

A Comparative analysis of conflicts across the world that are all based on religion and ethnic diversity?

I. Introduction:

At the heart of most conflicts across the world is religion and racial difference. Spurred by the motivation of religious fervor, people get carried away and commit acts of terrorism without a thought for the repercussion of their actions or to question whether the religion that they are willing to give their lives for really requires such a sacrifice from them? Ethnic cleansing and racial violence is another phenomenon that is widespread and has been from time immemorial. If you consider the Second World War and Hitler's Third Reich, The Rwandan Genocide between the Hutus and the Tutsis, the civil war in Sudan, this phenomenon dates back to the Crusades in Europe that lasted 200 years and the civil strife in Northern Ireland since 1961.

Some of the aspects of international conflicts that I will deal with in this paper are the causes of conflicts and the role of religion in Politics. The root cause of religious extremism is the influence that politicians have over the masses. Their ability to sway people and provoke a religious fervor is dangerous in the light of the power that they hold in the public domain. Should this be allowed, and does religion have any place in politics? Another question that has to be answered is at what role does the sovereignty of a nation have, in light of the interests of an international community and what are the acceptable rules of international intervention?

II. The Evolution of the laws of War:

If you consider the very beginning of the concept of warfare, the Just war theory or “*bellum iustum*”, is one that has to be consulted as perhaps a criterion or justification of war. The Just War theory originated as a part of Roman philosophy and the theory later gathered support amongst eminent thinkers like Thomas Aquinas, Hugo Grotius¹, etc and states that any conflict must meet the criteria of philosophical, religious and political justice by following certain essential prerequisites. The theory then gathered support within the Catholic Church and laid down certain conditions for legitimate defense by a military force, some of which are as follows;

- the damage inflicted by the aggressor must be grave and certain,
- other means of concluding the war must be proven to be exhausted or ineffective,
- prospects of success must be likely,
- the “principle of proportionality” must be followed, which states that the benefits of waging the war must be proportionate to the expected harm that might result from the war.

With the passing of time, the just war theory was codified within the framework of

¹ In his book *De Jure Belli ac Pacis* (On the Law of war and Peace) Translated by AC Campbell London 1814, and published by B. Boothroyd in London, 1814, Hugo Grotius speaks of the lawfulness of war (Chapter2) and Unjust Causes of war (Chapter 22) etc.

international law and the concepts of *Jus ad bellum*² and *Jus in bello*³ materialized. Both of these theories have now been incorporated internationally into the Humanitarian laws of war. Jus ad Bellum represents a criterion for determining whether the decision to enter into a war is permissible. These rules must be consulted before engaging in war and determine if the war that is conducted is indeed a just war. Jus in Bello on the other hand are rules that determine if a war after its initiation is conducted justly. This principle doesn't concern itself with the reasons for the initiation or the method of initiation of a war but more with the manner in which the war is conducted after it has been initiated. It includes the "principle of distinction," which states that war must be waged against enemy combatants and not non-combatants, the "principle of proportionality" as well as the concept of military necessity, which stipulates that war must be waged on the basis of military necessity and must only be for the purpose of the military defeat of the enemy. Any attack must be on a military objective and civilian objects must suffer the least possible harm.

The concept of Jus in Bello has been incorporated into the Humanitarian laws of war through the legislation of **Common Article 3** of the Geneva Conventions⁴ on the Laws of War 1949, which stipulates certain provisions during an armed conflict that parties to the conventions must abide by at minimum, such as:

² The concept of *Jus ad bellum* is incorporated in the Charter of the United Nations, which declares in **Article 2**: "All members shall refrain in their international relations from the threat or the use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations"; **Article 51** also states: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations."

³ *Jus in bello* principles are usually incorporated in customary law and recognized practices of war, as well as treaty laws like the Hague Regulations of 1899 and 1907, (which establish rules for the conduct of hostilities), the four Geneva Conventions of 1949, which stipulate conditions for the protection of victims of war such as the shipwrecked, prisoners of war, and civilians, as well as in the Additional Protocols of 1977, which contains provisions to protect non-combatants, establishes conditions for civil defense, and prohibits indiscriminate attacks, etc.

⁴ Definition according to the website of the International Committee on the Red Cross: (<http://www.icrc.org/ihl.nsf/WebART/375-590006>)

- (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion, or faith, sex, birth, or wealth, or any other similar criteria.

The Article also stipulates that, the following acts must remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- a. violence to life and person, in particular murder of all kinds, mutilation, cruel treatment, and torture;
- b. taking of hostages; []
[SEP]
- c. outrages upon personal dignity, in particular humiliating and degrading treatment;
[]
[SEP]
- d. the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

Through various legislations, the principles of the just war theory have been incorporated into the laws of war and have formed an essential part of multilateral treatise such as the four Geneva Conventions and their Additional protocols, etc. In addition, the various tribunals that have been set up in the wake of various conflicts across the globe,

such as the International Criminal Tribunal for the former Yugoslavia, and the International Criminal Tribunal for Rwanda to bring those responsible for genocide and warfare in these nations to justice, have elaborated upon the principles of warfare and their applicability. An example of an instance where a tribunal has established the applicability of the provisions of an international agreement is in the case of *Prosecutor v Dusko Tadic*⁵ where the International Criminal Tribunal for the former Yugoslavia ruled that *grave breaches*⁶ under the Geneva Conventions apply not only to international conflicts but to internal armed conflict as well. The importance of this judgment is in the fact that **Article 2** of the Geneva Convention on the Laws of War of 1949 states that the Convention shall apply only in the case of a declared war or armed conflict, that shall arise in the territory of two or more High Contracting parties, or in other words, the it shall apply only in the case of an international armed conflict. Tribunals such as these play an important role in clarifying the applicability of the law and allowing it to evolve. The rule established in the case of *Dusko Tadic* is important as it allowed for the evolution of customary international law and allowed for the prosecution of war crimes even over nations or groups that have not

⁵ <http://www.icty.org/x/cases/tadic/tjug/en/tad-sj970714e.pdf>

⁶ Grave breaches stipulated in the four Geneva Conventions (Art 50, 51, 130, 147):

- wilful killing;
- torture or inhuman treatment;
- biological experiments;
- wilfully causing great suffering;
- causing serious injury to body or health;
- extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

(<http://www.icrc.org/eng/resources/documents/misc/57jp2a.htm>)

accepted the terms of the Geneva Convention.

III. The Proliferation of Discord to Other Nations:

a. The LTTE:

The laws of war have evolved and with the involvement of the United Nations and the various organizations under it as well as the provisions of the UN Charter, the laws of war have been unified under one umbrella in the world community. The question that then arises is the reason for war and the reason for the spread of discord through various nations when in most cases wars begin within the boundaries of a single country. If you take the case of the Sri Lankan Liberation Tigers of Tamil Eelam (LTTE) and the constant state of war that they have been engaged in with the Sri Lankan military forces and the eventual backlash that has resulted from this state of warfare upon the rest of the world, one realizes that conflicts that emerge in one nation rarely respect the boundaries of the nation and inevitably have an impact on surrounding nations and the rest of the world. The LTTE emerged in 1976 as a separatist organization from Northern Sri Lanka that was established in order to create an independent state for Eelam Tamils who are native to Sri Lanka and Tamils of Indian origin.⁷ This resulted in a civil war in Sri Lanka that lasted from 1983 well until 2009. In addition to the warfare that was rampant within Sri Lanka, the LTTE was also considered to be responsible for the assassination of the Sri Lankan President Ranasinghe Premadasa in 1993 as well as the former Prime Minister of India Rajiv Gandhi

⁷ "Sri Lanka – Living With Terror". *Frontline* (PBS).
<http://www.pbs.org/frontlineworld/stories/srilanka/thestory.html>

in 1991⁸. While the organization may have begun as a political body that sought to establish an independent state, like many other such organizations it has emerged to be a terrorist organization and has been deemed to be so by several international governmental organizations. To quote the US Federal Bureau of Investigation, its January 10, 2008 report mentioned the LTTE as “the most dangerous and deadly extremists in the world.”⁹ The report went so far as to state that “the ruthless tactics of the Tamil Tigers have inspired terrorist networks worldwide, including Al Qaeda in Iraq.” The report also states that the primary concern with organizations such as these is that they infiltrate other nations and place their operatives in other nations in order to raise money to fund their terrorist campaigns and purchase weapons and explosives. The European Union as well, in its Common Position of 2009¹⁰ of the Council of the European Union stated that in accordance with the Treaty of the European Union, particularly Articles 15 and 34¹¹ thereof, the Council has adopted certain measures to combat terrorism and with this intention has stipulated a list of people, groups and entities that are deemed to be terrorist organizations of which the LTTE is number 26. The result of internal strife in a country and civil war in

⁸ Article by Ajay Kaul *WHAT IS LTTE UP TO NOW? PTI - The Press Trust of India Ltd. July 8, 2006*

⁹ http://www.fbi.gov/news/stories/2008/january/tamil_tigers011008

¹⁰ Council Common Position 2009/67/CFSP of 26 January 2009 updating Common Position 2001/931/CFSP on the application of specific measures to combat terrorism and repealing Common Position 2008/586/CFSP ^(L 23) ^(2009/01/27) Official Journal L 023, 27/01/2009 P. 0037 – 0042
(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:023:0037:01:EN:HTML>)

¹¹ **Article 15**

The Council shall adopt common positions. Common positions shall define the approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the common positions.

Article 34

1. In the areas referred to in this Title, Member States shall inform and consult one another within the Council with a view to coordinating their action. To that end, they shall establish collaboration between the relevant departments of their administrations.

2. The Council shall take measures and promote cooperation, using the appropriate form and procedures as set out in this Title, contributing to the pursuit of the objectives of the Union. To that end, acting unanimously on the initiative of any Member State or of the Commission, the Council may:

(a) adopt common positions defining the approach of the Union to a particular matter, etc

a country whether it is by reason of seceding from the Union of a state and for the formation of a separate state or for the purpose of racial conflict and genocide, is that they often spill over the borders of a nation and affect the peace of the surrounding nations in the international arena.

IV. Genocide and the Mayhem that Followed:

The **Convention on the Prevention and Punishment of the Crime of Genocide, 1948**¹² defines genocide as “any of a number of acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group, and forcibly transferring children of the group to another group.” In addition the Convention declares that there shall be no immunity from the punishment of this crime and that persons committing this crime shall be punished no matter who they are, including the constitutionally responsible rulers. Section 138 to Section 140 of the Resolution adopted by the General Assembly as an outcome of the deliberations of the World Summit of 2005¹³ (Outcome Document) also declares the responsibility of each individual state to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. It is apparent by a number of these international instruments in addition to the abovementioned, that the importance and

¹² Convention on the Prevention and Punishment of the Crime of Genocide
<http://www.un.org/millennium/law/iv-1.htm>

¹³ Outcome document:
<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>

the irreversible, unquestionable duty to prevent genocide and ethnic cleansing has become a part of customary international law that is applicable even to states that have not ratified or signed the 1948 or other conventions.

a. Darfur as an Example:

The war in Darfur is a prime example of genocide that was conducted by the Government¹⁴ according to the report of the International Commission of Inquiry on Darfur to the Secretary General (2004) where the Commission established that the Government of Sudan along with the Janjaweed, (a Sudanese militia group recruited mostly from the Arab Abbala tribes of northern Sudan) were responsible for a number of violations of international human rights and humanitarian law, both of which are considered crimes under international law. The report established that the Government forces and the militia were responsible for a number of attacks as well as the rape and torture of countless civilians. They engaged in various forms of sexual violence, destruction and pillaging of villages throughout Darfur in an organized, widespread and systematic manner that amounted to crimes against humanity. The victims of these crimes have been identified to belong to the Fur, Zaghawa and other specific African tribes according to the report. Although Sudanese Government officials claim that the attacks that were carried out were for counter-insurgency purposes and were governed by an imperative military necessity, the Commissions findings state otherwise. Most attacks were deliberately directed against

¹⁴ Report of the International Commission of Inquiry on Darfur to the Secretary-General Pursuant to Security Council resolution 1564 (2004) of 18 September 2004 (<http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/WPS%20S%202005%2060.pdf>)

civilians and the attackers took no precautions to ensure that civilians were given a chance to leave or were protected when the villages were attacked. Furthermore, the use of military force was proven to be largely disproportionate in relation to the threat that the rebels imposed. Although the report stated that the crimes committed in Darfur may not have amounted to genocide, other offences such as crimes against humanity and war crimes that were committed in this instance are as serious as the crimes of genocide. The debate on whether the crimes committed in Darfur should or should not be characterized as genocide was dealt with in the Outcome Document, adopted at the United Nations summit in September 2005¹⁵. According to the Outcome Document, the coordinated efforts of the Sudanese Government along with the Janjaweed of destroying villages by bombing them multiple times in such a manner that villagers did not have a chance to leave, repeated instances of rape, violence, etc resulted in the inevitable conclusion that genocide was committed in Darfur and that the government of Sudan and the Janjaweed must bear responsibility for the same. As a contracting party to the Genocide Convention, Sudan was obliged to prevent and punish acts of genocide and instead of doing so; it has done just the opposite.

b. The Rwandan Genocide:

Another example of a situation of internal conflict and violence in a state, which resulted

¹⁵ The Outcome Document, adopted at the United Nations summit in September 2005. SYMPOSIUM: THE NUREMBERG TRIALS: A REAPPRAISAL AND THEIR LEGACY: GENOCIDE, CRIMES AGAINST HUMANITY, AND DARFUR: THE COMMISSION OF INQUIRY'S FINDINGS ON GENOCIDE by William A. Schabas. February, 2006 (27 Cardozo L. Rev. 1703) Page 1704

in the involvement of the world community is the Rwandan genocide of 1994, which led to the death of approximately 800,000 people in the span of 100 days.¹⁶ The conflict in Rwanda was characterized by an ethnic divide in the country between the countries two main ethnic groups, the Hutus, who constituted the majority population of the country and the Tutsis, who were in control of the state and had controlled power in the state for centuries.¹⁷ The culmination of the genocide was contributed to by a variety of factors such as the longstanding rivalry between the two communities, the poverty, overpopulation, etc. The most tragic part of the civil war in Rwanda was that it began after the signing of the Arusha Accords¹⁸, which was a peace agreement signed by the Government of Rwanda, and the rebel Rwandan Patriotic Front after much mediation in order to end the conflict in Rwanda and the civil war that had lasted as long as three years. Although the signing of the agreement was one small step in the direction of peace in Rwanda, the implementation of the same was another story altogether. Ineffective peacekeeping by the UN and the Organization of African Unity failed to provide the country with the stability that it required at this point in their history. Hutu extremists hoped to establish a rebel group or a rural militia in order to further the interests of their community and managed to create a sense of fear in the population and exacerbate the ethnic divide. Although the conflict in Rwanda and the civil war eventually ended there were several steps that could have been taken that would have restricted the amount of harm that was actually caused as a result of

¹⁶ See U.N. Sec. Council, Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda, p. 3, U.N. Doc. S/1999/1257 (Dec. 16, 1999)

¹⁷ WORDS OVER WAR: Mediation and Arbitration to Prevent Deadly Conflict. Published in the United States of America by Rowman & Littlefield Publishers, Inc.
The Arusha Accords and the Failure of International Intervention in Rwanda by Joel Stettenheim Pg 213 (<http://carnegie.org/fileadmin/Media/Publications/PDF/Words%20Over%20War%20Mediation%20and%20Arbitration%20to%20Prevent%20Deadly%20Conflict.pdf>)

¹⁸ ARUSHA PEACE AND RECONCILIATION AGREEMENT FOR BURUNDI (<http://www.issafrica.org/AF/profiles/Burundi/arusha.pdf>)

the genocide. According to Human Rights Watch the treatment of the genocide in Rwanda by foreign officials across the world was with a great deal of hesitation. Officials refused to call the conflict in Rwanda genocide, because of the moral and legal implications of such a conflict. They went so far as to say that the Secretary General of the United Nations at the time, Boutros Boutros-Ghali “spoke of the genocide as if it were a natural disaster and depicted Rwandans as a people fallen into calamitous circumstances.¹⁹” Foreign officials across the world treated the genocide as a by-product of the war rather than dealing with it directly so much so that some policy makers in countries like France and Belgium treated the requirement of the ethnic majority in the country akin to a democratic majority due to their wariness of increasing the chances of a RPF (Rwandan Patriotic Front) victory and the establishment of a minority dominated government in Rwanda.²⁰ These kinds of conflicts are in abundance across the world and although organizations like the United Nations and others have tried to limit the damage caused by such conflicts, the effectiveness of their actions is yet to be determined especially in light of the time it took for them to actually step in and the casualties that resulted before they could implement their directives.

V. The Reactions of Other Nations and the Dilemma of Intervention:

As a result of the various situations of internal violence plaguing various nations across the world, various states have taken action to combat and administer the situation of

¹⁹ Human Rights Watch article:
(http://www.hrw.org/legacy/reports/1999/rwanda/Geno1-3-05.htm#P133_55018)

²⁰ Same as footnote 14

nations with internal conflicts and apply minimum humanitarian standards to the same. The reason for this is that International Humanitarian Law usually does not apply in situations of internal conflict and therefore the applicability of basic human rights laws and the laws of armed conflict are often overlooked if a conflict remains within the boundaries of a nation. An example of this is the Conference on Security and Cooperation in Europe's Budapest review meeting on December 6th 1994²¹ where state parties realized the significance of declaring minimum humanitarian standards that must be made applicable in the case of internal violence. The Commission on Security and Cooperation in Europe (CSCE) took action following the decision of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities in favor of the adoption of the provisions of the Declaration of Minimum Humanitarian Standards and their application in situations of internal violence and ethnic, religious, national conflicts as well as in internal disturbances within a nation. Such initiatives that have arisen amongst various international organizations and groups have demonstrated the growing concern of the international community that the international law on human rights have not been able to adequately protect individuals involved in civil strife within a nation.

VI. Is War the only Remedy?:

Another problem that is faced by organizations like the United Nations and other international forums is on what grounds is it possible to intervene in the internal conflict

²¹ Article by Asbjorn Eide, Allan Rosas and Theodor Meron, CURRENT DEVELOPMENT: COMBATING LAWLESSNESS IN GRAY ZONE CONFLICTS THROUGH MINIMUM HUMANITARIAN STANDARDS, 89 A.J.I.L. 215 January 1995, Page 215

of a nation in the midst of a civil war on humanitarian grounds. At what point does one say that a nation has undergone too much and that it is time for another nation or another body to step in and try to solve the problem? The reasons for such intervention are innumerable, from military security to humanitarian concerns, but what reason is reason enough to interfere in the domestic affairs of a state? Although there is no legal regime on humanitarian intervention and no codified law on the same, customary international law has emerged over time that perhaps justifies or allows for such intervention in the light of the circumstance.²² The problem that is then faced is that the nation in conflict, which is in most circumstances bound to be a developing nation will always express the concern that the intervention occurred with another goal in mind and that the nation that interfered had another agenda. Take the case of the Second Gulf War that began in 2003. The pretexts on the basis of which the war was conducted was in order to find certain alleged weapons of mass destruction, that the Iraqi government was harboring members of the Al Qaeda²³, and there were innumerable other reasons that were given for the same, but at the end of the war and the destruction of the nation, nothing was ever found. There were no weapons of mass destruction, there was no proof of the Governments involvement with the Al Qaeda and there were countless conspiracy theories that were circulated in the media regarding the real reasons for the war, none of which were the one's cited by the US Government.

²² HUMANITARIAN INTERVENTION AND PRETEXTS FOR WAR by Ryan Goodman: "If a leading concern about legalization of Humanitarian intervention were eliminated, those actors might be more willing to discuss, sharpen or endorse a set of standards. Such a development could constitute a considerable improvement on a system in which states occasionally engage in de-facto Unilateral Humanitarian Intervention but in which there is no substantial political debate or articulation of formal standards to regulate the practice." (Page 141)
(<http://www.law.harvard.edu/faculty/rgoodman/pdfs/RGoodmanHumanitarianInterventionPretextsforWar.pdf>)

²³ Steven Kull, Clay Ramsay, and Evan Lewis, "Misperceptions, the Media, and the Iraq War," Political Science Quarterly, Vol. 118, no. 4 (Winter, 2003/2004), pg 569, The Academy of Political Science. <<http://www.jstor.org/stable/30035697>>.

While there may have been several reasons for the invasion of Iraq on grounds of humanitarian abuses and on the basis of the fact that it was a nation in the 21st Century that had never seen the face of any kind of democratic ideal or democratic governance, did it justify the invasion of the country by the largest superpower in the world that was backed by its very might and would not tolerate any resistance from the meager protests of other less influential countries on the basis of the reasons that were cited by them and had no truth behind them?

In certain circumstances diplomatic and economic measures may be used by other nations to put pressure on a nation under siege and restrict the effects of a conflict on the rest of the world, but in extreme circumstances these measures may be inadequate. Economic sanctions may be put on a country in order to restrict their ability to buy armaments or even as a means of trying to strong arm them to concede to the will of the international community. The view that “sanctions serve a particularly useful function by providing a means to demonstrate disapproval that is stronger than diplomatic protest, but which falls short of resort to armed force”²⁴ is very relevant. Over time, international economic sanctions have been used repeatedly²⁵, and while their level of effectiveness is in doubt, they are definitely a method by which a nation is at the very least pressured into conforming with international standards.

²⁴ Christopher C. Joyner, *Sanctions, Compliance and International Law: Reflections on the United Nations' Experience Against Iraq*, 32 *Va. J. Int'l L.* 1, 3 (1991)

²⁵ "From 1991 to 1994 the UN Security Council imposed mandatory sanctions eight times, compared to only twice from 1945 to 1990." Robert A. Pape, *Why Economic Sanctions Do Not Work*, 22 *Int'l Security* 90, 90 (1997). The U.N. shows every sign of continuing this extensive use of sanctions, as demonstrated by Secretary-General Boutros-Ghali's 1995 proposal to create a new U.N. agency to monitor sanctions. See *id.* See also Boutros Boutros-Ghali, *Supplement to An Agenda For Peace*, paras. 75-76, U.N. Doc. A/50/60-S/1995/1 (Jan. 3, 1995)

VII. Is War the only Remedy?:

The other problem that has to be dealt with is the bipolar nature of the countries in the world and their division into developed and developing countries. In a situation where a nation is forced into intervening in the affairs of another nation at war, whether on humanitarian, political or other grounds, there is bound to be a feeling of apprehension that arises in the view of developing nations of the third world. Most of these nations, such as Malaysia, India, and perhaps you could say the US even, have had a very sordid political history and their people are left with remnants of bad feelings and revulsion toward any kind of political intervention. Their tryst with colonization has left them with a distaste for any kind of infringement upon their independence and the view that the inevitable precursor to such infringement can only be to the betterment of the settlers and to the disadvantage of the colonized or in the modern sense the citizens of a nation that is invaded, albeit for humanitarian purposes. These nations no doubt are of the opinion that developed countries might hide their true intentions behind the guise of humanitarian or other intervention²⁶ and therefore are skeptical of the same to the point of sometimes even being perceived as hostile. Furthermore, the idea that any kind of interference with the sovereignty of a nation is not in compliance with internationally acceptable rules and treatise of international law²⁷ must be followed in order to ensure the independence of

²⁶ The view that the wars in Iraq and Libya were for the purpose of securing the demand for oil and controlling the distribution thereof.

Ron Paul: Libya Another War For Oil (Video) New Hampshire Primary 2012 March 24, 2011 Thursday 9:56 PM EST

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²⁷ An example of such a treaty is the Bilateral Agreement between Afghanistan and Pakistan on the Principles of Mutual Relations, in Particular on Non-Interference and Non-Intervention, 1980 that was concluded in order to resolve the war torn situation in Afghanistan.

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every nation and the prevention of any kind of monopolization by stronger, more powerful nations. Developing nations may also be of the view that any humanitarian interference by other nations is a means of promoting western values and are conducted for the purpose of legitimizing the invasion or their intervention into the political systems of weaker states.

On the other hand, the developing world has a strong argument that the reason for such hesitation on the part of the nation whose political future is at stake that may soon be subject to an invasion is that those nations have something to hide as well. Such nations may have the agenda of actually hiding the reality of humanitarian abuses and escaping the repercussions and the responsibility for the same. Non-intervention is the slogan of the politicians of developing countries but is in the view of the international community in the meager chance that it is actually working for the benefit of these countries a farce and a measure of avoidance and escapism.

The problem that is faced by developing nations is their sheer diversity. These nations are plagued with lack of education, lack of unity, and several inner contradictions that developed nations don't have to deal with. With the end of colonization, many of these nations struggled to recover and build a political structure amidst chaos. They faced the challenge of building a nation and all a stable political structure with a severe shortage of resources and scarcity of know how, in addition to the lack of unity amongst the people of the nation. In India for example, a relatively young republic, that gained its independence as late as 1947, the diversity of the country itself is its biggest drawback. It is this diversity that is the cause of so many of the conflicts that plague the nation. From the problems in Kashmir to the militancy in Assam, Tamil Nadu and the presence of the LTTE, and the

Materials. Volume 27, Number 3 (May, 1988) 27 I.L.M. 581; (1988)

Naxalites in Andhra Pradesh, each of these organizations is striving for the creation of an independent state and seceding from the Indian Union. How is a nation such as this supposed to deal with these problems? In addition, the strife of the country is exacerbated by religious tension that has been prevalent since time immemorial. There are a thousand instances of violence and discord merely as a result of religious tension²⁸ and lack of unity amongst the population. In addition, the state has a policy of reservation for the members of certain castes in the country in public institutions such as universities, governmental offices public sector jobs etc. This ensures that members of certain lower castes are given privileges as opposed to the members of upper castes that in itself is a sort of discrimination that is promoted by the Government.²⁹ These kinds of policies have certain intrinsic drawbacks in a nation such as India, which is already so divided the last thing it needs is for the Government to highlight the disparities of the population in so blatant a manner that increases the hostilities that are already prevalent amongst the people. It becomes harder for a nation such as this to bounce back from a conflict when there is no unity or consensus amongst the people or the politicians of the state. The conflicts in the interests in the majority of the population become more apparent when violence breaks out and the nation is wrought with war.

²⁸ One of the instances of religious violence in the country is in the Godhra case. Recently, an Indian court convicted 31 Muslim men on conspiracy and murder charges yesterday over a train fire that triggered anti-Muslim rioting in which 2,000 people were killed. The unrest, some of the worst religious violence in India since independence, broke out after 59 Hindu pilgrims perished in the blaze at Godhra station in the western state of Gujarat in 2002. Hindus in the state blamed the fire on Muslim protesters at the station, and mobs seeking revenge rampaged through Muslim neighborhoods in several cities during three days of bloodshed. The convictions yesterday supported Hindu claims that the train fire was a planned attack. The 31 men found guilty will be sentenced on Friday.

[31 Muslims guilty of India train fire plot; World Bulletin The Daily Telegraph (London) February 23, 2011 Wednesday Edition 1; National Edition]

²⁹ India's Supreme Court intervenes in caste-reservation controversy *By Keith Jones*^[1] 3 June 2006 (<http://www.wsws.org/articles/2006/jun2006/indi-j03.shtml>)

The lopsided development of the world has increased the rift in the ideologies of the people of various nations. When a world war breaks out, there is no consensus in the views of the countries involved or in the views of the rest of the world as to the solution to the problem that has been arrived at. The task of promoting human security and sustainable development in the wake of a widespread conflict is eventually going to be determined by the consecrated efforts of the global community. In order to come to terms with the demands and the needs of every state player to a conflict or even those that are not involved in the conflict, there is an essential need to strike a compromise in the aim of intervention into the affairs of a state. The humanitarian, political and military interests of the states while getting involved in the conflict of another state must be reconciled and a balance must be struck amongst them. This is the first step in any assistance that a state may be given in order to allow it to recover from the atmosphere of war and armed conflict. Only subsequently can the question of development strategies arise. Other avenues must first be tested before military intervention is undertaken, such as the use of economic sanctions³⁰, arms embargoes, etc. The sovereignty of the state must be considered sacred and other states must not be allowed to infringe upon that unless it is used as a last resort.

VIII. The Peacebuilding Commission, a new UN Endeavor:

The question of rebuilding a state after the emergence of a conflict or even after

³⁰ For example the EU **imposed economic sanctions** against Yugoslavia, by freezing Yugoslav funds abroad and barring future investments in Serbia. Citation: Council Regulation No 1294/1999 of 15 June 1999 concerning a freeze of funds and a ban on investment in relation to the Federal Republic of Yugoslavia ..., 1999 O.J. of the European Communities (L 153) 63, 19 June 1999; Council Decision ... (1999/424/CFSP), 1999 O.J. of the European Communities (L 163) 86, 29 June 1999. (page 81)

the quelling of violence in a state is another matter entirely. States that have been involved in civil strife or civil war face a multitude of challenges to reestablish their Governmental structure and to simply maintain peace in a war torn country. An effective United Nations Organization that was established under the direction of former Secretary General to the UN Kofi Annan in June 2006 for just this purpose is the United Nations Peacebuilding Commission. It was established with the agenda of reforming the world body³¹ by making up for the shortcomings in the UNs institutional framework, which was considered to be lacking a mechanism to help nations address the challenges of post conflict state building which is essential on the path of “lasting peace.”³² Annan, in his manifesto for UN Reform stated that the organization was established in order to “help countries face the challenge of making the transition from war to lasting peace.” The Organization was established specifically to assist countries that were in the process of recovering from a period of civil war where the Governmental structures of these nations have failed or cease to hold any tangible authority over the state and anarchy is the predominant condition of the political and state structure. The manner in which the Peacebuilding Commission seeks to achieve this goal is by the creation and implementation of a systematic development agenda³³. The Peacebuilding Commission was established in order to be the new intergovernmental institution that “was given the responsibility of:

1. Coordinating the efforts of international actors, within and beyond the UN system, working to rebuild failed states;

³¹ When The Fighting Stops: Organizational Change and Institutional Survival: The Case of the U.N. Peacebuilding Commission by Rob Jenkins (2008) 38 Seton Hall L. Rev. 1327

³² The Secretary-General, In Larger Freedom: Towards Development, Security and Human Rights for All - Reports from the Secretary-General, P 114, delivered to the General Assembly, U.N. Doc. A/59/2005 (Mar. 21, 2005).

³³ U.N. High-Level Panel on Threats, Challenges and Changes, A More Secure World: Our Shared Responsibility, (Dec. 2, 2004), <http://www.un.org/secureworld/report.pdf>.

2. Sustaining global public attention to post-conflict countries that threaten to slip down or off the international communities radar;
3. Marshaling additional external resources for post conflict countries such that financial flows in and out of the countries are made more predictable.”

Like many organizations that are established with these purposes, the efficacy of this organization may also be in question. Whether the Commission has made substantial contributions to state building is a matter of interpretation. As is the case with all bodies within the United Nations Organization, the bureaucracy of the institution is the stimuli of its downfall. The Security Council, which could in some circumstances be perceived as the roadblock in the United Nations structure with as much power as it has, must always be consulted on substantive matters, which cannot proceed without the affirmative vote of nine of its members, as stipulated in Article 27 of the UN Charter. Bureaucratic hurdles make decision making in such a rigid organization rather troublesome especially in light of the aims and agendas of all the different state players and the conflicts of their interests. Despite all of these hindrances, the Peacebuilding Commission has emerged to be a body of some recognition despite the short duration of its existence and has been an important player in the international scenario in matters of violent conflict amongst states in order to prevent them from recurring.³⁴ The ability of the Peacebuilding Commission to be able to perform in as effective a manner as it has been able to, has also been due to the authority that it has been granted in Resolution 1645³⁵ of the Security Council. Under the Resolution,

³⁴ The need for such an organization is evident from the situation that states find themselves in in a post war scenario. See, e.g., Paul Collier et al., *Breaking the Conflict Trap: Civil War and Development Policy* (2003).

³⁵ Security Council Resolution 1645 (2005)
[http://www.un.org/peace/peacebuilding/Security%20Council/Resolutions/Post-Conflict%20peacebuilding%20S%20RES%201645%20\(2005\).pdf](http://www.un.org/peace/peacebuilding/Security%20Council/Resolutions/Post-Conflict%20peacebuilding%20S%20RES%201645%20(2005).pdf)

the Commission has been given the freedom to work with “National and Transitional authorities” and also to establish its own Organizational Committee that is responsible for developing its own rules of procedure. Over the few years of its existence the Commission has been able to carve out a role for itself in state building and the maintenance of peace. Several of the Peacebuilding Commission’s activities were resisted by a coalition of developing country member states however the Commission has still managed to remain relevant despite the difficulty of such a feat today.³⁶

IX. A Successful State, an Unanswered Question:

The modern definition of a state, is rooted in stereotype. If you consider the emergence of the concept of a state with Rousseau’s theory of the Social Contract or Hobbes’ political theory in the Leviathan or those of Locke or Jeremy Bentham, each of these theorists advocated for a different kind of state that they all considered to be the utopia of statehood or the perfect ideal. While one advocated for utilitarianism, the other advocated for the traditional version of a republic, and while all of their theories were poles apart, they all became some of the most eminent political theorists whose works surpassed their time. In the modern age, with our contemporary understanding of a state and the role it should play, it is hard to reconcile ourselves with the question of the success or failure of a state.

Is there a benchmark of a state against which all others have to be measured? Is a democracy today the only acceptable ideal, which every state must aspire to achieve in fear of being condemned internationally for barbarism or for then becoming the object of

³⁶ Interview with a U.N. mission official from one of the leading aid-donor member-states on the PBC, in New York City, N.Y., May 18, 2007.

snobbery of democratic political elites? There are different instances of the collapse of a state today. The melodramatic cases of state collapse which thwart and annihilate all forums of public authority and eventually lead to a metamorphosis of the state into one which doesn't allow for the prevalence of any other organ of the state or even the freedom of its inhabitants are few and far between, such as the case in Congo, Sierra Leone, Somalia, etc. Such a dire state of collapse however continues to be a sporadic abnormality. The question that then remains to be answered is if it is necessary for a state to collapse into such a state of disequilibrium before it must be rescued, or so to speak by the international community. Many states today fail to provide their citizens with safety and security, legitimate representation, public order, etc and while they still haven't reached that state of collapse, and may never reach that state, is it acceptable for the state to continue in such a manner and for the international community to nevertheless turn a blind eye to it?

Take the case of Saudi Arabia itself, where the state is not distraught with anarchy and discord, and people live ordered lives, however the concept of democracy is alien. Is the continued, undisturbed existence of such a state an anomaly with respect to the functioning of international organizations today? If other nations were to invade Saudi Arabia for instance, or any other such state, would it be considered a breach of the sovereignty of that nation or would it be an acceptable breach of the so called sovereignty of that nation because it doesn't conform to internationally accepted ideals of what a state should be? The defense of a nation like Saudi Arabia could be that although they have in a traditional sense a monarchy, an institution that has long since been abandoned by the rest of the globe, they could argue that their form of governance is able to maintain peace and stability in the nation. They have a strict criminal justice system, whose practices I'll admit happened to

be on the archaic side, however one could claim that it works for them. They do not have problems with disorder or unrest, the citizens seem happy with the political system, and the state seems to be existing in a plane of its own, although from the international point of view, it is not a democratic existence. The citizens have no choice in the matter of their leaders and that in itself is an abnormality.

Another anomaly in a state structure could be one where the state exists but the Government has no control over the subjects of the state, or at least no effective control. There are examples of states with governments that are incapable of enforcing their authority through the territory of the nation. There could exist regions within the territory of the state that escape national control and the consensus of the electorate if there is even one, is split in its allegiance to different political parties or even to different ideologies. An example of such a state could perhaps be Pakistan. After the independence of a unified India and since its formation, Pakistan has always been a state that has been plagued by political instability. Frequent collapses in the Governmental structure are not an uncommon occurrence in Pakistan's politics and that has paved the way for several military coup d'états in Pakistan's turbulent history, which went so far in some of the military takeovers as to abrogate the Pakistani Constitution and declare Martial law. In the recent events of the death of Osama Bin Laden as well, there has been a considerable amount of speculation as to how the Pakistani authorities did not know, or at least claim that they didn't know of his whereabouts although the location where he was ultimately found happened to be minutes away from a military facility.³⁷ Perhaps there is a need for some amount of state building in states such as these as well. Especially considering the war on terror and the

³⁷ BBC website. (<http://www.bbc.co.uk/news/world-south-asia-13274946>)

consequential view of every human being who is sufficiently well informed on the state of the world today, that Pakistan is the considered to be the breeding ground for the modern day terrorist. Which terrorist organization could resist the temptation of their desolate mountainous paths and ill informed Government to breed sanguine Jihadis to revel in their cause? The international community perhaps has a stake in controlling the course of the future of this country and the path that it seems to be on in the interests of the safety of the rest of the globe. Should this nation also be subject to international control because other nations ideologically differ in their views on what is an acceptable for of a nation?

There are countless examples of post-colonial states that don't live up to the aspirations that people had for them before independence or the hopes of the citizens of the nations that struggled for so long to attain their independence. If it's due to the new emergence of the state or the inexperience of the first Government that is established in the state, a lot of the times, these states emerge and the Government and state structure that is established is far from the ideal. The positive metamorphosis that was expected fails, and the state has to be overhauled for any development to succeed.

X. War and State Formation:

If you consider the role that war has to play in the history of a state one might perhaps come to the conclusion that it results in the improvement of a state structure if one is rather optimistic. In the words of Charles Tilly, "*War made the state and the state made war.*" The accuracy of this statement has been a part of an ongoing debate that has raged amongst political thinkers of our time on whether violent strife and conflict helps build

states in the third world. A contemporary political thinker of our time, Charles Tilly postulated the theory that state building in Europe “began with the effort to monopolize the means of violence within a delimited territory.”³⁸ While the precursor to the war and the events of the war may not be pleasant as Tilly describes them, as involving a leader’s desire to establish control over the population in order to gain control over the resources of the territory which leads to a conflict with the local population and the eventual extraction of the use of those resources, which leads to the repression of the population and eventually the formulation of the state. While this may have held true in Medieval or Feudal Europe, and while in today’s day and age wars may not be conducted in this manner, the question remains to be answered as to whether strife in a country and civil war leads to the formation of a stable political authority in a state in which the state is actually better off post war than in the absence of one.

There are several examples of circumstances where states benefit from the result of a war. Colonies for one, have the opportunity after securing their freedom from their Colonial Rulers to establish a state on their own terms, no matter what kind of a state it is and govern it in accordance with laws that they consider appropriate. The assumption that can be made from Tilly’s theory is probably that instances of organized violence in the state with the example of a civil war, ultimately fulfill a political objective and therefore such conflicts have a role to play in the formation of a state. The question that then arises, if one were to give credence to this theory is if such conflicts and such wars really have such a legitimate objective and if the state is capable of reforming itself without the

³⁸ Tilly Tally: War-Making and State-Making in the Contemporary Third World by Brian D. Taylor and Roxana Botea (Syracuse University) *International Studies Review* (2008) 10, 27–56
<http://onlinelibrary.wiley.com/doi/10.1111/j.1468-2486.2008.00746.x/pdf>

influence of external factors, then what is the need for the world community to get involved? Does the mere possibility not even the certainty of the conflict spilling over into a neighboring country justify the involvement of another state or several other states in the internal affairs of a state that can take care of itself? Where is the certainty then that the view of the world community at large is the right one and the state's sovereignty has to be infringed upon? Is a war conducted by other nations in a nation in conflict, a legitimate use of violence? Is the regime that evolves after the intervention of other state parties in an internal conflict a legitimate regime in the eyes of the people or is it just as much of an enforcement of the popular opinion of the invader or the world at large? Are the people of such a nation simply moving from the enslavement of one despot to the next?

If you consider the history of Europe with early Mercantilism, the object of the state was always considered to be primarily economic. The prosperity and security of the state was the consideration that dominated political minds of the time and mercantile propaganda was a frequent cause of European wars of the time. The Anglo-Dutch wars³⁹ between 1652 and 1674 are a prime example of the objectives of the state at the time with the Dutch trying to defend their trade, and their colonies from larger states that wielded greater power in the 17th Century. That was the concept of the state at the time, and that view changed only later with the inception of the first modern welfare state in 1880 under Bismarck's leadership in Germany with some of the first social legislations.

The problem that one sees with politics and the state of nations today is that in most

³⁹ Popery, Trade and Universal Monarchy: The Ideological Context of the Outbreak of the Second Anglo-Dutch War by Steven C. A. Pincus

The English Historical Review Vol. 107, No. 422 (Jan., 1992), pp. 1-29

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nations that have recently recovered from war, the leadership of these nations is in question. A provisional government is usually established, as in the case with Afghanistan, where the US helped establish the interim state structure after contributing to its destruction and the respect that the local population has for these temporary structures is in doubt.

XI. Politics and Religion:

If you take the case of other nations that have not just recovered from a state of war, but are nevertheless not in the most stellar position with regard to the state of their governments, they face problems because of the dubious intentions and practices of their politicians. In third world countries especially where corruption is rampant and personal gain is the norm, politicians sway the masses with promises that they will never keep and enhance the segregation in society further through their political propaganda. If you take the example of India, the mandate with which politicians ascend the ranks of authority is through the use of religion in politics. Political parties are always associated with one or the other religion and they are infamous for advocating only for the causes and the interests of those communities not only in their campaigns but also when they are in power. Different communities eventually end up voting for different political parties and in a country like India there is no dearth of political parties. They run amok in abundance adding to the chaos that is the electoral system and with such a wide range of parties and small groups of the electorate voting one way or the other for specific parties, the chance of a single party getting a majority are slim to none. Therefore, parties are forced to associate with other parties that have also got a section of the votes, form coalition governments and

are constantly forced to come to a compromise about any and all decisions that they have to take. The eventual result is that they cannot properly represent any faction of the population and are always at loggerheads about all the decisions that they make. Furthermore, the religious ideologies that politicians advocate exacerbate the differences between people in different communities and sows the seed of discord in the populace. In a nation with such a lot of diversity this is a dangerous game to play. The different communities therefore inevitably don't see eye to eye and when factions are created that want to secede from the union, for some reason all of a sudden everyone is surprised. When the Government cannot accurately represent the interests of the local population or if they represent them ineffectively at best, then what reason do people have, to trust that their interests will be protected and promoted? The reason for such a lot of talk about India is that states that have just recovered from war and states where the rest of the world community might consider it imperative to have to interfere, in order to establish a peaceful world order, could perhaps mostly be limited to countries of the third world. If you take the case of the African countries that have had such a tumultuous recent past such as Sudan, Egypt, etc. they could perhaps all be classified as third world countries. What better example of a skewed electoral system than that of the nation with the fastest growing and second largest population and also with the so-called worlds greatest and largest democracy? What kind of a democracy is it when a large percentage of the population forms itself into factions that want to secede from the union of the state? When the discord in the country becomes so apparent that any excuse is excuse enough to use any method to strong-arm the legitimate Government into succumbing to the demands of these factions, then is it time for the world community to step in? The answer, I believe is no. It is hard to

differentiate between acceptable and unacceptable behavior when the interests of different countries are at stake.

XII. When intervention is Unnecessary:

The unison of collective interests strike a hard bargain for a weaker, less influential countries' Governments to manage to resist under duress of their annihilation. Although a nation may be somewhat flawed and may not even conform to the standards of other nations, sometimes the nation can make it work. Since India was the example that was used before, and to continue in that vein, despite the multicultural electorate and the flaws in the system and all the corruption and the bureaucracy, the nation has still developed in leaps and bounds if you consider the relatively young age it has been a republic. Other nations of the developed world have been independent for eons more and in light of the lack of education and basic healthcare etc., in countries of the developing world, their political systems may not be the most sophisticated. However with the complex problems and conflicts they face every day with such a divided electorate, I would say that they run more or less effectively.

Such a nation however is incomparable to another such as Sudan, Rwanda, etc. where the problems extend beyond the acceptable. International interference may even be warranted in such a circumstance and perhaps would even result in the creation of a better state. However in some cases the state should be left to exist one could say in its own vacuum. States like Rwanda, Sudan, Hitler's Third Reich etc. are perhaps the anomaly whose destruction or suppression can be justified. Politicians in such nations should be

impeded from being able to lead the nation astray and blind people to the eventuality of a more tolerant world. The answer is I believe greater education in the third world. With time comes development, with development comes education and a change in the manner in which people think. There will come a time when the third world is a better world that doesn't have to be rescued in some sense by the West. But until then patience is all that can be asked for. The laws of War were developed in order to form order amongst discord. Right from the time of Arthur's Round table and the age of gallantry and Knighthood, there was a code of honor and rules that were followed by the Knights of the Round Table. States have developed laws in the same vein and by mutual consensus, the laws of war, humanitarian laws, enactments that protect and promote human rights must be followed for nations to develop in a civilized manner. Genocidal states that do not conform to these politically acceptable rules must be chastised internationally and their dealings must be restricted and amended in the interest of an ordered society. Fanaticism is an abhorrence, no matter what it is directed at, race, religion, political ideology, etc. A strict system must be maintained in the international community in order to prevent extremism in any circumstance and restrict the illogical activities of despots. It is a universally accepted fact that leaders that indulge in ethnic cleansing, genocide, the spread of terrorism etc cannot be reasoned with. There is no justification for their actions and no amount of punishment or retribution may ever be enough. The only role that other nations can play is to regulate the outcome of their activities and restrict their performance without expecting any kind of rationalization for them. With this said, I would nevertheless defend the stance of third world countries that may not fit into the bill of developed nations and may not even be considered acceptable, however in light of the challenges that they face, they should be

given a chance. A regime must develop of non-intervention in the sovereignty of other nations due to ideological differences, which will provide a check and balance on the power of more powerful nations that aspire to further their own interests. Perhaps a day will come when this ensues and on that day, a developed world will exist.