

# CARNEGIE COUNCIL *for Ethics in International Affairs*

## Should We Stop the Next Genocide?

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U.S. Army Africa

While others celebrated the end of the Cold War, the Canadian poet and songwriter Leonard Cohen warned darkly that "things are going to slide, slide in all directions." And so they did. In 1992, the secession of Bosnia and Herzegovina from the former Yugoslavia precipitated a dirty war that claimed the lives of 100,000 people, a third of them Bosnian Muslim civilians. Indeed, for three long years, Europeans who had once cried "Never Again!" did little to stop the fighting, and ethnic Serbian forces would go on to murder over 8,000 Muslims in Srebrenica, a city under UN protection.

In Eastern Europe, Bosnia was followed by the horrors of Kosovo, while Africa witnessed a string of genocides. In Burundi, rival ethnic groups declared war on one another, and the atavistic killing soon spread to Rwanda, where in 1994, Hutus shot and hacked to death at least 500,000 Tutsis. Meanwhile, the international community just watched from the sidelines. Similarly, the government of Sudan has committed numerous atrocities in its western Darfur region, burning village after village without concern for hand-ringing human rights activists in the West.

Given this dismal state of affairs, should the United States, as the world's greatest military power, use its might to prevent the next outbreak of ethnic violence from turning into a full-fledged genocide?

The answer is not an easy one. The notion of humanitarian interventionism, for all its moral justifications, has no basis in international law. Furthermore, even if it were legal, some argue that issuing a blanket commitment to stop atrocities around the globe might actually provoke more of them. Truly effective humanitarian intervention would also require the U.S. to seed the Third World with military bases in order to rapidly deploy to troubled spots. Such a policy would, however, invite charges of imperialism. Finally, even genocidal regimes have friends, and they would exact revenge for American intervention.

### Running Afoul of the Law

Signed and ratified in 1945, the UN Charter sought to make the world a safer, more humane place. Accordingly, it banned the use of force in foreign policy. Member states still retained the right to defend themselves against aggression, and the UN Security Council could punish a recalcitrant country. But that's all, says [Michael Byers](#), the Canadian Research Chair in International Law and Politics at the University of British Columbia. "So if you take a lawyer's approach to the UN Charter, there is no room for a third exception, an exception in favor of humanitarian intervention," he states.

Likewise, the UN Convention on the Prevention and Punishment of the Crime of Genocide, which took effect in 1951, does not give the U.S.—or any other member state, for that matter—the right to invade a country in order to stop massacres. Rather, the convention does things like define the crime of genocide and call upon states to punish their own war criminals or pack them off to stand before an international tribunal.

True, there is still international customary law, i.e. accepted state practice. However, Byers finds that few nations have actually justified their interventions on Good Samaritan grounds—even when they had a good case for doing so. For example, in the late 1970s, Tanzania invaded Idi Amin's Uganda, and Vietnam pushed into Cambodia, ruled at the time by the Khmer Rouge. Yet both invasions "were explicitly justified as self-defense and not as a humanitarian intervention," he notes, adding that NATO never even made a legal case for bombing Yugoslav forces during the Kosovo crisis in 1999.

The only legal way to halt the ethnic murder, therefore, is to call on the UN Security Council. The problem is that, given the structure of the Council, any permanent member can use its veto to stymie collective action. Byers grants that this is a possibility, but he insists that it never really happens. To support his argument, he notes that [UNSC Resolution 1706](#), calling for the introduction of UN peacekeepers in Darfur, passed in 2006. China—long accused of playing an obstructionist role on Sudan—did not veto the resolution. "The law is not broken," Byers states.

However, [Eric Reeves](#), an English Literature professor at Smith College who has written extensively on Sudan, notes that China only abstained on the resolution after introducing a "poison pill clause" that made the UN force's operation in Darfur contingent upon the good will of the Sudanese government. "In effect, China prevented action for a year," Reeves says, "... and has produced so much of the disaster we're presently witnessing."

Furthermore, the experience of Kosovo—where NATO acted without Security Council sanction (which was an unlikely prospect given the Russian veto)—laid bare the tensions in the system. [Alan Kuperman](#), a political scientist at the University of Texas and author of *The Limits of Humanitarian Intervention: Genocide in Rwanda*, notes that NATO had committed aggression against the then-Federal Republic of Yugoslavia. Yet most legal observers believe that defending the Kosovars "prevented an incipient large-scale case of ethnic violence and thereby reduced civilian suffering."

This clash between legality and morality is what galvanized the ill-starred Responsibility to Protect (R2P) movement, which argued that the international community has the responsibility to stop genocides—even if doing so means attacking a sovereign state. The R2P-backed [2001 Report of the International Commission on Intervention and State Sovereignty](#) even says that, if the UN obstructs anti-genocide efforts, "concerned states may not rule out other means to meet the gravity and urgency of that situation—and that the stature and credibility of the United Nations may suffer thereby."

However, repeated attempts in 2004-2005 to get the UN to ground Responsibility to Protect in law led to a watered-down, multilateral version of humanitarian intervention that differed little from previous understandings of Security Council power. So, for example, the 2005 World Summit Outcome document states "we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis ..."

R2P efforts notwithstanding, Byers thinks that the ban on humanitarian intervention should stand lest this new exception to the rule be misused. If a country is truly incensed by international inaction on

genocide, let it do what must be done. The intervention would still be illegal, but if carried out for the right reasons, the "act will be forgiven."

### **The Cost of Intervention**

Now, humanitarian intervention may be illegal, but is it effective? Advocates assume that the very worst atrocities could be eliminated if only the U.S. and others would commit themselves to protecting national minorities. By contrast, Kuperman argues that this might, in fact, lead to more killings. Disgruntled ethnic groups would take these blanket assurances at face value and engage in risky military ventures. However, given the real-life limits of Western power projection capabilities, this political insurance policy would prove too little, too late when finally needed.

In a similar vein, a state facing a secessionist movement would have every incentive to move quickly and finish off the national minority before the U.S. intervened.

Kuperman believes this is what happened in Kosovo. When, after years of passively resisting the central government in Belgrade, ethnic Albanians took up arms in 1998, they had no illusions that they could win independence on their own. There were, after all, facing down Yugoslav tanks with AK-47 assault rifles. Still, they "thought that by starting the war and escalating the war, they thought they could bring in Western states to intervene on their side," he says.

They were right, of course. NATO did intervene. But when it did, the situation on the ground took a turn for the worse. In the first year of the war, less than 2,000 people were killed—a figure that includes both Yugoslav Serbs and Kosovar militants. However, "after NATO intervened, in the next eleven weeks, 10,000 Albanians were killed," Kuperman notes, adding that the number of Kosovar refugees spiraled to 850,000 in just one month as Yugoslavia stepped up its "end game" against the population of that rebel territory.

To prevent other rebels groups from doing the same and immolating their own populations on the road to freedom, the U.S. needs a nuanced humanitarian intervention doctrine. Basically, the U.S. should announce—and consistently demonstrate over time—that it will stay out of any ethnic conflict if the oppressed group provoked the violence and the state's response is roughly proportionate, Kuperman says. This would encourage rebels not to exploit their own people's suffering and give an incentive to the state fighting an insurgency to avoid ethnic cleansing.

Unfortunately, this policy alone will not stop all genocides. Some, like the Holocaust, are not byproducts of civil war. To stop these before they burn out of control, one would need an early warning system and forward bases for the rapid deployment (under ten days) of peacekeepers and equipment—and in all likelihood, these bases would be in Africa. As for manning the bases, even if other countries would want to contribute, few could project military force. Britain and France can muster a few thousand troops. "And if it's a big deployment, it's the United States. Full stop," Kuperman says.

This is the point when all the people with the "Save Darfur" bumper stickers get nervous. Dotting Africa with U.S. military bases smacks of neo-imperialism. And it is not just the liberal constituents of human rights groups who have concerns about what American humanitarian intervention means in real terms.

[Ivan Eland](#), director of the Center on Peace and Liberty at the Independent Institute, doesn't mind if the U.S. provides assistance to the UN, but he opposes the idea of Army brigades positioned in the Third World and on the ready to stop genocides. First, stepping in on one side of an ethnic conflict

would expose America to terrorist "blowback." Second, after putting an end to the massacres, the U.S. then would get sucked into nation-building exercises so as not to see the fighting reignite. Finally, building and maintaining bases for rapid deployment would mean increased defense spending at a time when the U.S. is already fighting two expensive wars in Afghanistan and Iraq.

"It's not our responsibility, to put it bluntly," Eland says of ethnic cleansing.

Lyal Sunga, a visiting law professor at the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, in Sweden, and who worked for the UN High Commissioner for Human Rights, agrees with Kuperman that a rapid reaction force and early warning system are required. But he thinks that only the UN has the legitimacy, expertise and agencies to maintain a long-term presence in a troubled zone. But coming full circle, this again raises the issue of international political will and the Security Council ("an out-of-date institution" that is "hamstrung by two or three veto-casters," as Sunga puts it.).

Perhaps more of a hope than a solution, Sunga says that countries in the UN ought to come together and build an effective, flexible collective security mechanism. "Without that ... I think that we are condemned to this very difficult situation," he concludes.