attempts by the commander of UNAMIR, Major General Romeo Dallaire, and the special representative of the UN Secretary-General, Jacques Roger Booh-Booh, to bring the parties back to the peace process failed. The situation spun out of control as UNAMIR was repeatedly weakened, first by the withdrawal of the Belgians, who openly advocated a complete withdrawal of UNAMIR. Then a timid response was asked for by other participating nations, except Ghana, with governments instructing their UNAMIR contingents to protect themselves at all costs. Some UNAMIR soldiers stood by while lightly armed, drunken thugs hacked women and children to death. The UN Security Council, after the intervention in Somalia, fearful of another mission failure, and hampered by the sovereignty issues raised by member states, did not take decisive action to intervene. Within three months, UNAMIR was reduced to 450 personnel. Some 800,000 Rwandans, mostly Tutsi, were thought to have been killed. 500,000 Rwandans were displaced within the country, and over 2 million Rwandans fled to surrounding countries. The three months of carnage in Rwanda were far worse than four years of killing in the former Yugoslavia, yet initially it received far less coverage.

The Carnegie Commission on Preventing Deadly Conflict, the Institute for the Study of Diplomacy at Georgetown University and the US Army undertook a project with an international panel of distinguished senior military leaders to assess whether General Dallaire's plan for a UN led military intervention force could have substantially reduced the killing. They concluded that a modern force of 5,000 troops, drawn primarily from one country and sent to Rwanda sometime between 7 and 21 April 1994, could have significantly altered the outcome of the conflict.

The lesson of Rwanda is that only a UN standing Rapid Reaction Force (RRF), well equipped and trained to operate together and ready at a few days notice to fly anywhere in the world could have intervened on the ground in Rwanda. The fact that still no such RRF has been formed by the Security Council despite experience from the Balkans, Iraq, Afghanistan and Sudan, is a sad demonstration of the reality that the UN Security Council shows no readiness yet to vote such a force into existence.

Over Kosovo in 1999 NATO resorted to what was termed a humanitarian military intervention to stop Kosovo Albanians being forced out of their homes and across frontiers. This action was taken without the authority of the UN Security Council because the Russians, under President Yeltsin, had made clear they would veto in the UN but not interfere in Kosovo. Contrary to many claims at the time, the bombing was not effective on Serb troops and positions within Kosovo. A US Air Force

review showed that only 14 Serb tanks were destroyed, not 120 as initially reported; 18 armoured personnel carriers, not 220; and 20 mobile artillery pieces eliminated, not 450. The Serbs constructed 'fake' artillery from logs and old truck axles and 'surface to air missiles' made of paper. The pressure built up on Milosevic only when strategic positions, like bridges over the Danube, within Serbia itself were bombed by NATO. But this was far less easy to claim as having an humanitarian justification. Eventually, after a long bombing campaign of 78 days, Russian diplomacy with Prime Minister Chernomyrdin helped by the Finnish President, Marri Athisaari, forced Milosevic to pull his forces out of Kosovo. No one knows exactly what was the crucial pressure that made Milosevic anger his own forces by ordering them to leave Kosovo, even though they had not been defeated. The probability was that Yeltsin said that all gas pipelines to Serbia would be turned off and this was both more immediate and crucial than vague hints from Clinton under pressure from Blair to intervene with ground troops. The settlement reached in Serbia sealed Milosevic's fate. He lost an election, was pushed out of power and sent to The Hague as a charged war criminal where he died before his trial was complete.

Any discussion about military intervention in Iraq in 2003 has to start with what happened when Kuwait was invaded by Iraq in 1990. With Iraqi land forces, tanks and airplanes already in Kuwait, President Bush Sr was faced with an alarming situation with Saudi Arabia close to being invaded and asking for help. Bush decided to fly American troops into Saudi Arabia with the agreement of King Fahd to man their border with Kuwait, initially without much logistical back-up, or support in depth. Bush risked a humiliating initial defeat by the far greater Iraqi forces coming into Saudi Arabia from Kuwait. The multinational operation to actually force the Iraqi troops out of Kuwait took place in the early spring of 1991 with the full authority of the UN. It was not just a US force with help from the UK, France and a few other European countries but a multinational force with Saudi, Jordanian, Egyptian and Syrian troops with an overall Deputy Commander from Saudi Arabia. It had one central task - to force Iraq out of Kuwait - and the multinational force, despite being victorious and on Iraq's territory, never moved on to the capital, Baghdad, to push Saddam Hussein out of power. Regime change was not a UN authorized military objective. In the main because the US had asked itself beforehand whether Iraq would be more or less stable after being forced out of Kuwait if Saddam Hussein

was toppled and Baghdad occupied. The professional judgement, in Washington and London, was better to contain the Baa'thist regime rather than risk chaos after its removal. A judgement very different from the assumptions by George W Bush and Tony Blair in attacking Iraq in 2003. They assumed, on no evidence, that there would be no untoward consequences in toppling Saddam Hussein.

Humanitarian principles lay behind the ceasefire announced by the US Chief of Defence Staff at the time, General Colin Powell. Halting the developing "turkey shoot" from the air on Iraqi forces fleeing Kuwait was an expression of the most precious human right, the right to live. Most watchers were pleased when it ended. But a just war can demand a just end. The lesson of 1991 in Iraq is that the manner in which the war ended sowed the seeds of all the frustration that lead up to another invasion in 2003.

The UN's ceasefire provisions were not fully enforced despite being incorporated in specific UN resolutions over the next 12 years. The US/UK invasion of Iraq in 2003 was, in part, a response to a growing frustration with economic sanctions being evaded and the notorious oil for food programme. Also the US and UK had maintained a no-fly-zone to protect the Kurds with their planes under repeated attack from Iraqi ground to air missiles; France having withdrawn from the implementation.

The UN Security Council's authority and its political will were persistently flouted by Saddam Hussein from 1991-2003. But the US/UK intervention in 2003-2011, by any test of "do no harm" has been a failure. The price paid by the civilian population for getting rid of Saddam Hussein was far too high, in terms of lives lost and people maimed and harmed by war. If 2003 was a failure perhaps we have to conclude so was 1991. The decision not to go into Baghdad with an occupying army was almost certainly correct. The ceasefire was the failure and it could have been done differently.

In retrospect, had there been an insistence in 1991 on an unconditional surrender by Saddam Hussein, there would probably have been no need for operation "Provide Comfort" to save the Kurds. Fewer helicopters would have been left to be used, and little, if anything, of the Iraqi Republican Guard would have been maintained.

Saddam Hussein would have been imprisoned and tried for war crimes. There would have been no invasion in 2003. But there was a prior error, which in a way determined how 1991 was handled. The Iraq/Iran eight-year war which dominated the 1980s did not burn out the Iranian Shi'ite revolutionary fervour – instead it fed it. The Western democracies and the Soviet Union all knew that Iraq, under Saddam Hussein, was using gas against Iran in that eight year war. Their condemnation in the UN was equivocal and never total. In 1988 Saddam Hussein actually used gas against his own people in Iraq. That error left a massive question mark about the authenticity of the humanitarian order being imposed in 1991 on Iraq, let alone in 2003. It will be a lasting mark of shame that the Security Council tolerated the use of gas and were equivocal in its condemnation for a supposed wider good of containing Iran.

What does this record say about the UN into the 21<sup>st</sup> Century? The UN did have modest success in the 20<sup>th</sup> Century. The preventive deployment in 1992 into Macedonia followed by preventive diplomacy in the CSCE and NATO helped the slow process of adjusting to accommodate a Muslim Albanian minority. In 1999, following the UN-sponsored act of self-determination, Indonesia relinquished control of the territory and East Timor became a new sovereign state in 2002. In Haiti, the results were mixed, but no other body than the UN had any locus there and even the US wanted the UN to continue to take the lead.

In summarizing most of the major interventions, whether military or humanitarian over the last 66 years since the creation of the UN, it is possible to identify weaknesses and strengths as well as some outcomes that should never be repeated. The record overall is a mixed one. Nowhere is this truer than in the Balkans. Military interventions have in almost all instances saved lives but in some they have also cost more lives than they have saved. That is the damning indictment of the invasion of Iraq in 2003. The overriding principle of any intervention must be “do no harm”. When that principle is violated in retrospect one should have the humility to admit that intervention should never have taken place. On too many occasions interventions have been dominated by military thinking. Some interventions have run against the grain of the culture and the mores of the country in which the intervention has taken

place. In all of these areas we try to learn lessons and point to new directions to reduce the chance of recurrence.

Apart from the principle of doing no harm, there is another principle to assess carefully, the rational chances of doing good. This particularly applies to Security Council sanctions policy. Using sanctions to prevent or more frequently to moderate wars has been disappointing. The most longstanding were the sanctions taken from 1965-80 against those who rebelled against the nominal authority of the UK in Southern Rhodesia. It consisted of an arms embargo, an oil embargo and many other economic sanctions. Over South Africa a mandatory UN arms embargo was applied for 13 years from 1977-1990. Minor economic sanctions followed. All had little effect until the Swiss banks clamped down in the middle 1980s. The most controversial of all sanctions was the Arab boycott of Israeli goods and sanctions covering oil supplied to Israel after the 1973 war. The other controversial embargo was that applied in 1991 on supplying arms to all of the former Yugoslavia which lasted until 1995.

In 2005 there was the assertion of a humanitarian right to intervene for the Security Council. Kofi Annan, as UN secretary general, told the General Assembly in September 1999, in the light of the UN having been totally bypassed by NATO countries over Kosovo: *'The state is now widely understood to be the servant of its people, and not vice versa.'* Annan went on to declare that the UN member states must embrace a *'more broadly defined, more widely conceived definition of national interest'*. No longer could the systematic extermination of the citizens of a strategically insignificant state be viewed as a matter of little or no concern to the Security Council. He was aware that after Kosovo, *'if the collective conscience of humanity . . . cannot find in the United Nations its greatest tribune, there is a grave danger it will look elsewhere for peace and justice'*.

The Security Council has long accepted that a regime can be the target of sanctions as well as a head of government. If a head of government personifies its horrors and defects, then technically such a regime can be replaced under the pressure of specific UN sanctions. To enforce the stepping down of a head of government or regime, it is open to the UN Security Council to endorse a wider definition of a 'threat to the peace' within a broader, than has hitherto been adopted, interpretation of the Charter.

What happened at the UN summit of heads of government in 2005 was an agreement to apply the principle of a 'responsibility to protect'. Since they deliberately did not also advocate amendment of the UN Charter it was implicit that they judged it could be done within the existing Charter. It is reasonable, therefore, to assume that they were endorsing the responsibility to protect as overriding the Charter's wording about respect for national sovereignty. A UN Security Council resolution passed by the requisite majority of nine, with no vetos, that demands that a head of government step down, with the threat of military action under Chapter VII of the charter if they do not, is legitimate. Similarly, so is a threat to invoke such a provision if the head of government does not start protecting their civilian population and living up to the requirements of the Charter and the Universal Declaration on Human Rights. A threat to the peace, which is a political, not a legal, judgement, can therefore override the Charter's injunction not to interfere in another state's internal sovereignty.

The Security Council tried to interpret 'the responsibility to protect' in dealing with the genocide in Darfur in 2008 and their decisions will influence the UN for the twenty-first century. The Security Council faced an immensely difficult challenge because the African Union (AU) was both weak and divided over Darfur. The leaders of the Sudanese government had shown a brutality and defiance of the UN that boded ill for the future. But there was in AU eyes insufficient evidence for the Security Council to ascribe all the problems within Sudan to a single, despotic leader, President Omar al-Bashir.

In 2009, the ICC issued an arrest warrant for al-Bashir on counts of war crimes and crimes against humanity, but ruled that there was insufficient evidence to prosecute him for genocide. However on 12 July 2010, after a lengthy appeal by the prosecution, the Court held that there was indeed sufficient evidence for charges of genocide to be brought and issued a second warrant containing three separate counts. Al-Bashir is the first sitting head of state ever indicted by the ICC as well as the first to be charged with genocide yet the warrants are unlikely to be executed by the Sudanese government, particularly as the court's decision is opposed by the African Union, League of Arab States, Non-Aligned Movement, and the governments of Russia and the People's Republic of China.

The 'carrot and stick' approach appeared to have worked in dealing with Colonel Muammar Gaddafi of Libya. President Clinton and then President George W. Bush, acting with Prime Minister Tony Blair, it is suspected, though never admitted, gave assurances to Gaddafi, as a personal incentive, that if he abandoned nuclear weapons he would not later be toppled from power by military intervention from outside the country. Libya started to abandon support for terrorism. It agreed in 2004 to pay \$35 million in compensation for victims of the Lockerbie air disaster. As a result the United States in July 2006 dropped Libya from their list of terrorist countries. But when the Arab Spring took hold in Libya and there were protests and demonstrations in early 2011, Gaddafi and his sons had a choice: they could listen, adjust and negotiate or repress. They threw caution to the wind and threatened to use force of considerable severity against the liberation movement. They were poised to take the second city of Benghazi. The spectre of Rwanda and Srebrenica loomed. In the light of a specific request from the Arab League for a no-fly-zone UN Resolution 1973 was passed on 17 March 2011 authorizing UN members to "take all necessary measures ..... to protect civilians and civilian populated areas". Just in time the French flew against advancing Gaddafi forces. The US fired over 200 cruise missiles and aircraft to destroy Libyan air defences and then stepped back leaving the French and British to lead within NATO. There was no veto in the Security Council over the no-fly-zone, sanctions or asset freeze. Humanitarian considerations were genuinely uppermost. It was always possible that Gaddafi as a head of government might be forced out of office. But for this to happen Resolution 1973 demanded a ceasefire and was framed "excluding a foreign occupation force of any form on part of Libyan territory". The terms of this Resolution were pretty strictly applied and NATO's conduct of the operation as a consequence meant many months passed before Gaddafi fell. It was a constrained intervention. The Libyan people did all the fighting on the ground; the balance was tipped by NATO in favour of the liberation forces.

Regime change in Libya, leading to a replacement government, was undertaken to save lives and to respect human rights. It may become a democracy, but there is no UN authority to stipulate that a successor regime in Libya must be a democracy.

The international laws and conventions that we have at the start of the 21st century may be imperfect but so is the world they seek to improve. They are the product of an

emerging, but not perfect, civilised world. A world that has tried, through the UN, since 1945, to become ever more civilized and coherent. A world that has chosen to root itself in the moralities and the cultures of many civilisations which embrace almost all races, religions and creeds. A world that, for all its failings, is an improvement on the world prior to the UN Charter and its first major follow on, the Declaration of Human Rights. *A world which can still strive to define a universal and culturally inclusive variant of an enlightened political philosophy.*

UN Security Council Resolution No 1973 would never have been brokered without a direct plea for action by the Arab League. Yet the Libyan no-fly-zone intervention has shown, despite many difficulties, that a citizen army can not only defend themselves but beat back well equipped forces. This means that UN authorized air power can tilt the balance of fighting on the ground by well targeted bombing and strafing from the air. A UN military intervention can succeed without putting member states' armed forces on the ground. In Libya the intervention from the air has kept alive the hope engendered by the Arab Spring, though it is not a model that can be followed automatically in other countries. Libya has vindicated those who from May 1993 to August 1995 wanted to do the same against the Serbs. Had the balance of fighting been tilted to end the war in Bosnia-Herzegovina, peace would have been achieved much earlier. The price of waiting another two years until the massacre of Srebrenica was devastatingly high and has perpetuated the division, almost a partition, that still predominates in Bosnia.

END