

**UNIVERSITY OF BOTSWANA**  
**FACULTY OF SOCIAL SCIENCES**



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**A Critical Analysis of Humanitarian Intervention Justification**

By

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## DECLARATION

This research essay is my own original work. I have not used the material in this essay in any of my other research essays and as such I have not presented it for a degree in any other University. I have not allowed, and will not allow, anyone to copy my work with the intention of passing it off as his or her own work.

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Date: \_\_\_\_\_

## DEDICATION

I dedicate this work to my family Popi, Thato and Tshepo for the love and support they gave me throughout the entire duration of the study.

This one is for you guys. You are the **BEST**.

## **ACKNOWLEDGMENTS**

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## ABSTRACT

This research critically analyses the United Nations humanitarian interventions to determine what informs the decisions and to ascertain whether the decisions are following any logical pattern. This is a desktop research that evaluates three war conflict cases (Rwanda - unauthorised non-intervention, Kosovo - unauthorised intervention and Libya - authorised intervention). It asks whether decisions of humanitarian intervention are politically motivated and biased towards a country's strategic relations and position with the United Nations Security Council (UNSC) permanent members. The study proposes that more often, decisions to or not to authorise a humanitarian intervention are not necessarily informed by United Nations policies, which makes them inconsistent and biased towards permanent members' interests. The study reviews UNSC's draft resolutions and debates as well as scholarly contributions to establish what informs the UNSC's decisions to or not to authorise humanitarian intervention.

The results indicate that, decisions of humanitarian intervention are not necessarily informed by UN policies. In fact the policies do not provide a defined approach to humanitarian intervention leaving the entire decision making process to the Council members. The research concludes that, contrary to what the International Community expects, decisions of humanitarian intervention are influenced by the permanent members' national interests and are controlled through their special veto privilege. Therefore the UNSC permanent members are not necessarily protecting the interest of the International Community but their interest. Based on this study, it is the researcher's opinion that decisions of humanitarian intervention are inconsistent and as such logically unpredictable. The study recommends that there is an urgent need for the UN to develop a common position within the International Community on issues of when it can or cannot authorise humanitarian intervention.

## LIST OF ABBREVIATIONS AND ACRONYMS

EU	- European Union
FRY	- Federal Republic of Yugoslavia
IDP	- Internally Displaced Persons
ISIL	- Islamic State of Iraq and the Levant
KLA	- Kosovo Liberation Army
NATO	- National Atlantic Treaty Organisation
OSCE	- Organisation for Security and Cooperation in Europe
PRIO	- Peace Research Institute in Oslo
RPF	- Rwandese Patriotic Front
UCDP	- Uppsala Conflict Data Program
UK	- United Kingdom
UN	- United Nations
UNAMIR	- United Nations Assistance Mission for Rwanda
UNGA	- United Nations General Assembly
UNSC	- United Nations Security Council
UNSG	- United Nations Secretary General
USA	- United States of America

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## CHAPTER 1: INTRODUCTION

### 1.1 Introduction

“...As the world has witnessed the carnage and slaughter which now have gone on for weeks in Rwanda, many have wondered whether we as a community have really made our best efforts to assist the people of Rwanda, or if we have simply been content to say that the responsibility is for the Rwandese alone and that it is they who must take full responsibility for their actions.” (Ambassador Issac Ayewah, United Nations Security Council, 1994c)

The above quotation by the then Nigerian Ambassador to the United Nations (UN) during the 3368<sup>th</sup> meeting of United Nations Security Council (UNSC), portrayed a man who was about to make a decision he did not believe would help the complex situation in Rwanda. Cases such as the Rwandan genocide of 1994 and many others have sparked controversies around decisions made by UN on humanitarian interventions.

Although the UN intervention missions are as old as the Organisation itself, the actual humanitarian intervention lessons of today actually began at the end of the Cold War. This marked an era when the UN began to take on its initially envisaged challenges head-on (Oliver, 2002). As such, the objective of “...saving the succeeding generations from the scourge of war” has never seemed so achievable (United Nations Charter, 1945). Nonetheless, the complexity of the conflicts that followed prove that the UN had a lot to do. While most of the wars in the past have been interstate conflicts, the end of the Cold War marked the beginning of an era dominated by governments who turned their guns on to their own people. The UN has no option but to collectively implement Chapter VII of the UN Charter. Given the task, the UNSC finds itself at loggerheads during authorisation of humanitarian interventions. Due to this, most of the cases continued without intervention. As such, the most common question that arises regarding why the UNSC decides to intervene in some conflicts but not in others?

This research paper analyses the UNSC humanitarian intervention justifications, particularly with regard to the decision of non-intervention. Theoretically, the UN should follow its Charter as a

guideline for providing all justifications for its actions on humanitarian intervention. It must maintain and even raise barriers to illegitimate intervention, define the areas, conditions, and procedures for legitimate ones (Hoffmann, 1996). Unfortunately, debates often than not provide strong evidence for biased decisions in the world's most powerful supreme body. Therefore, taking a closer look at the decision makers, with their ambiguous and sometimes contradictory precepts, may allow us to gain a more precise understanding of why no agreement has yet been made for a defined approach to humanitarian intervention.

## **1.2 Background**

Many scholars including Heywood (2011) have identified the period between 1990 and 2000 as the golden age of humanitarian intervention. This was due to the attention shown by the International Community to issues of human rights. Generally, with the Cold War now over, many believed that this was clearly evidence that the world is being guided by new and more enlightened ideas. While this period marked the beginning of an increase in UNSC authorised interventions on humanitarian grounds, there were also cases of unauthorised intervention (Voeten, 2001). Justifications of such cases raised debates among scholars especially where some of the permanent members of the UNSC were involved. Even though some of the cases such as the case of Kosovo in 1999 were later declared legitimate, this did not justify why the UNSC initially failed to authorise them (Jayakumar, 2012). On the other hand, there were other cases such as the Rwandan case of 1994, where the UNSC failed to authorize humanitarian intervention.

Scholars like Wheeler (2000) have been challenging these issues in an effort to assist the International Community to understand the complexity of humanitarian intervention. When questions are asked why the Western powers have intervened in Iraq and Afghanistan but not in Rwanda or Darfur, in Kosovo and Sierra Leone but not in Zimbabwe or Burma, in Libya but not in Syria, it becomes clear that the principles of humanitarian intervention are either not clear to understand or they are not followed. As Vilmer & Chalmers (2012) said, the UN have failed to build a lasting consensus on the circumstances in which it is right to intervene to protect human life, but even when the case for intervention appears unanswerable, they have been unable to agree on who should intervene and how.

All these have brought about two schools of thought with regard to humanitarian intervention justification. There are those people who support it as they believe it is the only way to save life,

but there are others who view humanitarian intervention as a deeply misguided and morally confused concept (Heywood, 2011). Regardless of all these debates, the reality is that millions of people have been and will continue to become victims of armed conflicts. As such, Jayakumar (2012) argued that humanitarian intervention is here to stay, therefore instead of trying to get rid of it, there is more prudence in allowing the lesser evil of a streamlined and legally-regulated form of humanitarian intervention to continue. In any case, International law dictates that people should be able to receive protection and assistance (Jayakumar, 2012).

### **1.3 Problem Statement**

The past century has seen millions of people dying from wars that could have been avoided. The situation has since worsened in the past decade due to internal conflicts especially in Africa and the Middle East. The International Community has been busy trying to justify reasons for UNSC's failure to intervene in these horrible situations. Unfortunately, most of these justifications were either seen as contradictory to the normal practice or inconsistent with UN humanitarian intervention policies. As such questions arise regarding the legitimacy of some of the UN's actions and most debatably the decisions of non-intervention. This emanates from the recognition that, the UN as the supreme body for authorisation of humanitarian intervention is supposed to provide guidance to the manner in which the intervention decisions are made. In fact as explained by Jayakumar (2012:1) if there is to be humanitarian intervention, "there should be a coherent humanitarian justification coupled with a proper procedural and substantive legal regime to underwrite it".

The UNSC as the authority for legitimising humanitarian intervention is expected to make timely and unambiguous decisions by either approving or rejecting an intervention. The option of approval gives the International Community the liberty to intervene. Likewise, a rejected intervention means no one has the authority to intervene, even when genocide occurs. However, there have been cases such as the Kosovo and Iraq, where even without UN authority, some major powers decided to go ahead and intervene. In most cases these major powers will include one of the permanent members of the UNSC. Does this mean the member would not have been convinced by the council's reasons not to authorise the intervention? If this is the case, then this means there are cases where UNSC fails to authorise intervention even where it is legitimate to do so. As such, the preoccupation of this study is to focus on what informs the UNSC's decision to or not to intervene?

## **1.4 Research Questions**

In an effort to investigate the above problem, the following are the main research questions formulated for the project;

- a. What are the UN humanitarian intervention policies?
- b. Why does the UN decide to intervene in some States but not others?
- c. What informs the decision to or not to intervene?

## **1.5 Research Objectives**

Based on the problem statement, the following objectives of the research have been formulated. The main objective is to ascertain whether the UNSC humanitarian intervention decisions are following any permanent members' individual or collective logical pattern. The secondary objectives are:

- a. To conduct a literature review on the UN humanitarian intervention justification.
- b. To establish and discuss the UN policy on humanitarian intervention.
- c. To identify, analyse and discuss the UNSC decisions on humanitarian intervention.
- d. To analyse the UN justification for humanitarian intervention.
- e. To make recommendations on humanitarian intervention justification.

## **1.6 Significance of the Study**

The debate surrounding humanitarian intervention justification is always contentious. While supporters seem to be succeeding in legitimising the actions, those against are busy trying to highlight illegitimate actions that discredit the concept. Thompson (2006) describes why powerful States may use major international organizations such as the UN to pursue their interests. Duque et al. (2014) highlight potential biasness in UNSC decisions by showing that interventions tend to occur in conflicts that are geographically closer to its three permanent Western members (ie UK, USA and France). This study intends to contribute to the literature on UN's decision for non-intervention.

As much as humanitarian intervention involves two sides of the same coin that can either lead to salvation or abuse, non-intervention may not be a future option for other States especially in Africa. Africa is prone to conflicts which for many years have resulted in atrocities, genocide and human

rights violations. The past decade has seen the Middle East also joining this curse. When these conflicts broke, the International Community, leaders, States and regional bodies expected the UN to act accordingly to arrest the situation. In some cases we all get disappointed when there is no humanitarian intervention. What hurts most is that, people do not seem to understand how the decisions are made? If there was any well written rules that could help them predict the outcome of the UNSC decisions, then may be the International Community would be in a position to accept the decisions and find other means of arresting the situation. Alternatively, this may even inform the need to review the veto power.

The study is therefore taken with the intent to identify and analyse components of the term humanitarian intervention and some related aspects of the concept, with an aim to help clarify the notion of non-intervention. This follows the realisation that even though there has been so many debates with regard to humanitarian intervention, there is a need for continued discussions on the issues which pay due attention to the views of all the parties in order to bridge the gap between the positions of the supporters and opponents of a doctrine of humanitarian intervention.

### **1.7 Theoretical Consideration**

While it is beyond the scope of this chapter to discuss theories of international relations with regard to humanitarian intervention, it is vital to highlight the basis of this research. The concept of international relations theory in humanitarian intervention is increasingly hard to define because of the abundance of diverse categories of the theory. This is also because each theory tries to critique the other existing theories on humanitarian intervention. Wheeler (2000) believes that the contradiction within the theory is largely due to the difference in understanding the legitimacy of humanitarian intervention. This split in English School thinking according to Dhaliwal (2014), occurred amidst the end of the Cold War and saw pluralists stipulating that international society must preach non-intervention to maintain order in the anarchical society. On the other hand the solidarists advocated for humanitarian intervention because of the growing number of common concerns, practices and institutions within international society.

The work of Wendt (1992), arguing for social constructivism has advanced the idea that “anarchy is what States make of it,” and in doing so, he posits the assumption that anarchy is a self-created norm. Therefore, social constructivists can be seen to align with the solidarist argument with regards to humanitarian intervention because they advocate the shared norms and values that certain

States uphold, such as defending human rights. This essay does not dispute the idea of post-positivist concept of social constructivism that international relations is driven by social factors such as ideas, norms, perceptions, and identities. But, it intends to argue on the side of the realist and neorealist positions. It supports Waltz (2000) that, the international system is anarchic and States are the main actors. These theories suggest that States seek to maximise their power and are motivated by self-interest because the anarchical system produces a self-help system (Waltz, 2000). The research therefore, agrees with both theories that States would only intervene in the affairs of others for self-interest, and not for solely humanitarian purposes (Wheeler, 2000).

## **1.8 Chapter Overviews**

The research essay is laid out in five chapters. The first Chapter has introduced the research study by outlining the research problem, background, problem statement, research questions and objectives. The second chapter highlights the available literature with regard to humanitarian intervention. The chapter intends to cover the history of humanitarian intervention, the UN policies and the general justification for intervention. Thereafter, the third chapter will introduce the empirical methodology used in the research. This will be followed by chapter four which will cover the data presentation and analysis. Finally, chapter five will conclude the research essay.

## **1.9 Conclusion of the Chapter**

This chapter has introduced and given background of humanitarian intervention which sets a basis of the research. It has also laid out the research questions and objectives which will guide the research. The subsequent chapter will cover a detailed literature review to give an insight of the subject and bring out theories and salient points that will be used in the analyses of the study.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.1 Introduction**

This chapter is mainly devoted to the review of the literature regarding humanitarian intervention. A number of general aspects regarding the scope and content of humanitarian intervention will be discussed in some more detail in order to further clarify the concept. In addition it will attempt to develop a conceptualization of humanitarian intervention which could constitute the basis of an analysis on the issue of humanitarian intervention. But most importantly it will establish a framework that will determine whether there are any criteria used in the UNSC members' decisions of non-intervention.

The first part focuses on the concept of humanitarian intervention. It starts with the history of the concept and highlights its evolution. Thereafter, it concentrates on demystifying the debates by defining humanitarian intervention as it should be understood in this research study. The second part focuses on theoretical debates on issues of humanitarian intervention justification. Finally, the study will discuss issues of the UN policies on Humanitarian intervention. This will cover the most commonly debated principles such as use of force, sovereignty and others.

### **2.2 The Concept of Humanitarian Intervention**

#### **2.2.1 History of humanitarian intervention**

The concept of humanitarian intervention is not new in international law. Early recognition of the doctrine is widely attributed to the works of the 17<sup>th</sup> Century Dutch author Hugo Grotius (Benjamin, 1992). Grotius, later joined by Emer de Vattel and Samuel Pufendorf propounded a theory that when tyrants mistreat their subjects, and the subjects cannot defend themselves, others outside the State may take action to defend those oppressed subjects (Köchler, 2001). The father of international law, as Grotius is often called made “a presumption that while citizens had no legal right to take up arms against their government, nothing prevented others from using force against the oppressive government for the benefit of those citizens” (Benjamin, 1992:127). The concept however, was never recognised until the 19<sup>th</sup> century when the European powers started using it as justification for the repeated interventions on the territory of the Ottoman Empire (Batir, 2010).



Many scholars like Grotius, had realised that possible abuses could occur if humanitarian intervention doctrine was not properly employed. This became evident during the world wars in the 20<sup>th</sup> century. Before World War I, the norm was that States could wage wars and intervene as they wish without regard of other States. The horrors of World War I, gave rise to a new norm stipulating the absolute maintenance of peace and international order at all cost (Thomashausen, 2002). This was the basis of the formation of the League of Nations. But the situation did not change till the end of World War II when the League of Nations gave birth to the UN. The UN Charter ensured all recourse to force was prohibited under Article 2(4), but did not mention the concept of humanitarian intervention except in Article 2(7) in relation to enforcement measures under Chapter VII (United Nations, 1945).

During the Cold War, the principle of intervention on humanitarian basis was never given the attention it deserved. The main focus was the bipolarity of the superpowers. Hence, “the only respect for intervention was to prevent the outbreak of a major confrontation between the two rival superpowers” (Köchler, 2001:2). On the other hand the proxy wars supported by these superpowers undermined the UN efforts of prohibiting war, respect for sovereignty and independence of States. The end of the Cold War saw a shift in conflicts from interstate to intrastate conflicts. But the UN was reluctant to authorise armed intervention into fully functioning States without the consent of the government (Whitehead, 2013). As a result, there was an increase in genocides, atrocities and violations of human rights cases by States on their own people or the State proving incapable of protecting citizens from other groups intending to cause harm. This became a challenge to the UN as it was expected to regulate the governments’ treatment of their citizens. Furthermore, pressure was increased when the domestic conduct of governments came under scrutiny by domestic and international nongovernmental organizations, other States and international organizations (Kardas, 2003). This resulted in human rights groups advocating for more UN intervention and questioning the decisions for non-intervention.

### 2.2.2 Definition of humanitarian intervention

The complexity of humanitarian intervention emanates from the variations of its definitions. But this is not surprising because the term links two potentially contradicting and all-encompassing words. As Thomashausen (2002) has observed, while humanitarian describes a broad range of activities that aspire to improve the lives and well-being of individuals, intervention carries the

negative connotation of illegal projections of force. Generally, most scholars define humanitarian intervention in terms of intentions. They believe that an intervention is humanitarian if it is motivated primarily by the desire to prevent harm to other people, accepting that there will always be mixed motives for intervention (Heywood, 2011). However, there are those who define humanitarian intervention in terms of outcomes. To them an intervention is humanitarian only if it results in a net improvement in conditions and a reduction in human sufferings (Heywood, 2011).

All these variation according to Pattison (2010) are based on empirical debates over humanitarian intervention legality, the ethics of using military force to respond to human rights violations, when it should occur, who should intervene, and whether it is effective. However, there is a general consensus that intervention entails interfering in the internal affairs of a sovereign State and that it should be motivated by humanitarian objectives. This implies that humanitarian intervention should be understood to encompass both military and non-military action. But Newman (2009:3), argues that this is a definition for media and politicians as they sometimes refer to humanitarian intervention as “any form of aid or assistance carried out for humanitarian purpose”. According to him, international relations and international laws must make a distinction between humanitarian intervention and humanitarian assistance. As such Newman believes humanitarian intervention should be understood in the context of military force.

Taking Newman’s advice, then humanitarian intervention can be defined as the use of military force by a State or a group of States in a foreign territory without her consent in order to prevent or stop grave and widespread violations of the fundamental human rights of its citizens (Vilmer & Chalmers, 2012). Similarly, Rieff (2011) believes that the concept of humanitarian intervention is when a State or group of States employs military force within another country's territory to protect civilians from atrocities and the consequences of a humanitarian crisis. Roberts (1993:426) defines humanitarian intervention as a “military intervention in a State, without the approval of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants.” For Knudsen (1997:146), humanitarian intervention is “dictatorial or coercive interference in the sphere of jurisdiction of a sovereign State motivated or legitimated by humanitarian concerns.” Even though there are varying definitions and historical understandings, most definitions agree to the idea of a coercive action by States involving the use of armed forces in another State without the consent of its government. Therefore, this study intends to entirely support Newman’s argument and as such will adopt the definition given by Holzgrefe:

“The threat or use of force across State borders by a State (or group of States) aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens, without the permission of the State within whose territory force is applied” (Holzgrefe & Keohane, 2003:18).

Based on Holzgrefe’s definition, humanitarian intervention should not be confused with UN peacekeeping missions or humanitarian non-military assistance such as food drops or vaccination campaigns. In addition, these definitions clearly highlight the fact that the intervention must be purely based on humanitarian grounds, not one State protecting its own nationals or its own interests (Kardas, 2003). Therefore, for intervention to qualify as humanitarian intervention, it must be devoid of self-interest according to the doctrine, otherwise it is intervention for other reasons. But can we justify that all decisions of humanitarian intervention are not for the interest of the intervening States.

### **2.3 Issues of Humanitarian Intervention Justification**

There is a serious contention between theories of humanitarian intervention. This contention emanates from the fact that States are eager to make laws and policies, but they are not willing to enforce them. Wheeler (2000:21), poses the question of “why States claims to obey the laws when they cannot enforce them?” One argument is that even though we talk of States as the main actors, the defining mark of States are the decision makers within these States. Similarly, the actions of an organisation such as the UN should be defined by the actions of its members since they are the decision makers. Over the years scholars have studied actions of these States and come up with theories that aims at justifying humanitarian intervention. This section reviews some of this theories and how they constrain and enables State’s actions with regard to humanitarian intervention.

Theories of the justification of humanitarian intervention are centred on the question whether the International Community have a duty to intervene to end massive human rights conflicts. Walzer (2000) has also observed that the general problem with intervention is that no matter how justified the intervention is, it doesn’t belong to any particular agent. This is the reason that even when it is necessary to prevent terrible crimes and somebody has to intervene, nobody does. The result is that more lives are lost because those that are able to stop them have decided that they have more urgent tasks and conflicting priorities especially when they believe the likely costs of intervention are too high. Holzgrefe & Keohane (2003) advances the idea of natural law that in principle humanitarian

intervention is compatible with the precepts of natural law, but in practice no natural law theorists advocate for it. Apparently, many natural law theorists maintain that, far from possessing an imperfect duty of humanitarian intervention, States have a perfect duty of non-intervention. This emanates from the contention that States have the duty to refrain from interfering in each other's affairs, which brings back the issue of sovereignty.

As Holzgrefe & Keohane (2003) highlighted, there is no standard way of classifying these wide views. While some advances the distinction between political realist and liberal views, others focus on moral and legal arguments. This research will classify the theories according to those against and those for humanitarian intervention.

### 2.3.1 Objections to humanitarian Intervention

Humanitarian intervention in the post-Cold War has been dominated by cases where a government has turned the machinery of the State against its own people, or where the State has collapsed in lawlessness. As such, pluralists advance an international-society theory that defends the rules of the society of States on the grounds that they uphold plural concepts of the good (Wheeler, 2000). The implication of this is that humanitarian intervention does not value the rules of society of States. Pluralists' major concern is the absence of an international consensus on the rules governing a practice of unilateral humanitarian intervention. They argue that States will act on their own moral principles, thereby weakening an international order built on the rules of sovereignty, non-intervention and non-use of force.

Critics on this theory have been advanced by several scholars. The main question is what values should be respected, if the State does not provide for the security of its people (Kardas, 2003). Nsereko (1994) also support the idea that States should only be respected if they uphold the respect for humanity and the right to life. After all, what is sovereignty without the people? Thus, Nsereko's main argument is that sovereignty must not be set up as the impregnable wall behind which States commit crimes against humanity with impunity. Otherwise, it does not make sense for people to become victims of the same laws that were meant to protect them.

While pluralist objection cannot be denied, Wheeler (2000), also advances four further objections of humanitarian intervention raised by realists. First is that "humanitarian claims always cloak the pursuit of national self-interests and that legalising a right of humanitarian intervention would lead

to States abusing it” (Wheeler, 2000:29). This supports pluralists’ line of thinking that without rules governing the practice of unilateral humanitarian intervention there will be no international order. But supporters of humanitarian intervention argue that abuse is an objection to humanitarian intervention only if non-humanitarian motives undermine its stated humanitarian purpose (Kardas, 2003). To argue this point, Kardas (2003), believes that requiring States to act out of purely humanitarian motives is setting the standard unreasonably too high because it is from the nature of the things that foreign policy behaviours of the States are based on a mixture of different motives including self-interest. Therefore, as long as one of the primary goals of the action is to address human suffering, the existence of other motives cannot, of themselves, suggest that intervention is illegal or illegitimate.

Holzgrefe & Keohane (2003), arguing on the side of social contractarian highlight the fact that what makes a government legitimate is that it acts as the faithful agent of its citizen. Therefore a government that wants legitimacy has to pursue the interests of its own people. It is therefore, not surprising that States will go to any extent to fulfil the interests of its people even if it means abusing humanitarian intervention. In fact, “the justice of any given intervention hinges on whether it benefits or harms the national interests” (Holzgrefe & Keohane, 2003:30). As such, Franck & Rodley (1973) believe that the interests of the intervening State count for everything in assessing an intervention’s legitimacy while the interests of the targeted State count for nothing. Critics of humanitarian intervention also employed this condition, though in a different fashion. Franck & Rodley (1973) in their analysis of the historical cases of humanitarian intervention, came up with a conclusion that there are very few, if any cases where intervention was undertaken entirely on the basis of humanitarian concerns. Therefore the whole doctrine of humanitarian intervention lacks the support in customary international law and should not be allowed in modern practice.

The second criticism is that unless vital interests are at stake, States will not intervene if this risks soldiers’ lives or incurs significant economic costs (Wheeler, 2000). The realists’ contention is that States will not intervene for primarily humanitarian reasons because they are always motivated by considerations of national interest. Wheeler argues that while humanitarian considerations may play a part in motivating a government to intervene, States will not use force unless they judge vital interests to be at stake. This makes humanitarianism dependent upon shifting geopolitical and strategic consideration. Kardas (2003) arguing from a realistic point of view, admits that humanitarian intervention is a costly business in blood and treasure. As such, mobilizing domestic

support for the deployment of troops abroad would definitely require firm justifications which need more than purely altruistic reasons. Kardas went on to highlight that most humanitarian interventions are unable to completely solve the problem unless they are followed by other humanitarian peace processes such as peace building which ultimately increase the cost of intervention, making States to be reluctant to undertake it unless there are vital interests (ibid).

Thirdly, realists argue that due to geopolitical and strategic consideration there is a high risk that States will always apply the rules selectively. As Wheeler (2000) has observed, the problem of selectivity arises when an agreed moral principle is at stake in more than one situation, but national interest dictates a divergence of response. John Rawls as quoted by Holzgrefe & Keohane (2003) suggest the theory of justice as a way to arrest selectivity. The theory dictates that decision makers only need to know just enough information to make a rational decision, otherwise more will lead to biasness. The problem with this theory is that most of the super powers will not act and claim the need not to interfere in another State's affairs. On the other hand supporters of humanitarian intervention argue that humanitarian intervention can be selective if one believes that it is not morally required (Franck & Rodley, 1973). But, Holzgrefe & Keohane (2003) argues that if a bystander cannot make the decision to rescue a drowning child, then he would have failed on his or her duty unless he cannot swim.

The fourth objection advanced by Wheeler (2000:31) is that "States have no business risking their soldiers' lives or those of their non-military personnel to save strangers". Some scholars, thinking this are harsh words; hide behind the issue of sovereignty. But Hendrickson (1997) argues, that it doesn't matter how you phrase it, the question is what business do you have in the sovereignty of another State. This adds to Wheeler's contention that State leaders and public do not have duties to stop barbarities beyond their borders. As such, if a government has broken down into lawlessness, or is behaving in an appalling way towards its citizens, this is the moral responsibility of that State's citizens and political leaders. To support Wheeler, Huntington (1993) stressed that it is morally unjustifiable and politically indefensible that members of the United States America (USA) armed forces should be killed to prevent Somalis from killing one another. Even though Huntington has been criticised, Kardas (2003) believes that reality will question the extent to which a State is prepared to risk its soldiers. How many lives are States willing to sacrifice in the name of humanitarian intervention? Holzgrefe & Keohane (2003) also agrees that States should privilege the well-being of their own citizens over the well-being of nameless persons in distant lands.

### 2.3.2 Support for Humanitarian intervention

In support of humanitarian intervention Wheeler (2000) identified four requirements that an intervention must meet to qualify as humanitarian. First, there must be a just cause, also referred to as supreme humanitarian emergency. Unlike what most of us believe that a supreme humanitarian emergency can be judged by the number of people killed or displaced, Wheeler argues that this is too arbitrary. As such, he advances the idea that it exists when the only hope of saving lives depends on outsiders coming to rescue. However, he acknowledges the fact that making these decisions is not easy as it requires a distinction between ordinary routine abuse of human rights and those extraordinary acts of killing and brutality. This obviously means that a disaster has to occur before it can be identified as emergency. Hence, it is only after the mass bloodshed that justification is easy which is the reason why most humanitarian intervention comes very late and as such inviting criticism.

Supporting Wheeler, Kardas (2003) suggest that for a humanitarian intervention to be just, the human values under threat must be fundamental ones, involving, first and foremost, the right to life. In addition the situation must be systemic in nature and there should be an extreme humanitarian emergency which shocks the conscience of mankind (Doyle, 2009). Therefore, intervention for the purpose of protection or creation of democratic regimes should not be considered within the scope of humanitarian intervention. But Kardas (2003) also admits that when humanitarian intervention is seen from this perspective, the number of cases that would be properly classified as candidates for humanitarian intervention would be relatively limited.

Most scholars agree that for interventions to be successful, decisions to intervene must be made as early as possible and action taken immediately. But this contradicts with the second requirement for justification of humanitarian intervention. This regards the use of force as the last resort (Wheeler, 2000). Apparently, supporters of humanitarian intervention seem to agree that the use of force, even in a limited mode, can have harmful consequences and as such it is not always the best solution (Kardas, 2003). Hence it should be relegated to be the last resort. This is more or less supporting the arguments for non-intervention. But on the other hand to avoid contradiction with the first requirement of humanitarian intervention, the decision makers must exhaust all other non-violence means and convince themselves that there is a supreme humanitarian emergency (Doyle, 2009).

However, Kardas (2003) argues that more often than not, while policy makers are busy exhausting other means massacres and expulsions continue on the ground.

Thirdly, humanitarian intervention must meet the requirement of proportionality. The principle of proportionality according to Wheeler (2000) dictates that the level of force employed should not exceed the harm that it is designed to prevent or stop. To support this idea Doyle (2009) argues that there is no reason to be destroying villages and cities while you are claiming to be saving them. Therefore, the means and method to be used must be carefully selected to address the problem. Critics advanced to this requirement argue that policy makers have consistently failed to address the question of the means and methods to be used in an intervention (Roberts, 1993). The major question asked is, what counts as the ultimate legitimate target? Wheeler (2000) admits that this is not easy especially when civilians are killed by their government. He makes reference to the fact that while soldiers have the responsibility to protect civilians, there will always be the question of the extent to which interveners should risk their lives to avoid civilian losses. Therefore, the question of whether you have enough to protect yourself will always stick in the minds of interveners.

Finally, there must be a high probability that the use of force will achieve a positive humanitarian outcome. Wheeler (2000), admits that this requirement calls for leaders to play God which is the only way they can predict the outcome of the intervention. He argues that in a situation where civilians are targeted by their government, even if there is evidence that the target government is planning to escalate the scale of the killing, it can never be known in advance that more lives will be saved by the intervention than will be lost by it. To argue this Holzgrefe & Keohane (2003) believe that each human action is the proper object of moral evaluation. Therefore, even if it is impossible to predict the final outcome, a specific act is just if its immediate and direct consequences are more favourable than unfavourable to all concerned.

On the other hand Kardas (2003) believes that the success of an outcome can only be guaranteed by addressing the real cause of the problem. Therefore, even though there are arguments that establishing working political structure or democratic regimes should not be part of decisions of intervention, in some cases to prevent the recurrence of the situation they must be addressed. But this argument is dated back to John Stuart Mill's opposition to intervention for the support of self-determination. Mill as quoted by Doyle (2009) argues that people make a great mistake to think



they can export freedom to foreign people who were not in a position to win it on their own. According to this reasoning, members of a political community cannot be set free by an external force. Thus, in a case where the willingness for liberty is lacking, once an external intervention had been concluded, it will only be a question of time before things go back and people's rights are violated again. Therefore, the best alternative is not to undertake the whole enterprise in the first place (Kardas, 2003).

## **2.4 United Nations Charter and Policies on Humanitarian Intervention**

Worldwide debates on humanitarian intervention are mostly triggered by the fact that some armed conflicts are inevitable and warring parties within these States are not receptive of humanitarian intervention. But what is the international law saying about these situations? Having defined humanitarian intervention as the threat or use of force by States with the object of protecting human rights, then it is vital to discuss the laws that govern some of the principles affecting humanitarian intervention. The most contested principles include but are not limited to the use of force, sovereignty, non-intervention, self-defence, enforcement, and the veto power.

### **2.4.1 The use of force**

Scholars have observed that most of the human sufferings are caused by situations of armed conflict or political repression where States authorities or warring parties use indiscriminate military power against civilians. One such scholar is Kardas (2003) who advocates that, in these cases the only way to handle the situation is involving the military. What Kardas is advocating for is not surprising because the use of force has for a long time been used as the key solution to conflicts. However, the horrifying outcomes of World War I and II made the International Community think twice on the act of war. The UN made its objectives clear from the onset in the preamble of its Charter. It intends "to save succeeding generations from the scourge of war ..." (United Nations, 1945). In addition, it wanted to reaffirm faith in fundamental human rights. To achieve this, the UN believed that the only way to succeed is to employ the concept of unity of strength and avoid the use of force. All these were aimed at achieving the ultimate goal of maintaining international peace and security. In order to buttress its aim of avoiding the use of force article 2(4) of the Charter dictates that;

“All Members shall refrain in their international relations from the threat or 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” (United Nations, 1945).

It is clear that this was written with the perception of world wars in mind. Since the threat was basically from other States, the aim was to prevent the invasion of a sovereign, independent State (Franck & Rodley, 1973). As such for countries that were getting independence, this was a welcome umbrella law protecting them from being attacked. But the emergence of intrastate conflicts changed the whole scenario. To those against humanitarian intervention, the UN had committed itself to ensure there is no outside interference in a State’s affairs. Therefore, humanitarian intervention should not be permitted as a further exception to the rule prohibiting the use of force in article 2(4) of the UN charter (Wheeler, 2000).

While article 2(4) is considered as the corner stone of peace in the charter, it has also been criticized for focussing in international relations of member States only. Batir (2010) highlights that article 2(4) does not include intrastate conflicts which make them out of reach of the charters provision. But Kardas (2003) argue that no matter how the charter is interpreted, the central idea of the UN is that States should stay out of each other’s way.

The second critic for article 2(4) is that it starts with “all members...”, which means only members are obliged. The dispute now comes when a country is not a member of the UN, or a State which is not even recognised by the UN. According to Batir (2010), the issue of territorial integrity and the political independence are the key words. Therefore the correct interpretation is that any use of interstate force for whatever reason is banned. This supports the idea of the sovereignty of States.

#### 2.4.2 The principle of sovereignty

The principle of sovereignty holds that States are not subject to the authority of any higher institution and has rights equal to those of other States within the international system (Batir, 2010). A corollary to this is the idea that State sovereignty is built on the respect for individual rights. What follows from this is that when the State violates the rights of its citizens, or it fails to provide the necessary protection, its claims to sovereignty and domestic jurisdiction become obsolete. Then, there emerges a need that the International Community steps in so as to enforce the basic rights of

the individuals (Kardas, 2003). Therefore, the problem of humanitarian intervention and sovereignty does not stem from lack of rules, but from the violation of the rules (Sandoz, 1994). International criminal lawyers and scholars generally tend to see State sovereignty as the enemy of international accountability, an expression of political power against the rule of law, and a potential obstacle to achieving criminal justice (Melandri, 2009). Basically, sovereignty makes it difficult to operate in situations where the affected country denies access.

Most of the UN laws regarding sovereignty came from the UN General Assembly resolutions. One such resolution is 46/182. The third principle of resolution 46/182 state that “the sovereignty, territorial integrity and national unity of States must be fully respected in accordance with the Charter of the UN. In this context, humanitarian intervention should be provided with the consent of the affected country and in principle on the basis of an appeal by the affected country” (United Nations General Assembly, 1991). Other resolutions of a general nature were adopted by the United Nations General Assembly (UNSG) which were resolutions 43/131 of 8 December 1988 and 45/100 of 14 December 1990. These resolutions seek to protect and assist those in need and the restriction of national sovereignty.

Sovereignty gives States the ultimate source of political authority within their territory. But Batir (2010) highlighted that sovereignty implies a dual responsibility on a State. Thus, States have the external responsibility of respecting other States as much as they have the internal responsibility to respect the dignity and basic rights of all the people within its boundaries. As such the authority of the State is not absolute, but constrained and regulated by both external and internal factors. Internally because States have constitutional power sharing arrangements, and externally because they agreed to form international organisations which they have since transferred a portion of their authority to.

Thinking along the same line as Batir, Cronin (2007) has observed that most States recognize that a stable, predictable, and functional international order requires formal rules that define acceptable behaviour, regulate political interaction, and facilitate the resolution of conflicts. As part of their efforts to provide a measure of stability, these rules may sometimes contradict the cultural and domestic laws of the State. Hence, Cronin (2007) believes that they create an anarchical system of weak and strong nation-states. This may be the reason why most States are reluctant to join institutions due to fears of forfeiting some of their sovereignty rights. Just like Cronin, Hoffmann

(1996) also argues that perfect sovereign States have always been something of an ideal type. In reality many States have always been dominated or controlled by others or had limitations on their internal sovereignty imposed on them. Hoffmann, supports his argument with the issue of economic independence where organisations such as International Monetary Fund (IMF) dictate rules and regulations to States. Due to these, both the weak and strong nation-states have varying views on sovereignty.

While sovereign States are supposed to be equal, the weak States see themselves different. For weak States, the institution of sovereignty provides a political and legal deterrent to the imposition of values and policies by more powerful States (Cronin , 2007). Therefore, in extreme cases, it may be the only protection against territorial conquest by a stronger entity. It is the single equalizer in the world of great inequality. Thus, even in cases where most political leaders agree that a particular practice such as crimes against humanity are abhorrent, governments from weaker States are extremely hesitant to grant great powers the authority to intervene in their internal affairs. But who can blame the weaker States? Everyone will appreciate the danger of humanitarian concern being used as a pretext for the arrival of individuals with other aims in view (Sandoz, 1994).

For strong States, sovereignty provides a legal justification that allows them to define and pursue their interests unilaterally without being subjected to the will of a majority. State behaviour is governed by what government judge to be in their interest. This results in States being selective in terms of where to intervene. A good example of the selectivity of response is the argument that National Atlantic Treaty Organisation (NATO) intervention in Kosovo could not have been driven by humanitarian concerns because it had done nothing to address the very much larger humanitarian catastrophe in Darfur (Bellamy & Wheeler, 2008 ). This relieves the strong and wealthy of the obligation to help the weak and poor. Consequently, great powers can avoid accepting responsibility for helping the victims of genocide when they do not believe it to be in their interest to do so. In both cases, sovereignty enables each society to develop its own domestic institutions based on its own political values and principles (Cronin , 2007).

#### 2.4.3 The principle of non-intervention

The principle of sovereignty in international law is considered as a complementary to the principle of non-intervention. As highlighted above, the assumption that each State is a sovereign actor capable of deciding its policy and independence gives non-intervention its basis. As Batir (2010),

has emphasised, non-intervention provides that no State should be subject to interference in its internal affairs. This implies that other States must respect this right by refraining from interfering in the internal and external affairs of that State. The UN Charter also laid the foundation of this principle in articles 2(7) which states that;

“Nothing contained in the present Charter shall authorize the UN to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII” (United Nations, 1945).

To some people the UN by this rule has committed itself to respect the sphere of jurisdiction of States affected by this provision. But to others, the charter does not mention the principle of non-intervention directly but prohibits intervention by the organisation (Wellens, 1998). This means the charter did not expressly address the hypothesis of intervention by a State into the affairs of another State. But Felix Ermacora as quoted by Batir (2010) argues that article 2(7) contains three rules which are merely a detail of the general rule of non-intervention. The first rule is addressed directly to the organs of the UN, instructing them to respect domestic affairs. The second is directed primarily to the members of the UN, stating that they should not submit to the UN a request for dispute settlement concerning questions of domestic jurisdiction. The third rule is more inclined to enforcement. The first two rules are causing the greatest problem in understanding article 2(7). As such Batir (2010:26) suggest that article 2(7) should be “understood as a delimitation of competence between the State and the organs of the UN”.

Contrary to Batir (2010), most scholars acknowledge the fact that the charter is too broad to clarify the principle of non-intervention. As such they argue that the charter should be read together with other documents such as resolutions (Hoffmann, 1996). For example, UNGA Resolution 2131 state that; “No State has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are condemned” (United Nations, 1965). However, some scholars such as Batir (2010) dismiss these resolutions as they are not legally binding, but only show us the general understanding among the members of the UN.

#### 2.4.4 Self-defence

The UN Charter in an effort to reinforce the domestic jurisdiction, acknowledged the fact that wars are inevitable and as such provide exceptions to the prohibition of the use of force. One such provision is the enforcement measure which will be discussed in the next section. The other is the provision of self-defence which has also been in the centre of most arguments of humanitarian intervention. Article 51 of the UN charter state that;

“Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the UN, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security” (United Nations, 1945).

This article preserves the inherent rights of individual or collective self-defence if an armed attack occurs. It clearly sets out self-defence as a right but there are debates among scholars on the scope of this right. Those who support a wide right of self-defence argue that at the time of the conclusion of the charter, there was a wide customary international law of self-defence which is why this clause was included (Batir, 2010). But those opposing it believe that the meaning of article 51 is clear and should be interpreted narrowly that the right of self-defence arises only if an armed attack occurs (Sandoz, 1994).

The dilemma of self-defence arises when intrastate forces are engaged. As Batir (2010) highlighted, in most cases both sides of the conflict generally invoke the right of self-defence. But there can be no self-defence against self-defence. So one of the parties is using force under the false deceptions of legality. These make it difficult to intervene as it is not easy to justify the legality of their self-defence. Article 51 has made a provision for States to immediately report to the Security Council, but in most cases of intrastate forces claiming self-defence, they fail to report until one party realise it is losing.

#### 2.4.5 Enforcement

The second exception of the prohibition of the use of force is the UN authorisation. The provision starts with article 2(7) which according to Felix Ermacora as cited by Batir (2010) can be termed the third rule of article 2(7). The rule is a clear limitation of the reserved domain in relations to measures involving the use of force covered by Chapter VII of the UN Charter. By this, the UN acknowledges that some warring parties within States are not receptive of humanitarian intervention and self-defence is only possible if you are capable. If not then there is need for enforcement to save the victims. While the supporters of humanitarian interventions regarded this as good intentions by the UN, some believe the wordings of the charter are contradicting the UN objectives. Whitehead (2013) argues that the UN prohibits the use of force and advocates for domestic jurisdiction, but on the other hand it limits the same jurisdiction by authorising the Security Council to sanction the use of force as an action against any State that carries out a threat or breach of the peace.

The UN Security Council under chapter VII, article 39 is given complete authority to determine the existence of any threat to the peace, or breach of the peace or act of aggression and to make recommendations. Kardas (2003) argues that even though we tend to blame the UN, most situations of human rights violations are not easy to identify, making decisions of intervention complex. Furthermore, the decision must be taken in accordance with article 41 and 42. While article 41 advocates for employment of non-violent measures in the range of diplomatic and economic sanctions, article 42 goes to the extreme of the use of military force (United Nations, 1945).

The UN Charter's wording may seem to be contradictory, but this was not the intention of the UN. As Batir (2010) argues, the aim of the drafters of the UN Charter were not only to prohibit the unilateral use of force by States in article 2(4), but also to centralise the control of the use of force. The UN intends to maintain peace, but it also had to admit that war is inevitable. Human rights advocates have argued that this has created room for some States to manipulate and re-interpret the Charter to suit their cause (Vilmer & Chalmers, 2012). But to all those with intentions to uphold human rights, the charter still set out a frame for the justification of humanitarian intervention. However, the UN Security Council has heavily been criticised by countries especially in the post-Cold War for the unfairness of the veto power. This together with the argument that the council is dominated by a few States will follow in next section.

#### 2.4.6 The veto power

One of the most hotly debated topics in humanitarian intervention is the veto power. The debates emanates from the inconsistency of decisions made by the UN Security Council. According to Caron (1993), Third World countries voiced mainly two arguments. First, is the domination of the council by few States and the second is the unfair veto power held by the permanent members. As such reforms are calling for broader membership and the elimination of the veto power. But what constitutes the veto power?

Chapter V of the UN charter outlines the composition of the UN Security Council as well as the functions and powers vested on the council. Article 23 authorises the council to have fifteen members with Republic of China, France, Russia, Britain and the USA as the permanent members of the Security Council (United Nations, 1945). As such the domination referred to in this case are the permanent five members above. But the contention of their dominance is due to the voting powers vested on them by articles 27 of the UN Charter. While each member is authorised one vote, article 27(3) gives the permanent members extra powers. It states that;

“Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.” (United Nations, 1945).

According to this article, decisions on all matters other than those of procedural nature require the "concurring votes of the permanent members." This means that a group of member States is granted a special veto privilege which allows it to determine the Security Council's course of action on issues of international peace and security, in particular on collective enforcement measures including the use of armed force, on the basis of Chapter VII. The obligation, also formulated in Article 27(3), that "a party to a dispute shall abstain from voting," is merely a regulation dictated by the principles of fairness and impartiality. Because of the provision of article 27 of the UN Charter, Köchler (2001) argues that the exercise of the right of defense against acts of aggression which is generally reserved for the Security Council and not the General Assembly is put under the exclusive control of the five permanent members of the Council.



In principle the 15 members of the UNSC contribute in making a decision for humanitarian intervention. However, the ultimate decision depends on the veto power. The unfairness of the veto power is that, by virtue of its special veto right, a permanent member may block any decision on collective enforcement measures. A permanent member may be tempted to use this privilege exactly in the case when it or one or more of its allies has committed the act of aggression against which the Security Council is supposed to take adequate measures. “This means that the ‘international rule of law’ can be enforced only vis-à-vis the weak (i.e. the non-permanent members of the Security Council and the other UN member States), but never against the interests of the strong” (Köchler, 2001:2). Köchler argues that this makes the rule of law meaningless, because with regard to the permanent five, “the force of law has been replaced by the law of force,” and as history has demonstrated when force creates law it is always according to specific national interests. Therefore, the right to block any enforcement action or counter-measure when their own "vital interests" are at stake or to prevent measures against their own acts of aggression is tantamount to a special right to breach the peace or to wage war whenever the interests of the respective State so dictate (Köchler, 2001).

Bolstering on Köchler’s concern, Nahory (2004) highlighted the fact that the veto power is even more abused behind closed doors than in public. She referred to this as the “Hidden” veto where the permanent members of the UNSC use the threat of a possible veto to put pressure on other members of the Security Council. Nahory (ibid) believes that in most cases, the hidden veto is used to control the agenda, block decision and even as a negotiating token within members and between the permanent members. As such, the permanent members have been and will continue to use the hidden veto to keep the Security Council under intense political pressure, as well as shaping Council action according to their own national interests (Nahory, 2004 ). This is the reason why the permanent members have been accused of being abusive of the privilege given to them, making the Security Council undemocratic, lacking in legitimacy and often sadly ineffective.

## **2.5 Conclusion of the Chapter**

This chapter has laid down the literature review with regard to humanitarian intervention and highlighted some of the concepts of humanitarian intervention. The chapter also defined humanitarian intervention as a way of limiting the study and distinguishing it from other forms of military operations authorised by UN. Finally, the literature review availed theories proposed by

various scholars for the assessment of a conflict for humanitarian intervention. The next chapter covers the methodology of the study.

## **CHAPTER 3: RESEARCH METHODOLOGY**

### **3.1 Introduction**

The aim of this study is to analyse the UN humanitarian intervention justification with a view to establish whether UNSC decisions of humanitarian intervention are following any individual or collective pattern. This chapter will therefore outline the methodology used in an effort to provide the planning and design of the study. According to Berg (2009) methodology explains how the entire research was accomplished. In other words, it describes what the data consists of, how it has been collected, organised and analysed. In addition Obasi (1999) posited that, methodology throws light on limitations and resources as well as clarifying their presuppositions and consequences. As such, the chapter will highlight the research design, sampling techniques, data collection, data analysis and the limitations.

### **3.2 Research Design**

Research design is basically a section where the researcher name and discuss the overall approach the study will follow to test the thesis statement (Hofstee, 2006). In this study, the researcher used the qualitative approach as it has proven to be the most effective way of investigating the research questions. According to Bryman (1988:46), qualitative research is “an approach to the study of the social world which seeks to describe and analyse the culture and behaviour of humans and their groups from the point of view of those being studied”. This study utilised this approach to try and unearth the underlying patterns in humanitarian intervention decisions. Humanitarian intervention by nature is a complex phenomenon which is not easy to understand as it involves conflicting issues between State interests and human rights. As such the qualitative analysis is the most suitable approach to understand why the UNSC decides to intervene in some cases and not in others.

The qualitative analysis however, has its own limitations. As Babbie (2010) highlighted, sometimes qualitative observations alone are not enough to give a conclusive judgement. For this reason and where need arises, the research will also employ quantitative methods to come up with numerical data that can help substantiate qualitative observations. This quantitative data will help aggregate, summarise and compare information. Another limitation of qualitative analysis is its complexity

especially when dealing with secondary data. This is because secondary data limits the research to the available data which may not be enough as it was not originally designed for the study (Boslaugh, 2007). However, secondary data is also advantageous as it is relatively economic, and more importantly was collected by experts and professionals in the field. Generally, the desktop research was chosen as it allowed the use of information from diverse range of sources.

### **3.3 Sampling Techniques**

As a desktop research, this study did not employ any sampling techniques in the choice of data used as it intended to utilise any available valuable information to enable a comprehensive analysis. Therefore, both the primary and secondary information was chosen based on the researcher's judgement of its contribution to the research. Although it can be argued that this technique is subjective and biased, it came handy for this study as it enabled the researcher to choose the most useful, authentic and objective information on the subject. In addition it facilitated for diverse arguments and enabled the researcher to question and highlight gaps from the original sources and within the topic.

On the other hand, the study adopted a non-random sampling method in the choice of three conflict cases to be used for arguments and analysis. The first case is the Rwandan Genocide of 1994. This case was selected because even though the UNSC was fully aware of the horrifying situation, the Council chose to ignore it and no draft resolution for humanitarian intervention was presented for voting. The second case is the Kosovo war of 1999 in which the UNSC failed to authorise humanitarian intervention, but some UN member States including some UNSC permanent members decided under the auspices of NATO to go ahead and intervene. The last case is the Libya conflict of 2011 where the UNSC authorise humanitarian intervention though some permanent members decided to abstain during voting. It has to be acknowledged that some conflict cases are unique; therefore the three cases may not fully represent all humanitarian intervention justification which automatically limits the researcher's generalisation.

The study chose conflict that began after 1990 because that was the time when the International Community started to forget about the Cold War conflicts where superpowers fuelled proxy wars, and concentrated on humanitarian issues. Due to these, most of the conflicts were intrastate conflicts. Lastly and most importantly, these were the times when broad comparable data at country

level became easily available. The study concentrated on characteristics of a State at the beginning and within the first year of the conflict.

### **3.4 Data Collection**

As already stated, this is a desktop research which utilised secondary data drawn from two types of sources. The 'primary' sources are the UN and other sister organisations whose documents can be considered as raw material as it has not been analysed. The 'secondary' sources are all other available documents containing interpretation, analysis, opinion and commentary. These include published academic works such as books and journals. Other secondary data was drawn from media network such as newspaper articles, newsletters, internet and bulletins. However, information from these sources may be biased as the media sometimes disseminate information that has not been affirmed.

As Hofstee (2006) highlighted, data used in a study must be of sufficient quality and quantity to allow the research to draw reasonable and reliable conclusions. Scott (1990) also advocates for the use of authentic, credible, representative and meaningful documents. Authenticity is about whether the evidence is genuine, it is actually what it purports to be and from an impeccable source, while credibility is about whether the evidence is typical of its kind. The UN is a credible organisation which keeps reliable documents available to the International Community for reference purpose. Similarly, the Uppsala Conflict Data Program (UCDP)/Peace Research Institute in Oslo (PRIO) is one of the most reliable internationally recognised website in which expertise in most regions of the world conducts research in several major areas of peace and conflict studies. The data program is owned by the Department of Peace and Conflict Research which ever since it was established in 1971 have strived to provide ethically reliable and accurate data through a range of quantitative and qualitative methods of research (Uppsala Conflict Data Program, 2015).

### **3.5 Data Analysis**

In order to analyse the data collected, this study utilised the thematic analysis method. The study has also drawn on theories of humanitarian intervention justification from the literature review to substantiate arguments. Based on the research questions, the study brought up three themes to be analysed. The UN policy justifications for humanitarian intervention; what informs the decisions to

or not to intervene? and finally, the question of whether there is any logical pattern behind humanitarian intervention decisions.

### 3.5.1 The UN policy justifications for humanitarian interventions

To address this question, the study used the UCDP/PRIO data in conjunction with other theories to determine whether the chosen cases really qualified for humanitarian intervention. This section will further establish whether the UN is following its policies in making decisions for humanitarian intervention.

### 3.5.2 What informs the decisions to or not to intervene?

The study used the UNSC resolutions and ‘substantive’ draft resolutions, Reports and Documents to identify how the decisions of each of the three cases were made. Information regarding the economic, geographical and social components of the countries and their historical ties to the permanent members before the conflict started and any other factors that may affect the decisions of the UNSC permanent members was also used. These factors were used to determine the feasibility of vital interests playing a role in humanitarian interventions decision making.

### 3.5.3 Logical patterns behind humanitarian intervention decisions

Finally, a comparison was made between the three cases to identify whether there was any individual or collective pattern in humanitarian intervention decisions. However, this study notes that the three chosen conflicts may not represent all the diverse types of conflict cases brought before the UNSC. As such they may not be ideal models for humanitarian intervention justification.

Generally, the study was inductive. It was inductive because the researcher constructed theories or hypotheses, explanations, and conceptualizations from details provided by available data. It was subjective in the sense that, the researcher’s experiences, perceptions and biases could not be set aside and as such the researcher could not claim to be an objective bystander to the research (Conrad & Serlin, 2011).

### **3.6 Limitations**

Although researchers try by all means to minimise limitations on their studies, it is practically impossible to eliminate all of them. This research was also not without limitations. Firstly, this was a desktop research which automatically limits the study to the available secondary data. As such it is possible that crucial data might have been omitted in the process. Secondly, some decisions of the UNSC permanent members are made behind closed doors in informal consultations without official records. These make scholars to predict the outcome which become subjective.

Thirdly, the issue of humanitarian intervention involves States interest which embraces security and policy issues. While three conflict cases may not be considered enough, the security and policy fields involve a lot of classified information without which most of the analysis are subjective. Finally, there is what Nahory (2004 ) refers to as the “hidden veto” where the permanent members use their power to pressure, threaten, and even bully other members of the Council by giving private veto warnings before a vote takes place which tend to influence the outcome of humanitarian intervention decisions without any trace. Therefore, the conclusion for this study might be more suggestive than definitive due to these reasons. However, measures have been taken to ensure that all the information used is valid and reliable. To ensure reliability of information, data was mainly collected from official documents and reliable internet sources.

### **3.7 Delimitations**

This study has been limited to humanitarian intervention as defined in section 2.2.2 of these essay. Therefore, normal military Peace Support Operations are not considered as humanitarian intervention. This choice was made because by nature, humanitarian intervention is costly, risky and the most controversially debated operations in contemporary warfare. In addition, the UNSC decisions on armed conflict can shape the behaviour of States and their political relations.

### **3.8 Conclusion of the Chapter**

This chapter has outlined the methodology of the study by explaining the research design, data sampling, collection and analysis as well as the limitations and delimitations. The entire approach has paved way for how the research will be carried out by explaining how the data will be

presented, analysed and discussed in the next chapter. As such the next chapter will strictly address the research questions through the chosen themes.



## **CHAPTER 4: DATA PRESENTATION, ANALYSIS AND DISCUSSION**

### **4.1 Introduction**

The first two chapters of this study have introduced and reviewed the available literature on humanitarian intervention. This chapter aims at illuminating the complexity of humanitarian intervention by looking at some of the popular armed conflict cases. The chapter initially presents the general picture of the findings. Thereafter, three cases of armed conflicts will be analysed to determine whether they did qualify for intervention and there after review the decision taken by the UNSC. In order for easy flow of arguments, the findings will be presented, analysed and discussed throughout the sections of the chapter. Finally, the chapter will address the main question of what informs the UN decisions for humanitarian intervention and whether the justifications follow any logical pattern.

### **4.2 The UN Armed Conflict Cases**

The UCDP/PRIO Armed Conflict Dataset has recorded 254 cases of armed conflicts between the years 1946 and 2013 (Themner & Wallensteen, 2014). According to UCDP armed conflict is defined as a contested incompatibility that concerns government and/or territory where the use of armed force between two parties results in at least 25 battle-related deaths in one calendar year (Uppsala Conflict Data Program, 2014). Themner & Wallensteen (2014) further identified that 144 of the 254 cases resulted in wars. Wars in this case referred to conflicts leading to 1,000 or more battle-related deaths in a calendar year.

The study has categorised war cases after the Cold War into authorised intervention, unauthorised intervention and unauthorised non-intervention before picking up one case from each category. Authorised intervention refers to cases where the UN has approved a resolution for humanitarian intervention. Unauthorised interventions are for cases where the UN did not approve any resolution for intervention, but some States went on to intervene. Lastly, cases of unauthorised non-intervention are those which the UN did not pass any humanitarian intervention resolution and no intervention was conducted during the year of the conflict.

Table 1 (see next page) shows information of the three conflict cases selected. Generally, it can be noted that all the three cases were intrastate conflict where the armed conflict occurred between the government of a State and one or more internal opposition group(s). The conflicts also occurred during the reign of different United Nations Secretary Generals (UNSG). However, this does not mean that the study took note of their influence. The year, in this case is the actual year the war was observed and as such the start period of the studies' analysis. The date the conflict qualified as an armed conflict denotes the date the first battle-related death was recorded.

Generally the Rwanda case with an estimated 800,000 deaths (11.4 % of the population) and 1.5 million people internally displaced or being refugees was the most tragic case which one would have expected an automatic authorisation of the UNSC. Contrary to this an authorisation was done in Libya after only 2000 people had been killed in a month as compared to 200,000 in the three weeks in Rwanda. The Kosovo case on the other hand lasted longer than the other two cases, but had the least number of casualties. Yet, the NATO responded with the agency of a catastrophic situation without the authority of UNSC. Frankly, the action of NATO to intervene without the UN would have been more justified in the case of Rwanda than Kosovo. But this is just a pre-assessment based on the statistics. The question is whether UNSC use these statistics. To answer this, each case is analysed independently starting with the Rwandan case.

#### 4.2.1 Rwandan Genocide of 1994

The death of President Habyarimana of Rwanda and several top government officials on the 6<sup>th</sup> of April 1994 marked the beginning of one of the most horrible genocide tragedy in history. As narrated by Kuperman, (2001), the Hutu dominated government started avenging the president's death after his plane was shot down by a surface-to-air missile on its approach to Kigali airport. The presidential guard, police and the military started by rounding up and executing opposition politicians before turning to the Tutsi community. Within a period of three months, an estimated half a million Tutsis were shot, burnt, starved, tortured, stabbed, or hacked to death by the Rwandan government and its supporters. Even though there was less certainty in the total number of people killed, the United Human Rights Council estimated the death toll to 800,000 (United Human Rights Council, 2014).

The first meeting of the UNSC to address the 1994 Rwandan situation came just a day after the tragic incident that resulted in the death of the President of Rwanda. The then UNSC President

**Table 1.** Case Study Data (Uppsala Conflict Data Program, 2014)

<b>Location</b>	<b>Rwanda</b>	<b>Kosovo</b>	<b>Libya</b>
<b>Main warring party(s)</b>	Government of Rwanda	Government of Serbia (Yugoslavia)	Government of Libya
<b>Opposing party(s)</b>	Rwandese Patriotic Front	Kosovo Liberation Army (supported by NATO Coalition -1999)	Forces of Muammar Gaddafi & National Transitional Council
<b>Reasons for the conflict</b>	Government	Fighting for territory - Kosovo	Government
<b>Year</b>	1994	1998	2011
<b>Intensity level (Battle death in a year)</b>	1000 and over	1000 and over	1000 and over
<b>Type of conflict and intervention</b>	Intrastate without intervention	Intrastate with unauthorised intervention	Intrastate with authorised intervention
<b>Date conflict qualified as an armed conflict</b>	1-Oct-90	22-Apr-96	28-Feb-11
<b>Date conflict reached 25 battle-related deaths</b>	3-Oct-90	6-Mar-98	4-Mar-11
<b>Conflict end date</b>	4-Jul-94	30-Jun-99	23-Nov-11
<b>Estimated total death</b>	800 000	10 000	30 000
<b>Estimated Internally Displaced Persons (IDP) and Refugees</b>	1.5 million	1.5 million	543 000
<b>Estimated Population</b>	7 million	1.67 million	6 million
<b>Region</b>	Africa	Europe	Africa

Ambassador Keating of New Zealand updated the Council members and gave his statement (United Nations Security Council, 1994a). He concluded by inviting the UNSG, Mr Boutros Boutros-Ghali to collect all available information with all means at his disposal and to report to the Council as soon as possible - a normal routine procedure followed by the Council to establish facts before making a decision.

Following the Council's request, the UNSG submitted his first report to the council on the 20 April 1994. The report highlighted how the tragic incident set off a torrent of widespread political and ethnic killings mainly in Kigali (United Nations, 1994a). At the time, there were no reliable estimates of deaths, but he believed they could possibly run to tens of thousands. In addition, the authority had collapsed and the provisional Government disintegrated. The UNSG went on to inform the Council that the Government of Belgium had decided, following the murder of its 10 soldiers in United Nations Assistance Mission for Rwanda (UNAMIR) and threats to Belgian nationals, to withdraw its battalion from UNAMIR which introduced a new critical element into the deteriorating situation. Based on the situation, the UNSG made a conclusion that there was no prospect of a cease-fire being agreed upon in the coming days. As such the efforts of UNAMIR would therefore be fruitless, especially with the reduced strength of military personnel following the departure of the Belgian contingent and non-essential personnel from other contingents (United Nations, 1994a).

The UNSG concluded his report by requesting the UNSC to make a decision to address the calamitous situation. He proposed three alternatives for the Council to consider. The first option was a deployment of a full force humanitarian intervention contingency to reinforce UNAMIR with a changed mandate by giving it total enforcement powers under Chapter VII of the UN Charter. The second option was to have a small group headed by the Force Commander, with necessary staff to remain in Kigali to act as intermediary between the two parties in an attempt to bring them to an agreement on a cease-fire. The last option was the complete withdrawal of UNAMIR which he himself did not favour as the option could have been very severe in terms of human lives lost. In addition there could also have been similar repercussions in neighbouring countries where citizens of the ethnic groups found in Rwanda resided (United Nations, 1994a).

#### 4.2.1.1 Justification for Humanitarian Intervention

The case of Rwanda is one of those cases where the UN was reluctant to authorise humanitarian intervention. As Golebiewski (2013) once highlighted, the UNSC has dealt with unreliable mandates which does not clearly state the problem or the underlying causes. In the Rwandan case the UNSG had given a full situation report that should have given the Council a clear mandate. It has to be noted that the UNSG could not have recommended humanitarian intervention if the conflict did not qualify for one. But the UNSC failed to make consensus on the mandate with regard to UNSG recommendations.

The UNSG's second report dated 29 April 1994 estimated that as many as 200,000 people had died during the first three weeks of the conflict (United Nations, 1994b). Based on this number, it was clear from the outset that the Rwandan genocide was a supreme humanitarian emergency case that required the UN to act accordingly and expeditiously to rescue the situation. The UNSG had also made it clear that this was a humanitarian catastrophe situation which could only be ended if law and order was restored. A task that could only have been achieved by a humanitarian intervention operation (United Nations, 1994b:2). As Agwu (2014) also observed, the Rwandan genocide of 1994 was a case that genuinely required a humanitarian intervention event though it did not receive one, irrespective of the fact that around eight-hundred thousand people were slaughtered in cold blood. But if the Rwandan case qualified, why was the UNSC reluctant to act?

Firstly, the UNSC is avoiding the use of force unless as a last resort which proved to be a deadly practice in the case of Rwanda. The Rwandan genocide was a unique case where the time consuming business of diplomacy and negotiations could not have helped rescue the already started massacres. As Kuperman (2001:109) argued, "even an ideal intervention in Rwanda after the killings started would have left hundreds of thousands of Tutsis dead". The UNSG had advised in both his reports that the situation in Rwanda was catastrophic, but even the second advice fell into deaf ears as the UNSC continued to ignore him. Instead the Council opted to consider a humanitarian assistance to cater for the nearly 2 million people displaced some of which were seeking refuge in neighbouring countries such as Tanzania. However, some members of the Council expressed their disappointment on the council's decision not to consider humanitarian intervention.

His Excellency Roble Olhaye, the then Djibouti Ambassador to the UN, made it clear that his delegation finds it difficult to accept the proposed scenario where the Council continues with the same approach of letting events run their course while sticking to diplomatic attempts (United Nations Security Council, 1994e). Also supporting him, the then UNSC President Ambassador Ibrahim Gambari of Nigeria strongly criticised the way in which the Rwandan case was handled. He emphasised the fact that he was not satisfied with the manner in which African issues that come before the Council tend to generally be treated. According to Ambassador Gambari, this was a clear example of selectivity as none of the permanent members seemed to have any vital interests in Rwanda.

Secondly, the UNSC claims to avoid the use of force unless it will achieve a positive humanitarian outcome. There is no doubt that a humanitarian intervention in Rwanda would not have averted the genocide, but surely some positive results could have been achieved. Kuperman (2001) also believed that an estimated 15 to 25 per cent of Tutsis who lost their lives could have been saved in addition to tens of thousands of the Hutus. The success of the humanitarian intervention in this case entirely depended on how quick the response was. Unfortunately, the UNSC was not prepared to tackle supreme humanitarian emergencies of the nature of 1994 Rwandan Genocide. When a member of the UNSC Ambassador Issac Ayewah of Nigeria declared that the option that recommended a massive deployment of UN force under Chapter VII of the Charter was not feasible because no such force could be raised immediately, showed not only unpreparedness but also the lack of commitment of the UNSC (United Nations Security Council, 1994c:2). This confirms Golebiewski (2013) statement that the UNSC had little interest in the case of Rwanda. If the UNSC could not authorise a humanitarian intervention because of the reason given by Ambassador Ayewah above, then the UNSC was clearly failing to perform its duties.

#### 4.2.1.2 What Informs the Decision to or not to Intervene?

The case of Rwanda highlighted some important issues in the way the UNSC operates. The UN policies do not provide a defined approach to humanitarian intervention leaving the entire decision making process to the Council. It is fairly acceptable that it is difficult to measure a crisis by the number of deaths. But if a situation where 200 000 people are killed within a period of three weeks cannot be considered catastrophic enough to trigger humanitarian intervention, then the UN is not leaving up to its objective of saving succeeding generations from the scourge of war. It may be

argued that the UNSC wanted to refrain from the use of force as stipulated in article 2(4) of the UN Charter, but it still needed to draw a line between when to or not to use force. The Rwandan genocide was an all-out war where as Ambassador Naik Niaz of Pakistan highlighted, was highly dangerous and required troops that were adequately equipped in terms of armaments and with clear-cut rules of engagement (United Nations Security Council, 1994e). It is therefore not clear why the UNSC would choose to avoid the use of force in a situation where it was the only means to stop the massacres and to restore law and order.

There are arguments that the UNSC failed to authorise humanitarian intervention in Rwanda because they feared they would violate the State's sovereignty under Article 2(7) of the UN Charter. But this could not have been the case because the Rwanda Ambassador to the UN, Mr. Jean Damascene Bizimana had pleaded and made it clear that the Rwandans wishes were that the UNAMIR's numbers should be increased to enable it to contribute to the re-establishment of the ceasefire and to assist in the establishment of security conditions that could bring an end to the violence (United Nations Security Council, 1994c). Ambassador Bizimana even showed his disappointment to the evacuation of foreign nationals and the withdrawal of UNAMIR as it was contrary to the expectations of the International Community as well as the people of Rwanda. This to him showed a "...policy of double standards, which, in certain peace-keeping operations, is reflected in the strengthening of military and logistical means when security deteriorates, whereas in other cases the strategy is to regard any factor of insecurity as a sufficient reason for the UN to pack its bags and leave?" (United Nations Security Council, 1994c:6). Honestly, the UNSC failed to understand that every time peacekeepers withdrew in the midst of bloodbath, the overall credibility of humanitarian intervention is further undermined, leading States even more reluctant to commit their resources (Kuperman, 2001; Aydin, 2010)

Another criteria used for decisions of humanitarian intervention is to abide by the principle of non-intervention. As noted early in this study, the principle of non-intervention as described by Batir (2010), provides that no State should be subject to interference in its internal affairs. In the case of Rwanda the government had collapsed, ruling out the issue of interference. Therefore the UNSC had a clear responsibility to act, but it failed. Considering the case of Rwanda, there was an urgent need for the UNSC to define and set standards on when it can or cannot authorise humanitarian intervention. Whether it chose to intervene before, immediately upon, during or after the outbreak of war, it should be a well-known procedure which could rescue situations such as the Rwanda

genocide. Preferably the intervention should be before the outbreak since nature dictates that a preventive humanitarian intervention especially that with a substantial force before the outbreak of a fully blown war would probably save most lives (Aydin, 2010). This implies that the concept of refraining from interfering in the internal and external affairs of that State while people are being killed should be reviewed.

The UN Charter considers self-defence as one measure for the decision of humanitarian intervention. In the case of the Rwandan genocide the Rwandan government could not have claimed self-defence as only a few individuals including the president had been killed. Furthermore, the killing of thousands of civilians had nothing to do with the tragic incident that took the life of the president. Instead the government should have taken revenge on the Rwandese Patriotic Front (RPF) and that could have at least justified self-defence. The case of Rwanda showed that the Rwanda government was not receptive of UNSC peacekeeping efforts and the RPF was not capable of self-defence. Therefore, it was clear that enforcement through humanitarian intervention was the only means of saving the Rwandan genocide victims.

Generally, the Rwanda case can be considered based on Wheeler (2000), as one of the cases that met the requirements for humanitarian intervention. The UNSG made it clear in his reports to the council that the situation in Rwanda was catastrophic and could only be ended if law and order was restored. When he asked the Council in his second report to consider another option to include forceful action, it clearly showed that he believed the only hope for saving lives depended on outsiders coming to rescue. This was because the UN had already deployed UNAMIR forces for a peace keeping operation which had failed. As such, the use of force would not have come as the first option. In any case, the main objective was first to stop the massacres, the success of which would have no doubt achieved a positive humanitarian action. The UNSC therefore, needed to authorise enough force that would have been designed to stop the massacres after which they could have returned UNAMIR back with its original mission of overseeing the implementation of the Arusha Peace Agreement. In the end, the International Community did nothing to stop the genocide. But what could the International Community have done if the UNSC had refused to authorise humanitarian intervention? The UN later admitted through the report of the UNSG that the failure to respond to the Rwandan genocide could be attributed to the absence of a collective political will (Holzgrefe & Keohane, 2003).



#### 4.2.2 The Kosovo War of 1998-9

The Kosovo war can be traced as far back as 1989 when the acquired rights of autonomy and self-administration of the people of Kosovo were suddenly retracted by the Federal Republic of Yugoslavia (FRY). However, the desire for independence in Kosovo did not show up till the late 1990s (Thomashausen, 2002). The FRY instead of addressing the situation by reinstating the rights of the people of Kosovo, resorted to repression and agitation. In 1996, a liberation movement - the Kosovo Liberation Army (KLA) came into full force and claimed responsibility after four attacks on Serbian security. The Yugoslav government regarded the KLA as a terrorist and insurgent group whose actions needed to be stopped (United Nations Security Council, 1998b). In 1997, the continuing repression of the Kosovo Albanians by the then President of the FRY, Mr Slobodan Milošević, convinced the Albanians that the only hope for change was through armed resistance.

The beginning of March, 1998 saw Serbian police using excessive force against peaceful demonstrators resulting in the killing of 80 Albanian civilians mostly women and children (United Nations Security Council, 1998a). This provoked massive condemnation from the Western capitals and as such it officially marked the beginning of the Kosovo war. The so called Contact Group comprising of Foreign Ministers of France, Germany, Italy, the Russian Federation, the United Kingdom (UK) and the USA; the Organisation for Security and Cooperation in Europe (OSCE) and the European Union (EU) took it upon themselves to ensure that peace is restored in Kosovo. Unfortunately, while most of the UNSC supported the effort made, the FRY did not take light of the pressure given by the Contact Group, OSCE and the EU. The FRY strongly felt these groups were placing themselves above every Government and every principle (United Nations Security Council, 1998b). Thus when the NATO forces ultimately launched military intervention on 24 March 1999 without the UNSC authorisation, there was diverse opinions on the legality of the intervention. This brings back the question of whether the Kosovo conflict qualified for humanitarian intervention.

##### 4.2.2.1 Justification for Humanitarian Intervention

When NATO forces started their intervention they claimed that the conflict was a threat to peace and security in the region and as such the intervention was necessary to avert imminent humanitarian crises (United Nations Security Council, 1999a). They even tried to justify their actions using the time frame of the conflict, the number of displaced persons and the number of opportunities the FRY had been given through UN resolutions. Unfortunately, the UN Charter had

not set any threshold to justify authorisation. Therefore, without such standards, the intervention could not be legally justified. On the other hand, when can we justify that enough is enough? Is it when 200,000 people have died as in the case of Rwanda?

Compared to the case of Rwanda, the Kosovo conflict with only an estimated 2,000 death and over 300,000 people displaced at the beginning of the NATO intervention was by far less to be considered as supreme humanitarian emergency (United Nations Security Council, 1999a). But, since there were no standards, the majority of the UNSC members felt it was a threat to peace and security as noted in the UNSC Resolutions 1160, 1199 and 1203 of 1998. On the other hand, even though the numbers may have seemed less, the FRY government's refusal to act on UNSC's demands, ultimately proved that the only hope of saving the situation in Kosovo depended on outsiders coming to rescue. But it can also be argued that those were ordinary routine abuse of human rights which required a normal peace keeping mission.

Another, criteria for a humanitarian intervention to be justified is that the use of force must be the last resort. In the case of Kosovo, the Contact Group argued that the International Community had exhausted diplomatic means (United Nations Security Council, 1999a). But this boils back to the issue of standards. When can we say we have exhausted all available diplomatic means? Even if the UNSC agreed with NATO, another argument will then be for justification of the choice of the force to be used - the requirement of proportionality.

The question of proportionality is a complex one especially in humanitarian intervention cases. Debates are continuing on whether the NATO bombings were really necessary in the case of Kosovo – or to be more specific, whether air strikes should have been used especially when the principle of proportionality was a necessity. The UNSC under Chapter VII of the Charter, normally authorise an intervener to use “all necessary means”, but the NATO intervention was not authorised (United Nations, 1945). Even if it was authorised, it could be argued that maybe other means such as ground force could have been used to reduce the risk of killing more civilians with high altitude bombers. As Thomashausen (2002) noted, the NATO bombings destroyed more infrastructure as well as water and electricity systems while attempting to hit FRY military targets. In addition the fact that air strikes were more likely to kill indiscriminately brought more fear to civilians. This obviously forced people to leave their homes leading to even more humanitarian crises. But the solution to this was to commit ground forces, a risk which most States were not prepared to take.

There is an argument that NATO's bombings in Kosovo achieved its goals of forcing the FRY to accept a political settlement and a comprehensive ceasefire. But can these be used as a justification when there was no authorisation from the UNSC? If this is accepted, then the International Community would have been setting a future precedence that would allow groups or even States to abuse the system while claiming to be in pursuit of humanitarian intervention. Generally, the Kosovo case may have qualified for humanitarian intervention, but just like the Rwandan case, lack of authorisation from the UNSC meant no intervention was to be taken. Therefore, the efforts of NATO will always be regarded as unjustified, illegal and a self-motivated operation which did not qualify as a humanitarian intervention.

#### 4.2.2.2 What Informed the Decision to or not to Intervene?

The Kosovo war just like the Rwandan genocide also brought up a number of lessons on the way the UNSC makes its decisions for humanitarian intervention. The following are issues that can be reflected on as decision factors during the humanitarian intervention considerations;

First, the use of force was a major challenge. The UNSC was reluctant to use force against any of the parties in Kosovo. In fact, it blamed both warring parties for failing to settle their dispute through peaceful means (United Nations Security Council, 1998e). But just like in the case of Rwanda, there were some members who felt the conflict had already been given enough time and it was now time to use force. Unfortunately, this time, it was the power house of the UNSC led by NATO members. As such, they were not going to be stopped by just a few individuals or even the UNSC veto power. Thus, even though they knew that the decision to or not to intervene relied entirely on the unanimous votes of the permanent members of the UNSC, they chose to avoid taking that route. But, the mere fact that the NATO avoided the UNSC, their intervention entailed an unauthorised threat and use of force against the territorial integrity and sovereignty of a State as enshrined in Article 2(4) and 2(7) of the UN Charter. Even though some scholars such as Thomashausen (2002) believed that the group had exhausted all diplomatic means and UNSC had failed to take action, this could not justify NATO's actions. Therefore, no matter which angle the case is assessed, the NATO invasion in Kosovo cannot be justified as a legal humanitarian intervention. Therefore, NATO as a regional body was acting on its interests.

Secondly, the issue of sovereignty is undoubtedly a major problem when making decisions of humanitarian intervention. As it can be noted, the UNSC during their pre-resolution debates

consistently admitted and made reference to their commitment to peaceful resolution of conflicts to respect territorial integrity and sovereignty of the State. In the case of Kosovo, the FRY viewed the penalties imposed on them as a denied right of a State to defend itself from evil by the Albanian community and as such encroaching on territorial integrity and sovereignty. The FRY was supported by China which felt that the question of Kosovo was an internal matter. The Chinese Ambassador to UN, Shen Guofang even made it clear that his delegation did not think the situation in Kosovo endangers regional and international peace and security (United Nations Security Council, 1998b). On the other hand, how long can the UNSC be expected to wait in the name of sovereignty while people are being killed. As Nsereko (1994) had argued, sovereignty must not be set up as the impregnable wall behind which States commit crimes. But sovereignty is also a double edged sword. While the UNSC were advocating for it to avoid authorizing humanitarian intervention for Rwanda, the FRY were claiming it to avoid intervention.

Thirdly, the FRY government by naming the KLA terrorists and insurgents, was more or less claiming self-defence. But they knew that by repressing the Albanian community and discriminately killing the Albanian civilians, they were undeniably the root-cause of the conflict (United Nations, 1998). On the other hand KLA were claiming to be fighting for their rights, and since they were fighting the same forces which were bringing about suppression and killing their people they could claim self-defence. In the end the support they got from the NATO force seemed to have justified their cause. But, it could also be argued that the failure of FRY to comply was the main reason NATO supported the so called terrorists

Finally, even if the Kosovo conflict case qualified for humanitarian intervention, without the support of all permanent members, the intervention would still not have legal justifications. Surprisingly, while the NATO members claimed some permanent members were not willing to act in accordance with their special responsibility, the Russian Ambassador Sergei Lavrov argued that the UNSC never received a proposal on the topic nor a draft resolution. Therefore, the decision of the Contact Group to involve the military aspect behind their backs was legally and morally wrong (United Nations Security Council, 1999a). But, would Russia have agreed to a humanitarian intervention if a proposal would have been submitted to the Council? According to Thomashausen (2002), Russia as a historical ally of Serbia would not have endorsed the resolution. In fact it had threatened to veto any UNSC resolution that authorised forcible measures against the FRY. This was confirmed by Russia's demands to the NATO for an immediate cessation of its "illegal"

military action against the FRY (United Nations Security Council, 1999a). To make a follow up on its demands Russia and China presented a draft resolution in an attempt to halt NATO intervention (United Nations Security Council, 1999b). But the draft resolution only managed three votes (Russia, Namibia and China) in favour and 12 against (United Nations Security Council, 1999c). This clearly showed the the absence of a collective political will by the permanent members.

#### 4.2.3 The Libyan Civil War of 2011

On 15<sup>th</sup>, February 2011, a group of peaceful civilians protested, calling for the release of a lawyer named Tarbel who was representing the families of 2,000 prisoners killed in the Abu Salim prison in 1996 (United Nations Security Council, 2011a). The military force of Colonel Muammar Gadhafi' regime responded with gunfire, killing several protesters. Ever since then, hundreds of innocent victims continued to lose their lives due to acts of violence and atrocities by Colonel Muammar Gadhafi's regime. On the 12<sup>th</sup> of March 2011, following the Libyan government failure to comply with the demands of UNSC's Resolution 1970 (2011) calling for a ceasefire, the League of Arab States called on the Security Council to establish a no-fly zone and to take other measures to protect civilians. Five days later, in response to this request and the call for help by the Libyan community - the UNSC adopted Resolution 1973 (2011) which authorised a humanitarian intervention in Libya. Even though the resolution was not unanimously adopted, the abstaining of five members to include two permanent members (Russia and China) was enough to release NATO and other regional bodies in their mission to use force against Colonel Muammar Gadhafi's regime. But can we now say the quick response of the UNSC in the Libyan conflict was justified?

##### 4.2.3.1 Justification for Humanitarian Intervention

The situation in Libya just like the Rwandan case erupted and escalated within a very short time. The government of Colonel Muammar Gadhafi had turned guns to its people resulting in an estimate of over a thousand people being killed within a period of two weeks. In addition, over 37 thousand refugees were reported to have crossed to both Tunisia and Egypt (United Nations Security Council, 2011a). Colonel Muammar Gadhafi as quoted by a representative of the Libyan Arab Jamahiriya, Mr. Abdurrahman Shalgham, had already made the following iterations to the people of Libya by saying "Either I rule you or I kill you" (United Nations Security Council, 2011a:4). Therefore, Just like in the case of Rwanda, this was a clear case of supreme humanitarian

emergency where the only hope of help was from the outsiders. The Libyan authority had failed on its responsibility to protect the Libyan population.

The Libyan civil war demonstrated the effectiveness of the UNSC if it so wishes to act. Unlike in the case of Rwanda where the UNSC sent the UNSG to investigate and give a full report on the situation, the Libyan case was tackled with the utmost urgency that it deserved. For starters, a day after the UNSG briefed the Council, the UNSC unanimously adopted Resolution 1970 (2011) which sanctioned a travel ban and an assets freeze for key Libyan leaders. Similarly, just like in the cases of Rwanda and Kosovo, the UNSC also imposed a complete arms embargo on Libya. These were the first measures employed by the UNSC to persuade Libya to comply with the ceasefire demand. But the UNSC did not wait long before taking another action. Within less than a month, the Libyan government received Resolution 1973 (2011) authorising the use of force if it fails to comply. It could be argued that it may have been too early to conclude that a peaceful solution had failed. But on the other hand with Colonel Muammar Gadhafi's intentions and aggression, how long could the UNSC have waited? Maybe this was the kind of swift action that was required for Rwanda.

While the International Community commended the UNSC for its quick response to the Libyan action, human rights bodies were still concerned on the means used. Since the UNSC authorised member States to use "all necessary measures" in the implementation, the responsibility to decide on the issue of proportionality was entirely upon the intervener. In the case of Libya, Russia decided to abstain during the voting for Resolution 1973 (2011) with the reason that authorising the use of force without a plan of enforcement was too risky and could result in collateral damage. As the Russian Ambassador to UN, Vitaly Churkin argued during the debate, Russia needed an explanation on "how the no-fly zone would be enforced, what the rules of engagement would be and what limits on the use of force there would be..." (United Nations Security Council, 2011c:8). But, what would have been a proportional force when facing a powerful, well equipped force such as that of Libya? In addition there was hardly no way a no-fly zone could be enforced without the use of air force. In this case the UNSC had no choice but to let the intervener decide, which was Russia's main contention.

The case of Libya had all the legal back up it needed from the UNSC. But the question of whether the authorized humanitarian intervention would achieve positive results as Wheeler (2000) admitted

was not easy to be predicted. One of the reasons why some members such as India and Brazil abstained during the voting for resolution 1973 (2011) is that they were not sure that the measures taken will mitigate and not exacerbate an already difficult situation (United Nations Security Council, 2011c). But how will others know unless after the intervention. This study believes that decisions of humanitarian intervention cannot be justified by whether the intervention can achieve positive results. Simply because in most cases if not all, it can only be known after the intervention, that positive results have been achieved.

#### 4.2.3.2 What Informed the Decision to or not to Intervene?

Having discussed the two cases above, one wonders what was so unique in the Libyan case for it to get the UNSC's authorisation. A number of factors could be considered; firstly, the UNSC's main reason for authorising humanitarian intervention in Libya was to protect civilians and civilian areas targeted by Colonel Gadhafi's regime. Resolution 1973 (2011) considered that the widespread and systematic attacks against the civilian population was amounting to crimes against humanity. In addition the Security Council was concerned at the deteriorating situation, the escalation of violence, and the heavy civilian casualties. It is however, surprising that the same reasons could not qualify the Rwanda and the Kosovo cases for humanitarian intervention.

Secondly, As in the other two cases above, the UNSC continued to emphasise the need to respect the sovereignty of Libya. But it seemed in this case the need to rescue the Libyan people took precedence. However, the idea was not shared by all as China's reason to abstain during the voting for Resolution 1973 (2011) was respect for sovereignty, independence, unity and territorial integrity of Libya. As such it believed that the only way to resolve the crisis in Libya was through peaceful means. But why China and Russia did not veto the resolution is still a mystery.

Thirdly, the issue of self-defence just like in the case of Rwanda was out of question. President Obama as quoted by USA's Ambassador to UN, Ms Susan Rice underscored that "when a leader's only means of staying in power is to use mass violence against its own people, he has lost the legitimacy to rule and needs to do what is right for his country, by leaving ..." (United Nations Security Council, 2011a:3). Colonel Muammar Gadhafi could not have claimed self-defence against innocent peaceful civilian protesters. He was clinging to power through mass violation which made his regime no longer legitimate to the people of Libya.

### **4.3 Logical Patterns behind Humanitarian Intervention Decisions**

The issue of power is still highly regarded especially by the former Cold War superpowers (USA and Russia). As Kubicek (1999) posited, Russia's prime goals were to reassert itself as an important power and establish some distance from the West. It could be argued that even though the Cold War was over the weapons were still there which meant that rivalry may still be alive. As such Kubicek's argument could not be disregarded. In the three cases Russia had most often shown its will to support collective efforts while discouraging unilateral action. It had also boldly shown that it was not going to accept being controlled by any of the permanent members. As such it was quick to voice its concerns. In the case of Kosovo for example, it strongly accused NATO's decision to use military force behind their back and demanded that NATO immediately cease its illegal military action. It even threatened to veto any UNSC resolution that authorised forceful measures. In addition it also threatened to review its relationship with NATO, which Russia believed had shown disrespect for the fundamental basis of the system of international relations (United Nations Security Council, 1999a).

The question of why Russia strongly opposed the use of force in Kosovo but failed to veto the authorisation of Libya is still a puzzle. Thomashausen (2002) had argued that, the reason for Russia to strongly oppose NATO in Kosovo was because it did not want to let-down FRY as its historical ally - which became the issue of national interest. However, Voeten (2001) on the other had argued that Russia, because of its desire to achieve its goals, was always forced to balance between pursuing power in exchange for economic benefits. As such it most often abstained in resolutions to preserve this stance. Apparently, this seemed to be a norm especially with the permanent members.

The UNSC permanent members preferred to abstain on resolutions which they felt they did not want to show their support. This study noted that, China had abstained in most of the voting of resolutions authorised under Chapter VII of the UN Charter, claiming that the conflicts were internal affairs. Voeten (2001) has also observed that China had a good record of abstaining as compared to other members. He argued that since China's foreign policy is to maximise security and economic benefits while minimising responsibility, by abstaining China has been able to reserve its alliance and as such giving itself an opportunity to achieve both economic benefits and security. Thomashausen (2002) however, believed that China's poor human rights record with regard to Tibet and the Falun Gong led to it not to support these resolutions. It may be argued that



China's interest with regard to world power was low compared to other permanent members. But the fact that China, unlike other permanent members has consistently stood firm for a peaceful solution through political and diplomatic means, reflected its respect for world peace than world power. This also shows its determination to fulfil its responsibility of working within the framework of the UN. This is the spirit that shows consistency and commitment to values of UN.

The USA, UK and France have been inseparable in the three cases making them the powerhouse of the UNSC. While Voeten (2001) believed that France often took an independent stance in the UNSC citing the issue of renewal of weapons inspection in Iraq, this has not shown up in the three cases. France together with UK have not taken any distinct position with the USA in all resolutions on the three cases, it is however notable that both France and UK were generally willing to support missions with generous contribution of troops and finances. The USA on the other hand seemed to be taking advantage of this and using the alliance to pursue its interest. Sandler & Keith (1999) believes that even though the USA could stand alone, it preferred the NATO relationship for a very obvious reason. The partnership allowed the USA if it so wished, to contribute a small share in terms of the financial burden and fewer deployment of American soldiers. This study could not prove this, but noted one important aspect in the decisions of humanitarian intervention with regard to the three cases; most of the decisions in the UNSC debates had gone the way of the three Western countries and were motivated by their clear intention to pursue their interests. As such, one can speculate that where the Western countries led by the US have interests at stake in a crises situation, we can be assured that humanitarian intervention will be conducted with or without the UNSC authority.

Generally, the lack of consensus on legal principles of humanitarian intervention as it consistently appeared during most of UNSC resolution and draft resolution debates of the three cases showed that there was no clearly defined logical pattern in UNSC decisions. Instead, the system was more ad hoc in nature with little guidance on when to intervene or how to conduct a humanitarian intervention. However, from the three cases above two major issues can be highlighted regarding patterns of humanitarian intervention decisions;

- The decisions of humanitarian intervention are influenced by the permanent members' national interests.

The issue of national interests is not easy to prove because most of national security issues are classified. However, this study made several deductions from the UNSC permanent members' actions which points to claims of national interest. First, when States show little interest to issues of top priority that they considered, the International Community has no choice but to suspect ingenuity. The NATO intervention in Kosovo was justified by UK's Ambassador to UN, Sir Jeremy Greenstock as a measure to prevent an overwhelming humanitarian catastrophe (United Nations Security Council, 1999a). But when it came to completing the job by assisting in the reconstruction of the FRY after the war, the US as quoted by Thomashausen (2002:109) asserted that "so long as Millosevic remained in power, no assistance could be given to Serbia..." This clearly undermined the claim and reasons of the NATO actions in Kosovo and proved an underlying hidden agenda of political motivation. In addition the intervention seemed to have been more inclined to NATO's credibility as well as a regional body concerned with a regional stability than humanitarian element of intervention.

Secondly, the conclusion made by Duque et al (2014) in their research that the humanitarian interventions were more likely in countries that are located closer to the three Western permanent members could not be confirmed in this study. However, the enthusiasm shown by UK and France in finding a solution to the Kosovo case as compared to the other two cases showed that the closer the conflict is to one of the permanent members, the higher the possibility of it getting quick attention. This was again because, while China unwaveringly felt the conflict in Kosovo was not a threat to the international peace, the Western countries were closely monitoring the situation while on the other hand continuously busy through the NATO planning for any eventualities.

Thirdly, in the Rwandan case the UNSC made a decision not to authorise humanitarian intervention. In fact, the UNSC did not even consider humanitarian intervention as an option. The France Ambassador to the UN, Hervé Ladsous informed the council that his "country emphasizes that no military solution is acceptable..." (United Nations Security Council, 1994c). He went on to say that, "We hope that the Rwandese parties will come to their senses and realize that the United Nations can neither take their place nor impose peace on them". Is this not a clear statement that

confirms Wheeler's (2000) contention that State leaders and public do not have duties to stop barbarities beyond their borders unless there are vital interests?

Fourth, none of the permanent members had vital interests in the war torn country like Rwanda to risk their soldiers or incur significant economic costs. When the Belgian Government decided to withdraw their battalion without delay with the loss of only 10 soldiers as compared to thousands of Rwandans death toll, none of the UN permanent members criticised the move. Instead, the Council advocated for the removal of the entire UNAMIR force fearing it was exposed to very serious risks. But on the other hand they did not want to strengthen the force to rescue the strangers they were leaving behind. This confirmed the argument by Huntington (1993) that it is morally unjustifiable and politically indefensible for States to risk their soldiers just for strangers.

Fifth: generally, major powers possessing the necessary capabilities are unwilling to take risks with their soldiers. As Hoffmann (1996) noted they fear the escalation of the conflict and the entrapment in it. This may be the reason why even when they chose to intervene, they were reluctant to send ground troops as in the case of Libya and Kosovo. Instead, air-forces became the most preferred means - a trend that is still prevailing in the most recent conflicts such as the war against Islamic State of Iraq and the Levant (ISIL). But the use of air strikes in humanitarian intervention is more likely to cause harm than good.

Sixth, the claim that Western countries are selective in their interventions, because they will only intervene if it is to maximise their own position and strategic interests, can be seen in UNSC's response in the three cases (Dhaliwal, 2014). Just like in the Kosovo and Libya, enough intelligence gathering was deployed in Rwanda to inform the UNSC. The Belgium and at least three permanent members of the UNSC – the USA, UK and France knew from UNAMIR's Commander General Dallaire's January 1994 warning cable that there was need to reinforce the UN peace keeper, but ignored the proposal (Kuperman, 2001). Therefore, the reason given by Golebiewski (2013) that Security Council did not take early notice of the conflict was not entirely true. The UNSC cannot claim they were not aware of the situation in Rwanda, instead they chose to ignore Rwanda which did not offer any geopolitical or strategic interests to them.

Finally, in the case of Libya, the UNSC was quick to authorise Humanitarian intervention raising questions of why Libya especially that Syria had a crisis almost at the same time but never received the same treatment. Aydin (2010) suggest that the most robust explanation of how States pick wars

to intervene is the perceived costs, effectiveness of the intervention and the cost benefits associated. Taking from Aydin's idea, Libya is one of the richest countries in terms of oil. Crisis in Libya was obviously going to affect the world's supply of oil and ultimately affect the world economy. None of the permanent members was ready to see their country going back to the economic crises especially that the world was just starting to recover from an economic downturn. Therefore, the only solution to Libyan civil war was a quick and swift intervention. Even the other permanent members who were against the use of force had no choice but to abstain. However, contrary to this appealing logic, Aydin (2010:49) also believes that "States promptly respond to intense civil wars whereas they wait for longer periods to respond to those that take place in rich and oil-producing countries".

- The inconsistency of decisions of humanitarian intervention will continue due to the permanent member's determination to keep the world power.

The issue of power is most often reflected in the way permanent members continuously use their veto power regardless of the situation. In the case of Rwanda the council boldly ignored several pleas from individuals and groups who agreed that the crisis situation in Rwanda had reached an extremely chaotic, difficult, dangerous, and unpredictable stage (United Nations Security Council, 1994b). When the UNSC meeting to consider the options proposed by the UNSG's report came on the 21<sup>st</sup> of April 1994, it was more of a formality, as the actual decision on which proposal to be taken had already been done behind closed doors. This is more or less a case of a "hidden" veto where agendas are managed behind closed doors (Nahory, 2004 ). As a result, the Council members were presented with a draft resolution in which the mediation was the preferred option. The voting ended with a unanimous adoption of resolution 912 (1994). The resolution clearly demonstrated how the UNSC failed to strongly condemn or acknowledge that genocide had been committed, which would have forced the UNSC to take action.

Similarly, the veto power was a major stumbling block for the authorisation of the humanitarian intervention in the Kosovo case. While most UNSC members showed their support for NATO intervention during the voting for draft resolution S/1999/328, the same allies did not present any humanitarian intervention draft resolution for the authorisation of UNSC in fear of the veto power of Russia and China. On the other hand the failure of the adoption of the draft resolution S/1999/328 showed the divergent interpretation of the legality of the intervention, the geo-political

alliance and national interests of the UNSC permanent members (United Nations Security Council, 1999b).

The veto power strongly compromises the international collective security. In the case of Rwanda there were some members who believed that humanitarian intervention was the best action to be taken. The Djibouti Ambassador to UN supported this idea and showed his disappointment when he highlighted that it was a sad reflection on the state of collective security if the UN does not have the capability to expeditiously mobilize in the face of such relentless destruction and death (United Nations Security Council, 1994e). In the Kosovo case, the Netherlands and Slovenia's Ambassadors to UN - Mr. Arnold van Walsum and Mr. Danilo Türk respectively, admitted with regret that the absence of support from some permanent members had prevented the Council from using its powers (United Nations Security Council, 1999c). NATO States including the three permanent members (UK, USA and France) blamed the veto power which at the time was not working well for them. But, this is the same 'unfair' veto power which has been blamed for failing the UNSC system (Caron, 1993).

Generally, the permanent members because of their special veto privilege will always be tempted to act as judges in their own case. Therefore it has to be admitted that the practice of humanitarian intervention though desirable in terms of an ideal system of global justice will never be perfect in the preservation of international peace unless the veto power is abolished. But abolishing the veto power will only be possible if the permanent members agree to it. Unfortunately, none of the permanent members can agree to give up the only tool in the UN that gives them world power. As Köchler (2001) has observed, the world is and will continue to be ruled by power politics.

#### **4.4 Conclusion of the Chapter**

This chapter has assessed three war conflict cases with regard to humanitarian intervention justifications. The study determined that while there are no defined standards for qualification for humanitarian intervention, each case did warrant for an intervention. However, the UNSC's decisions of whether or not to authorise the intervention are not necessarily informed by UN policies. Even where they do, the policies do not provide defined approaches to justify a humanitarian intervention. This goes against the principle of justice, fairness, uniformity and consistencies in decisions of humanitarian intervention and as such, makes the decisions unpredictable.

## CHAPTER 5: CONCLUSION AND RECOMMENDATIONS

This research has attempted to analyse humanitarian intervention justifications first by evaluating the effectiveness of UN policies. While it has shown that some members of the UNSC are determined to fulfil their responsibility of working within the framework of the UN, others are not. The NATO decision to intervene in Kosovo demonstrates the extent to which States can pursue their interests with or without the UNSC's authority. This is a clear sign of disrespect for the fundamental basis of the system of international relations especially that it was not the first nor was it the last. On the other hand, the UN policies are also to blame, because they do not provide a defined approach to humanitarian intervention leaving the entire decision making process to the Council members.

The UNSC's decisions on humanitarian intervention are very political and more often are made behind closed doors. As such, it is very difficult to expose the true intentions of the decisions. This study however, has revealed that there is lack of consensus on legal principles of humanitarian intervention as it consistently appeared during most of UNSC resolutions and draft resolutions debates of the three cases. The study also discovered that there is no clearly defined logical pattern in UNSC decisions. Instead, the system is more ad hoc in nature with little guidance on when to intervene or how to conduct a humanitarian intervention. However, the three cases show that there is a developing pattern along national interest of the actors which is borne by a realist and neo-realist approaches to international relations.

The study therefore maintains that unlike what the International Community expects, decisions of humanitarian intervention are influenced by the permanent members' national interests and are controlled through their special veto privilege. The decision of the UNSC not to intervene in Rwanda was due to lack of interest by the permanent members who decided not to sponsor any resolution that could lead to humanitarian intervention. The UNSC's failure to authorise the Kosovo case can be attributed to the absence of a collective political will, while the interests of NATO to have peace and security in their region influenced their decision to intervene without authority. In the case of Libya, the decision to authorise humanitarian intervention was purely for economic benefits. The veto power allows the permanent members to control UNSC decisions by either manipulating the agenda, threatening to veto decisions or even veto draft resolutions. Therefore the

veto power is not necessarily protecting the interest of the International Community but the interest of these major powers. This makes the decisions of humanitarian intervention, inconsistent and as such unpredictable.

Based on the above conclusions, the study suggests the following recommendations;

- There is an urgent need for the UN to develop a common position within the International Community on issues of when it can or cannot authorise humanitarian intervention. This will make sure that the UN has clear, unambiguous and well defined principles. For example, some concepts such as refraining from interfering in the internal affairs of States while people are being killed will need to be defined if the UN still wants to live to its objectives.
- Humanitarian intervention should be guided by strict principles which must be developed with the participation of the International Community as a whole.
- Since the veto power is not serving the interests of the International Community, it must be scrapped or at least extended to all 15 members of the UNSC. In a case where the UNSC fails to reach a consensus, the case should be passed to the UNGA to make the final decision through voting.
- The issue of permanent membership must be evenly distributed amongst continents. This will ensure that some continents such as Africa who feel they are not well represented have their own representation.
- States must avoid placing their interests before the interest of the International Community and develop a habit of working within the framework of the UN. This will guarantee the credibility of the UN, ensuring that it remains the world supreme body for more years to come.

Finally, it has to be admitted that wars and conflicts will always continue calling for the attention of the UN to authorise decisions of humanitarian intervention. As such the world will never be perfect, therefore, while it is a wish to eliminate biasness in humanitarian intervention, it is also impossible to have an impartial agency that can assure us that the cause of intervention has no motive other than the enforcement to achieve only the set goals. This is because individuals in the UNSC represent the interest of their countries and have been elected to do exactly that. On the other hand elimination of intervention cannot be an option. As some scholars have argued, interveners may not

be any better since both their motives and their actions may be wrong, but there might be many cases where the impact of non-intervention might be worse. The Rwandan case is a typical example where non-intervention had resulted in the loss of lives of thousands of innocent civilians.



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