

## ABSTRACT

Title of Dissertation: PEOPLE VS. BORDERS: COMPETING  
INTERNATIONAL NORMS OF PROTECTION IN  
COMPLEX HUMANITARIAN EMERGENCIES

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This dissertation tests the merits of two prevalent claims in the contemporary study of international relations: 1) that values and principles matter in international relations, and 2) that the increased emphasis on human rights and humanitarianism is eroding state sovereignty. The dissertation builds on social-constructivist approaches to international relations theory, most notably the work of scholars such as Martha Finnemore, Alexander Wendt, Thomas Risse, and Katherine Sikkink among others.

The dissertation develops a conceptual framework for dynamic policy agenda-setting, and combines it with a case-study to investigate the competition between humanitarian/human rights and sovereignty norms. Focused on the African Great Lakes region, specifically the Rwandan genocide and humanitarian crises from 1993 to 1996, it assesses the impact of humanitarian principles in complex

humanitarian emergencies (CHEs); i.e., sudden, internal social-political and usually violent crises involving large-scale forcible displacements of populations within and across national boundaries. Specifically the dissertation asks how do international humanitarian protection norms affect the international community's responses to complex humanitarian emergencies.

The theoretical model of norms competition and case study provide evidence for the role of norms as so-called 'enablers' but not as direct causal mechanisms for political behavior. Competition among norms contributes to a pattern of punctuated equilibria in the international humanitarian agenda. This study highlights the continuing importance of sovereignty and state interests as structural constraints on the growing significance of humanitarianism. The role of member states in influencing outcomes at the United Nations, the apparent weakness of transnational networks in international political communities, and the treatment of forcibly displaced peoples in particular suggest that boundaries and sovereign authority remain central to international relations. There exists a hierarchy of international protection norms that determines the speed, degree, and level of responses to humanitarian emergencies. An international military intervention response to CHEs ultimately depends on the relative cost of humanitarian norms to key constituencies within the international community, even as humanitarian intervention gains in legitimacy as a tool of international relations.

PEOPLE VS. BORDERS:  
COMPETING INTERNATIONAL NORMS OF PROTECTION IN  
COMPLEX HUMANITARIAN EMERGENCIES

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## PREFACE

In 1938, a young man of sixteen was forced to leave behind all he knew in Germany in order to save his life. His immediate family's sole survivor from the Holocaust, he spent the next fourteen years as a refugee. He returned to Germany out of a sense of duty as a citizen and the conviction that strengthened democratic norms would prevent a recurrence of genocide and humanitarian disasters. At the time, no one, least of all he, could conceive of subsequent humanitarian crises perpetrated by a governing authority and leading to the forced displacement of millions and penultimate violation of human rights – genocide. Complex humanitarian crises brought on by a combination of natural, economic, and political disasters nevertheless have continued to cause terrible suffering from Cambodia to Uganda. In most cases, the international community chose not to intervene to protect those at risk since such action would have meant violation of the virtually sacrosanct principle of non-intervention governing international relations. Assistance was limited to humanitarian relief and diplomacy facilitated by generations of individuals such as this man. He did not live to see history repeat itself so devastatingly around the globe, as the international community has struggled to uphold the principles of both sovereignty and human rights.

The duty to remind others of the importance of a principled approach to international governance and the legacy of forced displacement now falls to others. The following work is my attempt to make sense of the lessons learned since my father first had to choose between life and nationality.

This work would not have been possible without the invaluable assistance provided many people over the course of my research. They are too numerous to mention here but my heartfelt thanks goes out to all. My advisor, George Quester, deserves a very special note of appreciation for believing in me, and this project, even when I failed to do so. Thank you, too, to the distinguished members of my advisory committee, for their unfailing commitment and constructive criticism, especially in the final stages. I am most grateful to Ted Robert Gurr for his mentorship, inspiration, and invaluable comments at every stage of the dissertation; and to Catherine McArdle Kelleher, my mentor and friend, who for two decades has inspired me to push myself harder and further for the causes I believe in. Finally, I would like to thank my family and friends who stood by my side with constant encouragement and tireless help throughout this process. Please know that each one of you owns a piece of this effort. Thank you to all!

Dedicated to my father

Herbert Weil

(1922-1983)

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Figure 1: Norms Competition at Multiple Levels during CHE's

## **Chapter 1**

### **INTRODUCTION: COMPETING INTERNATIONAL PROTECTION NORMS AND COMPLEX HUMANITARIAN EMERGENCIES**

#### **Introduction**

This dissertation proposes a theoretical framework and model for examining the norms underlying humanitarian interventions. At the most general level, I am interested in understanding the process of norms competition and normative influence over time. Specifically I ask: How do competing international protection norms affect the international community's responses to complex humanitarian emergencies over time? This question breaks down into two parts or sub-questions: 1) Under what conditions is a military intervention to protect forcibly displaced populations likely? 2) What accounts for existing patterns of interaction between human rights norms, humanitarian and sovereignty principles on the international political agenda? This thesis takes on two prevalent claims in the contemporary study of international relations: First it addresses the claim that values and principles matter in international relations. Secondly, it examines the idea that humanitarianism and human rights are gaining in policy strength and hence humanitarian interventions are more legitimate and likely than in the past. A case study of humanitarian crises in the African Great Lakes region during the 1990s<sup>1</sup> can illustrate the process by which

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<sup>1</sup> The complex humanitarian emergency in the region extends from the Arusha Accords of 1993 to the Lusaka Cease-Fire Agreement of 1999, and indeed is still ongoing. However, for the purposes of process-tracing the dynamics of normative problem definition

norms translate into policy outcomes. It also highlights patterns of ‘normative learning’ over time to the second issue regarding the rise and fall of humanitarian principles in international relations.

International humanitarian action is in effect a “complex and multilayered process, involving a diversity of entities and approaches,” from passive to direct military intervention. (R. Doty, 1996) One hypothesis explaining the variation in intervention outcomes is that three potentially competing norms of international protection motivate the response. By definition, translating protection norms into operational realities is likely to be fraught with unintended consequences and considerable variation across humanitarian actors and circumstances in which they operate. The question becomes even more complicated when one takes into account the dual function of norms – as creators and legitimators of identity and as behavioral ‘regulators’- and the fact that norms compete at multiple levels of analysis. A challenge regarding the legitimizing function of norms is that they also serve justificatory purposes. Hence, it could be the case that a given actor might invoke humanitarian protection or human rights as a justification for actions that in fact are not at all humanitarian or rights-based in nature. However, scholars have noted that such justifications in fact reinforce the validity and presence of a norm.

The fact that an actor feels compelled to reference human rights or humanitarian principles as a reason for a given action, even when there is no need to so from a stand point of power-politics, is indicative of the recognition of an

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and agenda-setting, the focus here is limited to the period of greatest international attention or activity in the region, 1993-1996.

underlying set of shared understandings.<sup>2</sup> For example, Nicholas Wheeler and others have noted that in the past member states of the United Nations rarely invoked humanitarianism as a justification for intervening in a state, even when the outcome was in fact a humanitarian one (e.g. Tanzania's intervention in Uganda in 1979). (Wheeler, 2000) Since the end of the Cold War, humanitarian need has become much more common as a justification for intervention International Commission on Intervention and State Sovereignty (ICISS), December 2001) because it is a more accepted and mutually understood principle.

At stake are not only big international norms such as human rights or sovereignty that govern relations among states, but also group norms that affect the way in which societal and transnational actors interpret and implement the broader norms. It thus is important to recognize that there are numerous norms operating simultaneously in the international system. Some are likely to be compatible, others more contradictory. Nowhere is this more evident than in complex humanitarian emergencies involving the cross-border spillover of internal armed conflicts, people (both as cross-border refugees and internally displaced) and use or prospects of international military forces. Here, the international mandate to protect the borders of sovereign states competes with the principles to protect human life.

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<sup>2</sup> Kegley and Raymond reached a similar conclusion with regard to so-called "alliance norms" (Kegley and Raymond, 1990); see also Goertz and Diehl on decolonization norms and Checkel on Europeanization norms. (Goertz and Diehl, December 1992; Checkel, March 1999)



Complex humanitarian emergencies (CHEs) are sudden, internal social-political and usually violent crises -often compounded by both natural and man-made disasters- that produce large-scale forcible displacements of populations within and across national boundaries and “requiring international humanitarian assistance to avoid serious malnutrition or death” and to gain access to such aid. (National Intelligence Council, August 2001)<sup>3</sup> Frequently deemed a threat to international peace and security and generating responses under Chapter VI and very rarely under Chapter VII (or more accurately Chapter VI and a half), CHE’s are complex not only due to the nature of the crises themselves but also the responses necessary to quell them. Military intervention is but one possible option, generally the last on a ladder of possible responses. Examples of CHEs include the Kurds in Northern Iraq in 1991, Somalia in 1992, Bosnia and Sierra Leone among others, all of which have produced ‘war-affected populations’ and all of which have occurred in developing or depressed countries. Some of the most intractable CHEs have occurred in the African Great Lakes region, including Rwanda and Zaire/the Democratic Republic of Congo, and are the focus of this research effort.

Albeit relatively rare, CHEs offer a type of real-world ‘laboratory’ in which by necessity numerous principles or norms are engaged and contested. Those surrounding ‘protection’ – of borders, individuals at risk, state interests, human rights and others– are especially central to the dilemmas posed by humanitarian

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<sup>3</sup> The U.S. National Intelligence Council limits the term to “situations in which at least 300,000 civilians require...assistance.” (National Intelligence Council, August 2001) A more detailed definition of CHEs follows in the next chapter.

intervention. By norms, we mean shared understandings and values that shape state and non-state actors' identities and preferences, and that legitimize behavior explicitly or implicitly.<sup>4</sup>

As CHEs have multiplied, so have protection norms assumed a more prominent role at the United Nations, among non-governmental humanitarian and human rights organizations and even within individual member states. Traditional definitions of security appear to be giving way to a more expansive concept of 'human security' centered on the well-being of peoples rather than nation-states, especially civilians in armed conflict and at risk.<sup>5</sup> Nevertheless, exactly who or what is to be protected, and how, remains central to the debate over humanitarian intervention. The international community must navigate through a maze of often-contradictory values in formulating and implementing appropriate decisions for the protection of human life and the international system. Understanding this process can help to explain how a 'culture of protection', unthinkable just a decade ago, achieved such a visible position on the current international political agenda.

This study concentrates on the constitutive aspect of norms, i.e. collectively held principles, ideas and expectations of behavior that define the social identities of

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<sup>4</sup> The definition cited here and used throughout is derived from that developed first by Friedrich Kratochwil, and elaborated by a number of social constructivist scholars, most notably, Ann Florini, Martha Finnemore and Audie Klotz.

<sup>5</sup> See Kenzo Oshima, Emergency Response Coordinator, and Under Secretary-General for Humanitarian Affairs, Closing remarks to the ECOSOC Humanitarian Affairs Segment, July 17, 2001. In late 2001, the International Commission on Intervention and State Sovereignty released the final report of a year's worth of research and dialogue on "The Responsibility to Protect" ([www.iciss.gc.ca](http://www.iciss.gc.ca)).

actors and basic rules of the game. (Jepperson, Wendt, and Katzenstein, 1996; Risse, Ropp, and Sikkink, 1999). It investigates how these types of norms interact with given social structures to create new actors, interests or categories of action relevant to norms competition. (Finnemore and Sikkink, Autumn 1998) In this context, norms legitimate certain social identities over others. In the case of humanitarian protection norms, for instance, we find that protection is more likely to be extended to those deemed worthy of protection – a judgment presumably based on a set of values shared by those members of the international community making the decision whether or not ‘protect’.<sup>6</sup>

### **Context for the study**

This study of competing international norms of protection is set against a backdrop for increasingly global state relations and transnational governance institutions and actors today. With the end of the Cold War, the world has had to contend with a proliferation of complex humanitarian emergencies (CHEs) that present the international community with a significant policy conundrum: whether or not to intervene, and by what means<sup>7</sup>. From a realist perspective one would not

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<sup>6</sup> See chapter 2 for a more extensive discussion of constitutive and protection norms.

<sup>7</sup> As used here the term “international community” includes but is not synonymous with the United Nations. It also includes key member states, civilian and military governmental and non-governmental actors involved in humanitarian actions specifically. In my research the international community is a political community in the sense of Karl Deutsch but reflects a particular set of constitutive ideas as in, Benedict Anderson’s ‘imagined communities’. See Chapter Two for a more detailed definition.

expect to see any intervention in the intrastate conflicts that underlie complex humanitarian emergencies. For one an intervention in the ostensibly internal affairs of a sovereign state would be a violation of the non-intervention principle embodied in the United Nations Charter.<sup>8</sup> Secondly, unless a complex humanitarian emergency poses a direct threat to the strategic interests of those states with the capacity to intervene (primarily members of the UN Security Council), one would not expect nation-states such as the great powers to risk troops and resources for a cause of questionable 'national interest'. Nevertheless, although humanitarian crises or complex humanitarian emergencies (CHEs) are by no means a new phenomenon, their centrality to debates on the use of force in international relations is new.

In the past, the international community of states rarely intervened in another state's affairs on humanitarian grounds. International principles of sovereignty and non-intervention that characterized the Westphalian system of states had prevailed for most of the last four centuries. Westphalian sovereignty has always involved some element of protection – of borders, territory, and rights of self-defense, among others, as set out in the United Nations Charter-- but individual human rights generally were perceived to be subordinate to the sovereign rights of nation-states. Under the circumstances, it is not clear why the international community would intervene in ostensibly domestic humanitarian crises at all. Moreover, following the

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<sup>8</sup> Article 2(7) of the UN Charter states explicitly: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state...." Similarly, Westphalian sovereignty is typically defined as referring to "the exclusion of external sources of authority both *de jure* and *de facto*." (Krasner, 2001: p. 232.; cf. Krasner, 1999)

earlier point regarding the justificatory function of norms, it is difficult to confirm the true grounds for any intervention. Just because the international community or some of its members proclaim a humanitarian motive does not mean that the intervention in fact serves that purpose. Similarly, an intervention may end up being humanitarian in outcome even if not in intent. This issue remains subject of significant debate and will be addressed more fully in subsequent chapters.

However, the persistent drama of forced displacement of civilians, the increased porousness of territorial borders due to globalization, and the greater visibility of non-state actors, ‘good’ and ‘bad’, on the international political agenda have led to greater attention being paid to collapsed or failing states and a more fluid notion of sovereign boundaries. This has led to a demise of the concept of absolute sovereignty and to the perception that sovereignty and the centrality of states in the international system are on the decline.

At the same time, the challenges and means of helping individuals in need have changed dramatically as armed conflicts and humanitarian relief increasingly occur simultaneously rather than successively as had been common practice until recently. Traditional peacekeeping has given way to wider conceptualizations of threats to peace and security that encompass humanitarian principles, human rights and more aggressive forms of peace-enforcement. Prior to 1988, 11 out of 13 military operations fielded by the United Nations carried out more traditional peacekeeping functions, e.g., monitoring cease-fires. In contrast, between 1988 and 1993 alone, 15 out of 20 peacekeeping operations qualified as “wider” peacekeeping

operations, i.e. in support of broader humanitarian and peace support goals.<sup>9</sup> But there remains a fundamental ambivalence regarding the use of force in humanitarian crises. “While the old rules of the game have evidently changed, the international community has found it extremely difficult to articulate a coherent set of principles and practices which are geared to contemporary circumstances.” (United Nations High Commissioner for Refugees, 1995:115) Nevertheless, a regime gradually has emerged to protect not only the rights of sovereign states but also those of individuals as governed by international human rights and humanitarian law.

Since the end of the Cold War especially, it became amply clear that the existing legal framework is a necessary but insufficient condition for safeguarding the rights and safety of individual citizens. Civil wars have claimed at least five million civilians or about 75% of civilian war casualties in the last decade alone.<sup>10</sup> Additional tens of millions have been forcibly displaced. Armed non-state actors and national militaries alike continue to attack civilians and civilian infrastructure. The line between civilians and combatants is often so blurred – the most egregious case perhaps being the refugee camps of Eastern Zaire after the Rwandan Genocide of

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<sup>9</sup> The exceptions to the pre-Cold War record were the 1960-1964 ONUC mission in the Congo and the UNSF in West New Guinea/Indonesia, 1962-1963. (Whitman and Bartholomew, 1995; Daniel, Hayes, and Oudraat, 1998)

<sup>10</sup> Whereas prior to the end of the Cold War, civilians constitute only about 5 percent of war casualties, they now account for more than 75 percent of all casualties in armed conflicts. The changing character of armed conflicts has been subject of a large academic and policy literature. For a comprehensive summary of trends, see e.g., National Intelligence Council, August 2001. This particular statistic has become a baseline figure within the humanitarian community to describe the changed context for humanitarian assistance post-Cold War. (Cf.: Independent Commission on International Humanitarian Issues, 1986; Annan, March 30, 2001).

1994- that civilian casualties are no longer merely ‘collateral damage’. The recruitment of child soldiers at unprecedented rates, the use of innocent villagers as human shields, the rape of women as an act of war, all demonstrate that civilians now are an integral part of the front line in today’s armed conflicts. Even humanitarian workers and UN peacekeepers themselves are increasingly at risk.<sup>11</sup>

Continuing violations of human rights as well as the volatility of states indicate that international protection norms are far from entrenched in the international community. In the face of dramatic violations of existing international human rights and humanitarian laws, the United Nations has stepped up efforts to create a “culture of protection” built on a series of guiding principles and Security Council resolutions to protect the forcibly displaced, humanitarian workers, children, and women in armed conflicts.<sup>12</sup> Yet, as a recent independent evaluation of United Nations peacekeeping operations chaired by Lakhdar Brahimi, and the most recent UNHCR State of the World Report point out, the international community frequently has failed in meeting the challenges of international protection. (United Nations High

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<sup>11</sup> As UN Undersecretary-General and Emergency Response Coordinator Kenzo Oshima pointed out in his 2001 report to the UN Security Council, between 1992 and 1998, 153 UN civilian personnel lost their lives while another 43 were taken hostage. Since 1998 alone, 198 have died and 240 became hostages. (Oshima, March 30, 2001)

<sup>12</sup> cf. UN Undersecretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Kenzo Oshima, “Towards a Culture of Protection.” Keynote Speech for the International Symposium on “the UN and Japan: What is the role of Japan in the 21<sup>st</sup> century UN”. June 10, 2001. cf also website of UN-Office for the Coordination of Humanitarian Affairs ([www. Reliefweb.in/ocha\\_ol/civilians/](http://www.Reliefweb.in/ocha_ol/civilians/)) for discussion of “Protection of Civilians in Armed Conflict.” The UN Security Council has considered and/or passed a number of resolutions in recent years concerned with the protection of civilians, internally displaced peoples, refugees, children and women in armed conflicts cf. UNSC resolutions 1261 (1999), 1265 (1999), 1296 (2000), 1314 (2000), 1379 (2001).

Commissioner for Refugees, 2000) The evidence suggests that a significant paradigm shift is underway; one that is transforming international relations from a system based on traditional power politics to one influenced perhaps as much by values as by national interests of member states.

Three aspects of the paradigm shift are particularly relevant to this study: the debate over the use of force, the role of forcibly displaced populations, and the process by which normative concerns enter and navigate the international agenda.

First is the debate over the use of force for purposes other than war and the redefinition of threats to security to include civilian populations displaced by violence. Beyond the underlying moral imperative to relieve human suffering in armed conflicts, humanitarian action, as distinct from traditional relief operations to provide food, shelter and medical care to civilians in need, raises some serious operational, political and legal concerns. Operations such as the recent humanitarian actions in Kosovo and in Afghanistan have blurred the lines between peacekeeping, humanitarian assistance and peace enforcement to an unprecedented degree, adding further fuel to the debate over the use of military resources and personnel in complex humanitarian emergencies. (Roberts, 1999) International military responses to CHEs lack clarity regarding the underlying assumptions and norms of protection. The linkage of military security and humanitarian protection also has serious implications for the practice of humanitarian principles such as neutrality and impartiality. Improved interoperability between agencies, institutions, and individuals with potentially very different agendas calls for a better understanding of the legal,



political, and cultural norms guiding each set of actors as a necessary precondition for successful interventions.

A second dimension of the paradigm shift concerns the role of forced population displacement in international relations. In many ways, the status of refugees and internally displaced peoples in world politics lies at the very heart of the competition between human rights and sovereignty as constitutive norms. Sovereignty implies a specific relationship between citizens and the central governing authority. In the case of CHEs, that relationship is either extremely tenuous or non-existent, raising the question of whose responsibility the protection of the citizenry actually is – that of the state of origin or, in the absence of a functioning, responsible state, some other entity? Sovereignty –however defined- appears to be subject to negotiation and contestation just as are individual rights. (Mandel, Fall 1997) Although there exists an ever-growing number of formal and customary laws, guiding principles and general awareness of the plight of forcibly displaced peoples, international responses to massive population displacements remain inconsistent and ad hoc at best. Forced displacement in this context not only poses significant protection challenges for the international community but also contributes to the increasingly prevalent perception of refugees and IDPs as a key concern for international security. They present a special problem for protection norms as they challenge more narrow perceptions of the underlying principles and force both the boundaries of sovereignty and humanitarianism.

A third issue relates to the processes of international agenda-setting and the relationship between international organizations and member-states. The 1990s were a decade of heightened activism but also of several setbacks for the UN Secretariat and the Security Council in numerous issue areas, not the least, in traditional humanitarian operations. (Malone, 1998) By the middle of the decade, however, the UN Security Council approached CHEs with much more caution and hesitance; sobered by failures earlier in the 90s, pressured by a Global South suspicious of an interventionist West, and anti-UN domestic politics in the US. Despite globalization, transnational security concerns such as those posed by CHEs have proven problematic for the United Nations bureaucracy to resolve when most of the international security decision-making structure resides with nation-states or their representative entities such as the UN Security council.

International agenda-setting takes place not only within the UN itself but is in fact a multi-tiered process involving domestic national politics, international organizations and transnational social movements and groups. Thus, beyond the UN institutional infrastructure, transnational and international networks, consisting largely of, but not limited to, non-governmental organizations (NGOs), have taken on an increasingly important role not only as advocates but also as implementers of human rights and humanitarian policies. Whereas such networks have been quite successful in promoting adherence to human rights at a national level, their track-

record in international humanitarian crises during this same time period is less clear-cut.<sup>13</sup>

Despite generalized consensus about the humanitarian imperative and norms at stake, problems of coherence, coordination, distinct organizational cultures, agendas and identities within and across networks surfaced frequently around complex humanitarian emergencies. Similarly, during this timeframe, regionalism enjoyed a renaissance of sorts and further complicated the international agenda. Empowered by the UN Secretary General's Agenda for Peace, for example, regional organizations were to take the lead responsibility for responding to problems in their 'spheres of influence' but frequently lacked either a clearly defined mandate (e.g., NATO in the Balkans) or the organizational capacities and resources for such a purpose. Although there have been significant improvements in humanitarian coordination during the past decade, the prevailing organizational culture and legal regime makes civil-military and official-non-governmental cooperation for the sake of humanitarian protection very difficult.

Beyond the more general issues outlined so far, this study is motivated by a more narrowly defined context, that of genocide and humanitarian crises in the African Great Lakes region. It is important to remember that the crises in the African Great Lakes followed on the heels of and coincided with several other highly contentious peacekeeping or –enforcement operations. The conflicts in Bosnia-

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<sup>13</sup> For a discussion of transnational advocacy networks in human rights see (Keck and Sikkink, 1998; Risse, Ropp, and Sikkink, 1999)

Herzegovina took center-stage for strategic and historic reasons. Europe and by extension the North Atlantic Alliance was almost exclusively occupied with this humanitarian crisis. The specter of the intervention in Somalia, understood by many policy-makers, but especially those in Washington, D.C., to embody humanitarianism gone wrong, haunted many subsequent operations and biased against any kind of humanitarian action in sub-saharan Africa. It elicited a deep-seated sense of casualty avoidance, i.e. intolerance for soldiers in body bags, which influenced US decision-making in particular for the remainder of the decade. Moreover, at the very moment that the Rwandan crisis broke out, Washington and at times the UN Security Council, were preoccupied with a looming humanitarian crisis on its own shores emanating from Haiti. The UN Security Council, concerned with the threats to democratization in Haiti, and the US, pressured in no small part by the African-American political community and by anti-immigrant conservative groups, were very much preoccupied with this small Caribbean island-nation.

These distractions notwithstanding, when one takes into consideration the existence of the Genocide Convention and the Universal Declaration of Human Rights, as well as the precedence set for interventions on humanitarian grounds in Iraq and Bosnia, it is difficult to comprehend why the international community did not act more precipitously to stop such gross violations of human rights in Rwanda.<sup>14</sup> If there ever was a watershed event to trigger humanitarian protection

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<sup>14</sup> Convention on the Prevention and Punishment of the Crime of Genocide. Adopted by the U.N. General Assembly on December 9<sup>th</sup>, 1948; Universal Declaration of Human Rights. Adopted by the U.N. General Assembly on December 10, 1948.

norms, this genocide that cost up to around 800,000 Rwandans their lives<sup>15</sup>, should have been it. Yet, the international community actively sought to avoid any kind of serious political-military engagement on humanitarian grounds; limiting its engagement instead to a focus on negotiations to end a civil war and traditional peacekeeping activities. While numerous explanations have been offered for the origins and events of the genocide in Rwanda, the focus here will be more directly on the implications of international action for the future of international humanitarian protection norms.

On April 6<sup>th</sup>, 1994, the plane carrying the Presidents of Burundi and Rwanda crashed, killing both and unleashing a massive genocide that claimed between 10 and 11 percent of Rwanda's population. The genocide itself lasted for 100 days but should not be seen as an isolated event. Rather it was the tragic climax to a larger, more complex humanitarian crisis. The crisis really began with the invasion of Rwanda by Tutsi rebel forces from the refugee camps of Uganda in 1990. It continued to escalate even as the international community sought to end the civil war with the Arusha Accords, signed in August 1993. The humanitarian emergency did not end with the genocide either. Instead, the massive forced displacement of over two million people as internally displaced people (IDPs) and as refugees in

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<sup>15</sup> The precise number of people killed during the genocide is not known. Estimates vary from 500,000 to 1 million. The most common and generally accepted figure is that approximately 800,000 lost their lives, but it is not clear how many of those deaths can be attributed directly to the genocide or to other causes related to the genocide. For lack of a precisely verified figure, I will use the 800,000 figure that has been the basis for most official evaluations of the genocide. (Prunier, 1997; Human Rights Watch, March 1999; United Nations, 15 December 1999)

neighboring countries of Zaire, Tanzania and Burundi among others, contributed to a series of ongoing humanitarian crises in Rwanda and other countries of the Great Lakes Region and a heightened state of insecurity that persists today. Concentrations of IDPs and refugees in areas particularly afflicted by extremists' attacks only reinforced the threat perceptions of the new Rwandan regime. In the face of repeated 'foot-dragging' by the international community, Rwandans emptied out displaced camps by force causing yet another round of humanitarian tragedies.

The wholesale influx of Rwandan refugees, including significant –and heavily armed- portions of the Rwandan civilian and armed leadership responsible for the genocide, contributed greatly to the subsequent series of humanitarian crises and the eventual collapse of the Zairian state. By late 1996, a rebellion in eastern Zaire joined forces with Rwanda's military pursuing Hutu extremists in Zairian refugee camps and launched a civil war. This led to the overthrow of Zaire's dictator Mobutu Sese Seko, and the establishment of the Democratic Republic of Congo (DRC) under Laurent Kabila with support from ethnic minorities and Rwandan forces in the East. Refugees and local populations continued to suffer both as targets and human shields for combatant activity and human rights abuses on both sides of the border. Continued regional instability meant that the second rebellion to break out in the DRC in August 1998 quickly escalated into a full-scale war involving much of the East-Central Africa. A cease-fire agreement, (the Lusaka Agreement) signed in December 1999, meant to end the war and humanitarian emergencies in the

DRC and effectively in the region as a whole with international oversight, appeared to have virtually no impact.

The Rwandan crisis posed a particular challenge for the international community. Although it attempted to intervene in the Great Lakes region repeatedly during the time period from the Arusha Accords of 1993 to the Lusaka Accords of 1999, the evidence shows that at critical junctures, these efforts reflected not only misunderstandings of the situation on the ground but also competing values and priorities among key actors. (Jones, 2001) Hence, international responses varied depending on which particular vision prevailed at any given point, and included both a wide range of humanitarian relief initiative to the deployment of peacekeepers. However, the international community failed to intervene sufficiently convincing to either stop genocide or prevent the subsequent humanitarian emergencies. What we find instead is a policy characterized by vacillation. The international community alternated between policies of diplomatic engagement and of withdrawal of the United Nations and key member states, civilian non-governmental organization, international armed forces and regional state and non-state actors. As noted above, it is this complexity that characterizes CHEs, making Rwanda an exemplary case-study of CHEs. Relevant actors seemed motivated on the one hand by the humanitarian imperative to “do something.” On the other hand, those constituent elements of the international community most capable of intervening proved to be either reluctant or unable to intervene with sufficient force and commitment to put an end to the crises.

International responses to the Rwandan crisis especially suggest that multiple norms or principles guided decision-making and humanitarian action. What explains this pattern of responses? An impressive array of assessments, UN resolutions, and calls for reform since the 1990s attest to the degree to which the international community has continued to struggle with the challenges of humanitarian intervention and the protection of civilians in armed conflicts. One significant step toward resolving the dilemma of international interventions in complex humanitarian emergencies that place humanitarian and sovereignty norms on a potential collision course was the International Commission on Intervention and State Sovereignty's report on "The Responsibility to Protect," published in 2001 after a year-long round of consultations and research. Initiated amidst much controversy and conducted under the auspices of the Canadian government, the report sought to move the debate from the more narrow and controversial focus on a "right to intervention" to the normative obligations that come with being a member of the "international community." It reflects a significant paradigm shift in the conceptualization of humanitarian intervention not as a right of intervention but as responsibility. The report suggests that while differences remain in the international community's intervention approaches, there is considerable convergence around the notion that sovereign and individual human rights may not be mutually exclusive. Rather the sense is that states, or in the absence of a functioning state, its neighbors, and/or international institutions should intervene whenever human rights are at risk. Nevertheless, the experiences in the Great Lakes crises shows how defining what we



mean by protection, whether legal, physical, or political and by what means, has been both contentious and revolutionary.

### **Problem Definition**

There are two fundamental problems associated with international protection norms. One, it is important to clarify what international interventions really protect: sovereignty or individual humanitarian needs and rights? Second is the challenge of operationalizing the very abstract concept of norms influence. Even as international rhetoric in favor of human rights and humanitarianism has steadily risen in prominence since the late 20<sup>th</sup> century, international behavior has not necessarily kept pace.<sup>16</sup> The Geneva conventions, for example, merely establish an implicit obligation among states to respond to human rights violations. They cannot in fact enforce military action. The challenge of international protection in complex humanitarian emergencies is not so much one of finding the appropriate legal framework, albeit important, but in how the existing normative framework is expanded, translated, and implemented in policy and field operations. How does one recognize a norm “in action”?

Due to the vast variety of circumstances and conflicts that may warrant some form of protection, it is difficult to identify a single concept of protection, let alone a single set of values underlying the concept. Only recently have definitions of “international protection” begun to converge to around a common definition centered

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<sup>16</sup> The global human rights movement gained significant political momentum with U.S. President Jimmy Carter’s adoption of a human rights approach to foreign policy in the late 1970s.

on “all activities aimed at ensuring full respect for the right of the individual in accordance with the letter and the spirit of the relevant bodies of law, ...conduct[ed] in an impartial manner.” (International Committee of the Red Cross, May 2001: p. 19) By the end of the decade, human security has come to be defined as “the security of people –their physical safety, their economic and social well-being, respect for their dignity and worth as human beings, and the protection of their human rights and fundamental freedoms.” (International Commission on Intervention and State Sovereignty (ICISS), December 2001:15; cf. Thomas and Wilkin, 1999) Even with a generally accepted definition, we are far from a consensus on the implications of human security for the practice of humanitarian assistance and intervention. Even with the publication of a consensus document as the ICISS report, there remains considerable confusion over the meaning and application of fundamental humanitarian principles of impartiality, neutrality, and human rights -- principles that aim to protect human life as well as the identity and interests of members of international society. Practitioners and scholars continue to debate not only the implications of linking security and humanitarian activities but also how to actually implement a principled, rights-based approach to humanitarian action on the ground. This dissertation therefore considers how key components of what generally is referred to as the “international community” – the United Nations, its member states and constituent agencies; international or transnational and local NGOs, military and government officials- and other concerned parties to humanitarian actions have been influenced by and shape an emerging normative framework of

international protection increasingly linked to notions of international security. It asks why a threshold case for human rights norms such as the Rwandan genocide did not elicit a more forceful and concerted military response from the international community.

The puzzle of failed interventions in Rwanda and the Great Lakes region requires that we look more closely at the meaning of norms and values in international relations as claimed by the social constructivist school of thought. Even if one accepts a principled, norms-driven approach to international relations, how does it fare under competitive conditions when confronted with sovereignty, one of the most fundamental organizing principles of the global order. "...[S]tates and armed opposition groups, as well as other less traditional actors, are challenging conventional notions of territorial sovereignty and insisting upon greater accountability." (Weiss, Winter 1994:109-110) Traditional principles of sovereignty and non-intervention may continue to operate but no longer hold a position of absolute primacy. The situation also requires one to look beyond the legal principles and consider sovereignty as one type of protection norm. By definition, sovereignty includes a state's responsibility to protect its citizenry. For example, the Guiding Principles on Humanitarian Assistance, adopted by the General Assembly in 1991, state that the primary responsibility for the protection of civilians rests with Governments.<sup>17</sup> Article 3 of the Geneva Conventions of 1949 and customary law

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<sup>17</sup> General Assembly Resolution (A/res/46/182) was adopted at the 78<sup>th</sup> Plenary Meeting during the 46<sup>th</sup> session of the UNGA on December 19, 1991. It built on earlier

also holds armed groups responsible for the protection of civilian populations under their control. Yet, the growing number of collapsed or failing states makes it difficult to hold any one state accountable solely on formal legal grounds. Under such conditions, can one even speak of international or universal norms?

During competition, there are at least two possible outcomes. First, one norm might trump the other and lead to an outcome clearly associated with the values and principles associated with the dominant norm. Thus, in responding to humanitarian emergencies, the international community may be forced to violate one or the other internationally recognized principles of protection, opting to defend either sovereignty or individual human rights. Alternatively, neither norm emerges as a clear “winner,” resulting in an indeterminate, outcome or no action at all. The international community may try to accommodate both sets of principles, sequentially or simultaneously during a humanitarian crisis. Knowing how these choices are made and implemented in specific crisis situations leads to a more concrete understanding of the policy impact of identity norms and the role of humanitarian values in the international system in general.

### **Scope of Research**

My primary hypothesis is that the greater the convergence between competing protection norms – sovereignty, human rights, and humanitarianism- the more likely a humanitarian intervention will be. Relatedly, I explore the conditions under which protection norms inform or even influence decisions to use military

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resolutions related to humanitarian assistance passed in 1971 (UNGA Res. 2816) and in 1989 (44/236).

force. Factors to be considered include the role of “norms entrepreneurs,” salience, institutional capacities, and political will. At a theoretical level, I approach these questions drawing on social constructivist approaches to international relations and domestic agenda-setting theories. The social constructivist school of international relations suggests that international norms play an important role in triggering policy responses.<sup>18</sup> Therefore, one explanation for the existing pattern of humanitarian action could be that international norms of protection compel the international community to act accordingly. However, constructivists also have argued that while norms matter or make a difference in the process and outcomes of international relations one cannot draw a direct cause-and-effect link to outcomes. (Finnemore, 1996b) Although there exists a growing body of literature on the origins, evolution and diffusion of international norms<sup>19</sup>, we still lack a thorough understanding of the means by which norms are operationalized (if at all) and effect policy responses. By considering situations in which two specific norms –sovereignty and human rights– are pitted against one another, as in complex humanitarian emergencies (CHEs), it may be possible to trace the process by which norms influence the international

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<sup>18</sup> See, for example, Wendt, Spring 1995.; Finnemore, 1996a; Katzenstein, 1996; Klotz, 1995. Ted Hopf offers a succinct summary of the constructivist contribution to international relations. “In the absence of norms, exercises of power, or actions, would be devoid of meaning.”(Hopf, Summer 1998:173).

<sup>19</sup> Most notable is the work done by social constructivist theorists such as Kratochwil, 1989.

system, and the degree to which any institutional learning; i.e. normative evolution, has occurred.<sup>20</sup>

The assumption underlying this project is that decisions to intervene, militarily or otherwise, in humanitarian emergencies are a function of some combination of the intervenors' interests, capabilities and perceptions, the geo-political context or constraints at the time of the crisis, prevailing values and norms. It therefore is necessary to consider several corollaries to the core questions posed at the outset, such as the specific types of protection norms and their relationship to one another, and the relationship between these norms and states' or 'national' interests. One needs a sense of the organizational/institutional arrangements and coalitions that propel these norms and interests forward on the international agenda.

To this end, I apply a policy agenda-setting model (Kingdon (1984/95); Baumgartner & Jones (1993)) to uncover the process by which international norms translate into policy outcomes. This model argues that agenda items rise to the top of the political agenda as a function of three key variables. Agenda, or in this case, norms entrepreneurs are the individuals or organizations that advocate and push a particular agenda item. In the context of complex humanitarian emergencies, these include the key member states and organs of the United Nations, humanitarian and human rights non-governmental organizations, armed forces under international auspices, and the war-affected populations. The second factor is the institutional

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<sup>20</sup> I use the term 'learning' rather than 'evolution', because it takes into account human knowledge and cognitive factors more than the latter, biologically-driven concept.

capacity required to support the agenda item or norm. Thirdly, successful agenda-setting relies on issue salience, i.e., how relevant the issue is to the public and organizational debate, media attention, and initial problem definition. To this list I have added a fourth factor, the presence or absence of political leadership and will to promote (or constrain) a particular norm.

Combining social constructivist theory with an agenda-setting framework thus allows me to identify patterns of perception or persuasion, coalition- and consensus-building that might account for the state of humanitarianism within the United Nations today. Which principles prevail under conditions of armed conflict and forced displacements and how? In other and words, we want to know who sets the international humanitarian intervention agenda and how. The study relies on a combination of process-tracing and structured focus comparisons (interviews, content analysis, and case study) in the region, the United Nations, and key member states such as the United States. The case in question – the larger complex humanitarian emergency surrounding the Rwandan Genocide of 1994- produced significant population displacements and forced the international community to make an intervention decision of one kind or another. Although focused on humanitarian crises in the African Great Lakes region to control for geo-politic differences, this analysis is embedded in a broader historical and international context. For example, both the interventions in Somalia in 1992/1993 and in the Balkans had a direct impact on international responses to the Rwandan Genocide and subsequent wars in Eastern Zaire during the 1990s. By the same token, the debate over humanitarian

intervention in the Great Lakes region has shaped the broader debate and evolution over protection norms in the international community.

### **Case Selection Rationale**

In order to demonstrate and test my abstract model of norms competition, I focus on international responses to the humanitarian crisis in the African Great Lakes region during the 1990s. Centered on events surrounding the Rwandan genocide of 1994, the case investigates the nature and consequences of competing norms of protection in the context of complex humanitarian emergencies. Although focused on humanitarian crises in the African Great Lakes region to control for geo-politic differences, the analysis is embedded in a broader historical and international context and references are made to other complex humanitarian emergencies.

Why Rwanda and the African Great Lakes humanitarian crises? By all accounts, Rwanda should have been a threshold case for humanitarian protection norms that emerged since World War II. In other words, if there is any situation that crosses the threshold of existing norms against the violation of human rights and for invoking the principles of international humanitarian law (IHL), clearly the Rwandan case has met this threshold. After all, to quote the late Father Sibomana of Rwanda, one of the fundamental differences between the German Holocaust of fifty some years ago and the Rwandan genocide of 1994, is that “[b]etween these two dates, genocide was declared unlawful. Treaties were signed, courts were invented, institutions were created. The world was rebuilt around the notion of genocide for the purpose of preserving its humanity. And yet, genocide took place in Rwanda



...before your eyes, thanks to the television crews. How is that possible? We have to admit that international mechanisms are still not adequate. ... There is an obligation to assist a people whose survival is at risk. What was done?" (Sibomana, 1997:98)

Some would argue that Rwanda is actually a poor choice for the study of humanitarian norms because it was an exception to a series of CHEs where military interventions, e.g. Bosnia and most notably Kosovo – the first instance of military humanitarian war - and/or political interventions, e.g. East Timor, did take place.<sup>21</sup> Nevertheless, there are several empirical and methodological reasons why the Rwandan complex humanitarian emergency is an excellent platform for testing the strength and policy impact of humanitarian norms. Rwanda certainly is a compelling case in terms of sheer magnitude of crisis, Here was a case where approximately 800,000 citizens were killed in only 100 days <sup>22</sup>, and millions were displaced as a result of targeted violence designed to eliminate a particular ethnic group and political class. The evidence for genocide/politicide in hindsight was overwhelming, but more importantly was largely known by key figures within the international community and yet did not force an implementation of existing norms embodied in

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<sup>21</sup> For a discussion of the concept of humanitarian war and the events surrounding NATO action in Kosovo, see Roberts, Autumn 1999, and Minear, Baarda, and Sommers, 2000.

<sup>22</sup> Michael Barnett drives home the magnitude of the crisis by pointing out that during the period April-June 1994, 800,000 people were killed at an overall rate of 333 1/3 deaths per hour or 5 1/2 deaths per minute. The rate was even more accelerated during the first four weeks of the genocide. (Barnett, 2002:1). Another dramatic analogy likens the rate of death during the Rwandan genocide during a single day as exceeding "by at least a factor of ten the percentage of U.S. population killed throughout the entire Vietnam War." Jones, 2001: 2). Add to that the people killed or suffering due to forced displacement, disease and famine following the genocide, and the death rates are even higher.

the so-called “Geneva conventions.” Moreover, the UN operation in Rwanda (UNAMIR I and II) was one of the most ‘significant multifunctional operations’ for the UN, and had a direct impact on future responses to humanitarian crises caused by the first and second civil wars in the DRC. (Weiss, 1995:4)

The Rwandan case also is interesting from the point of explaining norms contestation over time. If one accepts the notion, that systemic shocks, ‘sharp discontinuities’ or ‘focusing events’ can lead to fundamental revisions in core beliefs or policies, then one can imagine few more dramatic focal points than genocide. (Steinbruner, 2000:22; cf. Birkland, 1997). The Great Lakes CHE can help us operationalize the process of norms contestation and perhaps measure more accurately the degree of norms influence on international relations. At the same time, if one accepts the definition of complex humanitarian emergencies provided earlier and that the Rwandan crisis extends well beyond the genocide itself into what Mary Robinson and others have called a “cycle of impunity”, then this case perhaps offers some insights into the long-term relationship between the principles of non-intervention and rights to intervention and humanitarian protection. In other words, can one speak of a process of ‘normative’ learning at all and, if so, what is it?

With this focus, the study differs from but also adds to the current body of work on complex humanitarian emergencies and the Rwandan case in several aspects. First, this is not a study of genocide. It is a study of complex crises, which in the case of Rwanda included but were not limited to genocide. It thus covers the entire range of issues from genocide prevention to refugee assistance and post-

conflict reconstruction. It considers issues related to peacekeeping, humanitarian assistance and refugee relief, development, and human rights in a more holistic manner than the more common one- or two-dimensional assessments of the Rwandan case do. In this way, the study should illuminate more explicitly why cases such as Rwanda are so difficult to resolve.

Secondly, rather than focusing on the origins of the crisis, this case study focuses on international reactions and consequences; more specifically on the underlying interpretations and motivations. That is not to discount the importance of root causes for effective conflict management as others have noted [cf., Gurr, 2000, Jones, 2001, or Scherrer, 2002], but to embed them in the broader international context in which they have occurred. Thirdly, contrary to the more typical assessments of humanitarian intervention focused on the legitimacy and effectiveness of such operations, this study takes a step back to the decision point that precedes them. It asks about the factors at multiple levels of analysis that influence international decisions to intervene politically and militarily in humanitarian crises. Specifically it asks about the role norms play in such decisions. The case attempts to provide an overview of how different kinds of protection norms affected the policy outcomes. It focuses on the key agents and structural constraints and opportunities within the international community, including the United Nations, key member states and regional organizations, international and local non-governmental actors, military and civilian personnel. Although focused on the period

of 1993 to 1996, some of the factors considered necessarily extend beyond this time frame.

The Rwandan case moreover is valid from a methodological standpoint as discussed in the section below.

### *Selection Criteria*

Most of the recent complex humanitarian emergencies have occurred in sub-Saharan Africa. However considering the entire subcontinent would not provide sufficient controls. I therefore have chosen a case encompassing a series of CHEs in a single region within Africa: the African Great Lakes region, generally defined to include Rwanda, Burundi, the Democratic Republic of Congo (DRC), Tanzania, Uganda and Kenya. Some also include Congo (Brazzaville), Angola and Zimbabwe. For purposes of this study, I have narrowed the focus further to center on Rwanda and the immediate spill-over into the former Zaire/Democratic Republic of Congo. This more limited scope reflects not only the scope of research, but also the importance of this set of CHEs for other conflicts and crises in the rest of the region.

In selecting this case I have followed guidance offered by scholars such as Stephen van Evera and Raimo Väyrynen. (Van Evera, 1997; Väyrynen, 1996:35ff) According to Väyrynen, Rwanda constitutes a strong case of complex humanitarian emergencies, where people have experienced deep suffering on all dimensions of the “four apocalyptic horsemen” of war, disease, hunger and displacement. (Ibid:36-36) On all counts, whether number of deaths from violence or displacement, Rwanda ranked among the most serious CHEs (together with Afghanistan, Sudan, Iraq,

Bosnia, and Somalia). With approximately 2.5 million or nearly one-third of the population at risk, Rwanda certainly meets the criteria for CHEs used by the National Intelligence Council noted earlier. Although precise statistics are not available, estimates suggest that the Rwandan CHEs have forced the displacement of upwards of two million people, further qualifying the Rwandan crisis as a CHE.<sup>23</sup> At the height of the humanitarian crisis after the Genocide, approximately 26% of Rwanda's population was forcibly displaced; 1.5 million were refugees and 500,000 internally displaced. These numbers have dropped considerably in the past decade, but even as late as 2001, the U.S. Committee for Refugees still reported more than 60,000 refugees and at least 150,000 IDPs. (United States Committee for Refugees, 2001) Finally, the Rwandan case is particularly suitable to understanding of man-made CHEs. Although certainly compounded by natural disasters such as drought conditions, the humanitarian crises in Rwanda were primarily attributable to economic and political sources.

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<sup>23</sup> Population displacement data for Rwanda is highly problematic. Due to lack of access to large areas of Rwanda, the DRC and other parts of the Great Lakes region known to host Rwandans, UNHCR and other officials have not been able to collect the necessary data for a precise estimate. (United States Committee for Refugees, October 2, 2001) This problem affects the estimates not only in that it is difficult to reach refugees and IDPs to give a more accurate head-count, but also that many of the so-called refugees may in fact not qualify for refugee status because of their involvement in the genocide. (United States Committee for Refugees, October 2, 2001) This figure includes not only the more than 1.5 million refugees of the Genocide but also refugees from previous massacres in Rwanda in 1959 and 1973 respectively. These populations are included in the estimate because they not only contributed significantly to the course of the 1993-1996 crisis, but also because many of these "old-caseload" refugees returned to Rwanda after the genocide, making repatriation an even more complex and volatile than would have been with only the 'new' refugees. (United States Committee for Refugees, 2002)

Selection criteria focused on those deemed useful for theory testing such as data richness, variations in the dependent variable (i.e. whether or not a decision to intervene militarily was taken and how) and of within-case variations of the intervening variable, divergence in predictions of competing theories, and intrinsic importance and appropriateness of the cases for broader policy application. The Rwandan case is especially sufficiently data-rich for process-tracing, a strong method for theory testing according to Stephen Van Evera. (Van Evera, 1997:47ff)

I selected to study the Great Lakes region of Africa because, in general, CHE's in the area shared similar characteristics, including geographic, regional, cultural and political characteristics, and similar or same sets of actors, origins and course of the complex humanitarian emergencies. Each phase of the crisis Rwanda involved a significant forced displacement of population. And every instance has provoked a question of or debate over humanitarian intervention, albeit with varying outcomes. For example, in 1993/1994, the United Nations debated extensively and authorized a peacekeeping mission to Rwanda but did not actually intervene militarily to halt the genocide and subsequent humanitarian crisis. Only the French and Belgians deployed military forces. In 1996, the international community debated military intervention but ultimately decided against it. Instead we saw a military intervention by regional powers, largely to protect (or assert) their sovereignty claims. In 1998/1999, the United Nations did eventually authorize a peacekeeping mission (MONUC) for humanitarian protection purposes. Therefore, understanding the Rwandan case, should also tell us something about other CHEs in the region.

In addition to the being able to control for geography and actors, as well as meeting case selection criteria appropriate for theory testing and process-tracing, a third rationale for this case selection is the ability to trace variations over time. In light of the evolutionary claims made by social constructivists about the emergence and diffusion of norms as well as the agenda-setting dynamics, it is important to trace norms influence and competition over time.

#### *Rationale for Single Case Study Approach*

As mentioned above, “a thorough process-trace of a single case can provide a strong test of a theory;” in this case the social constructivist theory of competing norms influence. (Van Evera, 1997:65) Several factors make a single case study approach preferable to statistical analyses for the study of this research question. First is the limited number and robustness of observational data. Humanitarian interventions constitute a small percentage of international responses to crises. It thus would be difficult to assemble a sufficiently large sample to conduct any meaningful statistical calculations. Furthermore, just as John Ruggie has warned scholars, to be cautious about making causal claims about international regimes for lack of causal variables that are subject to manipulation, so too should one approach international norms with caution. (Ruggie, 1998:93) Ruggie and others instead recommend using a narrative form of explanation, since approach reflects more accurately the socially constructed nature of international policies. (Ruggie, 1998:86). Tim Buethe in a recent APSR article furthermore points out that historical narratives can better capture the changing dynamics of social constructs such as ideas or norms, than

models based on assumptions of stable institutional contexts and stable preferences. (Buethe, September 2002:487ff) Historical narrative allows one to pull out the interactions that affect the explanandum –in this case international responses to CHEs- over time. However, I believe that the operationalization of norms can make an important contribution to improving the prospects for future large-n quantitative assessments of norms competition.

### **Significance**

This topic and method of investigation is significant from both a policy and a theoretical perspective. More importantly, the Rwandan case specifically has special meaning for the study and practice of international relations. The Rwandan case demonstrates how the process of norms contestation influences international decisionmaking and policy outcomes. Considering the Rwandan case from the perspective of norms competition allows one to understand the non-linear path of normative evolution. Embedded in the longer timeline of the past decade, the Rwandan case provides evidence for the hypothesis that we are in a period of normative transition, in which multiple norms co-exist and new norms, while gaining in international political prominence, are not yet capable of a fundamental “paradigm shift.” For practitioners, understanding the Rwandan crisis has and continues to offer an opportunity to refine the set of criteria and institutional capacities needed for humanitarian interventions.

### *Significance of Topic*



From a policy or international relations perspective the most compelling argument for this study is that virtually no part of the world has been spared some form of humanitarian crisis. Furthermore, by their very definition, complex humanitarian emergencies demand a rapid and multi-dimensional response for which the international community remains largely ill equipped and ill prepared. Complex humanitarian emergencies present the international community with numerous policy dilemmas for which there do not currently exist ready answers.

Aside from the number of casualties of war, the human costs remain high. The United Nations and its humanitarian military and civilian partners currently track at least 19 complex humanitarian emergencies (CHEs), at an estimated cost of \$2.8 billion to reach an estimated 44 million persons in need of life-sustaining assistance. (United Nations Information Service, 24 May 2001) While this is not a very large amount, the opportunity costs for socio-economic development resulting from even this small diversion of resources away from the longer-term development enterprise are significant. As of 2000, the international community fielded 15 peacekeeping missions worldwide with approximately 38,000 military personnel and police, overwhelmingly from developing countries. (U.S. Committee for Refugees, June 13, 2000) Even with current budgetary shortfalls, international responses to humanitarian crises and peacekeeping needs have claimed an enormous amount of financial resources as well as human costs. According to the U.S. Committee for Refugees, “the number of people forced from their homes by violence and repression stood at more than 35 million at the end of 1999, compared to the fewer than 29

million uprooted people in 1990.” (U.S. Committee for Refugees, June 13, 2000:1)

Of those At last count, the UN High Commissioner for Refugees had assumed responsibility for 19 million displaced individuals, down from 22.3 million two years ago but presumably a fraction of those in need in situations of armed conflict, at a cost of more than one billion US dollars. Included in this estimate is a growing population of internally displaced (IDPs) who have not crossed international borders but who have been forced to leave their homes and livelihood. Complex humanitarian emergencies and their consequences are likely to remain integral components of the international order requiring a more systematic approach of long-term resolution and prevention. Consequently, society as a whole suffers as virtually all standard economic and social indicators deteriorate further. (Brown, Loescher, Weiner) In an age of CNN and globalized information flows, the international community has been hard pressed not to respond to CHEs. Recent estimates produced by the International Rescue Committee, for example, state that since August 1998 nearly 2 million people have died in the 22-month civil war in the eastern Democratic Republic of Congo alone. In addition, the number of people ‘of concern’ to the UN High Commissioner for Refugees steadily increased over the course of the last decade, from 14.9 million in 1991 to a high of 27.4 million (1995) and as of 2001 to 21.8 million. This figure includes not only 12 million refugees but also another 6.4 million IDPs. (The International Rescue Committee, June 8, 2000)

Often humanitarian emergencies occur in areas already struggling to develop economically and politically and exacerbate chronic disparities and shortages. My

dissertation research thus considers how the United Nations and other concerned parties to humanitarian actions can effectively protect civilians' lives and rights in war-torn regions. Contrary to many other regions of the world, Africa has been largely marginalized by the international system. With the exception of concern over the spread of HIV, little attention is paid to the continent or its security needs by anyone other than Africanists. Yet, sub-Saharan Africa has the dubious distinction of being the home for the majority of complex humanitarian emergencies, the largest number of fatalities from hostile acts in UN peacekeeping and humanitarian operations. Africa accounts for one-third of the world's forcibly displaced people. Moreover, given the chronic under-funding of African assistance operations, it is likely that the continent will remain vulnerable to humanitarian crises and conflicts.

### *Significance of Research*

The question of competing international norms of protection in humanitarian emergencies also has theoretical significance. For one, it allows a closer, empirically grounded examination of several claims made by social constructivists regarding the explanatory power of norms in international relations as well as structure-agent interaction. The process by which some norms become more compelling than others remains largely unexplained. (Finnemore and Sikkink, 1998) Recognizing a norm is imprecise and difficult, measuring its impact even more so. Thus, it is important to reduce the level of uncertainty and vagueness that still plagues many normative or interpretive IR theories. Similarly, social constructivists argue that structure (the international system) and agents (states and other relevant units within the

international system) are mutually constraining and constitutive. (Wendt, 1999)

Neither the international system nor its agents exist a priori but rather are defined and shaped by their interaction, ideas, and culture. But here too, the approach suffers from an under-specification of how social construction actually takes place. This project can make a three-fold contribution to international relations theory. First, an empirically grounded understanding of the relationship between military interventions and forcibly displaced populations can provide the basis for more effective international policy responses to a chronic global security problem. Second, it offers an empirical test of the social constructivist approach to international relations which argues that a) norms matter and b) that agents and structures interact to produce change in the international system. Third, this thesis will contribute greater operationalization to the constructivist literature by applying a domestic agenda-setting model to the process of normative influences on policy outcomes.

While there is a growing body of literature about peace operations, missions other than war, and humanitarian intervention, most of it is either purely descriptive or policy oriented. There has been relatively little theory building in this field. . (Paris, 2000) Third, although rooted primarily in political science, this topic promotes a more crosscutting, interdisciplinary approach to international relations. It draws on ethical and cultural theories, social movements' theories as well as theories of policymaking. It also fills an important gap in our knowledge of international, as opposed to domestic, agenda-setting setting. In so doing, it breaks down further the barriers between domestic politics and international relations.

With this dissertation I am to make several theoretical and practical contributions to the study of international norms. It enhances our ability to pinpoint the precise mechanisms by which norms of international protection assert themselves in the international community and shape decisions to intervene in humanitarian emergency with military force. This work offers some empirical results for constructivist assertions that norms matter and that agent-structure interaction are indeed mutually constitutive. Finally, I take the model of norms competition presented over the course of the next chapters to be intimately tied to distributions of power. This appears to be the case especially in the issue areas related to national and international security concerns.

### **Chapter Overview**

As laid out above, my goal is to examine how norms are likely to be operationalized to produce a particular humanitarian intervention (or non-intervention) outcome. I use a case study approach and apply an international agenda-setting model adapted from domestic politics to trace the process by which competing international norms of protection led to particular intervention outcomes in response to the Rwandan genocide of 1994 and broader humanitarian crisis surrounding the genocide both in Rwanda and the Democratic Republic of Congo (Zaire).

Chapter Two introduces the research question in greater detail. In this chapter I present my research design and model of international normative agenda-setting.

Together with the following chapter, this chapter constitutes the core and primary aim of the dissertation: to offer a methodology for answering the “how” question regarding the role of competing norms in international relations. Relying on the social constructivist framework presented earlier as well as existing research on problem definition and agenda-setting, primarily in American public policy, I develop a set of analytic tools that should be applicable and replicable for the study of any complex humanitarian emergency. I aim to illustrate how the competition took place at three different levels of analysis: international or systemic, at the societal or national level, and finally at the level of institutions and individual decision makers. It posits four key factors that determine the relative influence of any given norm: so-called ‘norms’ entrepreneurs, institutional capacity, norms salience, and political will or leadership.

This chapter concludes with a presentation of historical evidence for the validity of a “punctuated equilibria” approach to change in international relations. It briefly reviews developments since the first United Nations humanitarian intervention in the Congo in the 1960s (ONUC, 1961-1964) that have transformed the humanitarian intervention debate from one focused primarily on rights to one focused more on the notion of global responsibility.

Chapter Three provides a literature review and theoretical framework for the study of competing norms. The framework relies on a social constructivist perspective but draws on other schools of thought to compensate for certain weaknesses in constructivist theorizing. It shows how norms relate to other

influences over international relations and emphasizes the ‘ethical’ or ‘normative’ and identity-forming function of social norms. With this chapter, I situate my own work within a ‘realist’ form of social constructivism.

In Chapter Four I explain key concepts that contribute to the research question. Specifically, this chapter identifies my conceptualization of ‘the international community,’ contested sovereignty and the meaning of citizenship in this context. I elaborate on the concept of complex humanitarian emergencies and suggest that one think of complex humanitarian emergencies as a space of contestation not only between competing notions of sovereignty and citizenship, but also between the different objects of protection, i.e., state security and rights or individual security and rights. The competition manifests itself primarily through the forcible displacement and endangerment of civilian populations in conflict situations. Complex humanitarian emergencies are the platform for thinking about refugees and internally displaced peoples as a larger problem of international security and sovereignty. I then define the three international protection norms at stake here: sovereignty, human rights, and humanitarianism. The chapter concludes with an overview of the debates on humanitarian intervention as the second nexus of contestation for international norms.

In chapter Five, I apply the theoretical model to a case study of the complex humanitarian emergency in Rwanda and the African Great Lakes from 1993 to 1996. The crisis begins with the Arusha Accords of 1993, traces the events leading up to the 1994 genocide and subsequent refugee crisis. It concludes with a discussion of

the implications for the region, especially subsequent humanitarian crises in Zaire/Democratic Republic of Congo. The chapter sets up the Rwandan crisis as a test case for the theory of competing international humanitarian protection norms. It characterizes the international responses to the crisis more accurately than usually portrayed, as a mix of responses derived from the underlying contest between concepts of humanitarian, human rights and sovereignty protection. This chapter also sketches the process by which contested norms and feedback loops affected subsequent crises in Zaire/Democratic Republic of Congo. It considers possible interaction effects and the structural context that influenced the international community's response to the civil war of 1996 and the wider war of 1998. Finally, Chapter Six concludes this study by elaborating on the conditions that determine the nature and implementation of humanitarian intervention outcomes.

This study, in short illustrates not only the normative dilemmas but also their consequences for international humanitarian policy and action in the context of armed conflicts. For example, rising expectations under conditions of limited capacities and declining legitimacy pose particular problems for the United Nations as a credible guarantor of human security. A better understanding of the legal, political, and cultural norms guiding the international community thus is a necessary precondition for successful protection of civilians caught in armed conflicts.



## **Chapter 2**

### **INTERNATIONAL AGENDA-SETTING: A DYNAMIC MODEL OF COMPETING NORMS**

In this chapter, I elaborate on the research questions posed in Chapter One. Here I present the premise underlying the research puzzle, issues of norms operationalization and the research design for the project. A punctuated equilibria-model derived from the public policy agenda-setting and problem definition literature offers one possible explanation for the process by which three competing norms protecting sovereignty, human rights and humanitarianism are constituted, framed and interact with international structures and agents to produce intervention- (or non-intervention) outcomes. The chapter concludes with a brief historical overview of the evolution of punctuated equilibria for international protection norms in the context of complex humanitarian emergencies.

#### **The Research Puzzle**

The concern of this thesis is to answer the question “how do we know a norm when we see one?” I assume that a) norms matter in international relations; i.e. that international relations are principled and not driven by motives of utility-maximization alone; and b) that multiple norms co-exist with varying degrees of compatibility or convergence. I will develop this assumption in greater detail below.

More concretely, to examine the dynamics of norms competition empirically, I ask: How do competing international protection norms affect the international

community's responses to complex humanitarian emergencies over time? This question breaks down into two parts or sub-questions:

- 1) Under what conditions is a military intervention to protect forcibly displaced populations likely?
- 2) What accounts for the rise and fall of human rights and humanitarian principles on the international political agenda; i.e., which mechanism move principles through the political process?

Answering the first sub-question helps to identify the relevant variables the impact that any given norm is likely to have on policy-outcomes; in this case humanitarian intervention outcomes. It forces us to consider systemic, group and individual decision making level factors. The second sub-question allows us to consider the process of norms competition and 'normative learning' not just vertically (as the first part does) but longitudinally.

The dissertation considers the conditions under which humanitarian and human rights protection norms will prevail over considerations of national interest and sovereignty. The research puzzle thereby engages a broader debate on the emergent concept of 'human security'. The notion of protection and humanitarian intervention are integral components of what appears to be a broadened definition of peace and security. By specifying the conditions necessary for the use of force for essentially non-military purposes and for the active engagement of humanitarian protection norms, this study should help to provide analytic rigor to a still rather

fuzzy conceptualization of security centered on the individual rather than nation-states alone. (Annan, 1998).

Theoretically, these questions aim to deepen our empirical understanding<sup>24</sup> of the influence of norms on policy outcomes as well as the specific dynamics of norm contestation in international policy processes. For policy practitioners, this study hopes to offer some guidelines for the more systematic application of ‘human security’ in future humanitarian crises. The dissertation aims to present a set of analytic tools that can be applied to any case of norms competition.

Empirically, it also offers an explanation for the puzzling response on the part of the international community to the tragedy of the Rwandan genocide in 1994 and its consequences for the region. With the end of the Cold War, human rights norms were considered to be on the rise and circumscribing sovereign authority to an unprecedented degree. Not only had the human rights movement gained in strength and numbers, but an increasing number of nation-states were succumbing to international pressures to improve their own human rights record. At the same time, traditional security concerns such as arms control and the proliferation of weapons of mass destruction, were thought to be giving some ground to factors threatening ‘human security’; i.e., famine, disease, poverty, and crime. Interstate conflicts were eclipsed by civil wars and intra-state conflicts, leading the permanent five members

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<sup>24</sup> The use of the term “understanding” rather than “explanation” is critical to the methodology employed here. The emphasis here is on the constitutive rather than causal links between norms and outcomes. I will return to this distinction, building on Alexander Wendt’s Social Theory (1999) and Martha Finnemore’s discussion of norms as “enablers” later in this chapter.

of the United Nations Security Council, for example, to invest greater resources in peacekeeping efforts. Instead of ‘bombs and bullets’, the new arsenal of military forces in the United States and its allies was to include an armed force trained in maintaining and even reconstructing a peaceful international order through policing, monitoring of peace treaties and other “missions other than war.”

Although of ambiguous legal status, military interventions for humanitarian purposes – either to protect civilians at risk, to rescue failed states, or to sustain new democracies and their anticipated commitment to human rights- were anticipated to be the norm for the twenty-first century. Indeed, the international community intervened in Northern Iraq, in Haiti, in Somalia, and in Bosnia. An international peacekeeping force was even deployed to monitor the peace negotiations underway in the tiny Central African country of Rwanda. After experiencing the horrors of ‘ethnic cleansing’ in the Balkans, the international community had claimed that such action would not be tolerated ever again. And yet, when the situation took a turn for the worse in Rwanda from 1993 on, with evermore urgent signals of impending ‘ethnic cleansing’, the international community struggled to respond with the necessary level and means of force.

It is my contention that the international community’s inability to agree on the deployment of a military intervention force sufficient in strength to stop genocide in Rwanda in 1994 is indicative of an underlying struggle between competing sets of protection norms. In his “ethical history” of UN responses to the Rwandan crisis, Michael Barnett suggests that “the administering of ...protection continues to be

molded by competing interests and responsibilities that can easily impede any humanitarian impulse.” (Barnett, 2002:180) The ‘puzzle’ of humanitarian norms is particularly poignant when one considers the complex humanitarian emergencies in the African Great Lakes surrounding the Rwandan genocide of 1994. Despite a growing recognition of the need to protect civilians affected by war and an increased precedence of humanitarian actions, the international community struggled greatly with defining an appropriate intervention response to the crises in the region and generally failed to uphold humanitarian norms. Does this mean that international norms really have no real impact on international relations? That they are meaningless in the absence of national interest? As John Steinbruner contended, “[i]f the UN Security Council, adequately warned and with an established operational presence, could not commit the single brigade required to save hundreds of thousands of innocent victims in Rwanda, then it seems that virtually no amount of civil violence would generate a decisive response for that reason alone.” (Steinbruner, 2000:137). But he also recognized that the extensive debates and actual efforts to intervene on humanitarian grounds, often in reversal of prior accepted positions, suggests that the international community did not act out of strategic or “national” interests alone. By identifying the conditions under which the international community is likely to engage with a use of force in humanitarian crises will help to define the relationship between norms and interests more precisely.

### *Mapping the Research Question*

Competition between two norms can have three possible intervention outcomes and one non-intervention outcome. First, one norm might trump the other and lead to an outcome clearly associated with the values and principles associated with the dominant norm. Alternatively, neither norm emerges as a clear “winner”, resulting in an indeterminate, outcome or no action at all. In the context of humanitarian intervention in complex emergencies, the research questions therefore can be diagrammed as follows:

$$\begin{aligned} \text{CHE} \rightarrow (X_i + N_p) \rightarrow D_i & \Leftrightarrow \text{HI}^S \\ & \Leftrightarrow \text{HI}^H \\ & \Leftrightarrow \text{HI}^{H\&S} \\ & \Leftrightarrow \text{NI} \end{aligned}$$

where  $X_i$  stands for the conditions that interact with a range of international protection norms ( $N_p$ ). These independent variables refer to the factors that shape the interests and identities of the actors involved. Together with the intervening variable (the various interpretations of the protection norm), these structural and agency factors influence the dependent variable ( $D_i$ ), the international community’s decision or response. That response can consist either of an intervention outcome (HI) in support of a specific, dominant norm or a non-intervention or indeterminate outcome (NI). As indicated before there is likely to be some variation in the objective of humanitarian intervention, either to protect sovereignty and sovereign borders ( $\text{HI}^S$ ) or to protect individual human rights, basic humanitarian needs and the dignity of lives ( $\text{HI}^H$ ). The arrows represent the mechanisms, and feedback-processes by which

the translation from norms to outcomes occurs. They also represent the core concern of this dissertation.

The research question focuses on the dynamics linking the independent variables and norms to a given outcome. I propose an agenda-setting approach to model the process of interaction between interests, values and norms derived from the theoretical literature elaborated below.

#### *Operationalizing International Norms Contestation – Goals and Objectives*

The research puzzle emerges out of two claims made by social constructivists in particular. The first is that norms are “enablers” or intervening variables rather than purely independent variables. The second claim is that norms constitute a “collective intentionality that creates “rights and responsibilities in a manner that is not simply determined by the material interests of the dominant power(s).” (Ruggie, Autumn 1998: 879). These statements beg the question of how norms ‘enable’ policy outcomes and whether the priority of ideational or rights-based concerns or dominant material interests make one norm or set of norms more compelling for policy outcomes than another. Based on more recent scholarship on “strategic social construction”<sup>25</sup>, I therefore hypothesize that decisions to intervene militarily in humanitarian emergencies are a function of some combination of the intervenors’ interests, capabilities and perceptions, the geo-political context or constraints at the

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<sup>25</sup> The term is used by Martha Finnemore and Kathryn Sikkink to connote a process of social construction characterized by strategic interaction and instrumental rationality. (Finnemore and Sikkink, 2001)

time of the crisis, and prevailing values and belief system or norms. The dissertation thus adds to the body of work aimed at closing an empirical gap in the social constructivist research program regarding the exact nature of such strategic social construction. The question of why and how the international community responds to complex humanitarian emergencies can be embedded in a framework of international agenda-setting processes, competing norms of protection of borders and peoples, against a backdrop of changing definitions of security.

The goal is to operationalize the apparent competition between the protection of sovereignty and principles of non-intervention in support of state or national interests, on the one hand, and the protection of individual citizens' rights to life, to civil and political rights, on the other. More accurately, and therefore also more complicating, decision-makers and practitioners have had to contend not only with competition between sovereignty and humanitarianism at large, but also between competing norms on the humanitarian protection side. Although frequently subsumed under the notion of humanitarianism or human security, human rights protection engages a distinct and not always compatible set of principles and values. For this reason, it is necessary to disaggregate the sovereignty-humanitarianism dichotomy further, and to address the differences between humanitarian and human rights protection norms as well.<sup>26</sup>

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<sup>26</sup> For the purposes of this study, humanitarian protection addresses the economic and social "baskets" as well as the basic right to life, whereas human rights protection refers to the more narrowly focused civil and political rights. For a discussion of the different rights 'baskets', see for example Shue, 1996.



The research puzzle builds on previous work done by social constructivist scholars to demonstrate that norms matter in international relations, and that they evolve and diffuse over time. (Finnemore, 1996a, Florini, 1996, Katzenstein, 1996, Kratochwil, 1989, Legro, Winter 1997, Ruggie, 1998). I begin with three premises about norms. First, they do make a difference in international policy-making, but not through direct causality.<sup>27</sup> Thus, the research design does not ask whether but how protection norms matter. This premise also complicates the design somewhat in that one cannot map out a uni-directional path of causality from an independent to a dependent variable. I will address this issue in more detail below. Relatedly, the second premise is that norms are not simply ‘rules’ of behavior for a given context in the sense of laws or the regimes, but that they are constitutive. In other words, they help to create the context in which rules may then be applied.<sup>28</sup> As a consequence, the focus here is not only on the guidelines governing ‘protection’ responses in the international community, but more fundamentally what meaning the international community attaches to the term ‘protection’, as it relates to the identity of the members of the international community. In other words, who is deemed ‘eligible’ for protection. Third, numerous norms operate simultaneously in the international

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<sup>27</sup> Here I follow the line of argumentation developed by several scholars across a diverse range of theoretical approaches, most notably Wendt, 1999, March, 1994, and Elster, 1989. For a comprehensive summary of the debates surrounding causality and constructivism, see the special fiftieth anniversary issue of *International Organization* (Autumn 1998, Vol. 52, Number 4), especially the contributions by John Ruggie, and Martha Finnemore and Kathryn Sikkink. Finnemore and Sikkink further elaborate on the issue of causation in social constructivism in Finnemore and Sikkink, 2001.

<sup>28</sup> According to John Ruggie, “these constitutive rules prestructure the domains of action within which regulative rules take effect.” (Ruggie, 1998:879)

system. (cf. Finnemore, 1996a, Thomas, 2001) Protection is only one of many active global norms; and even within the rubric of ‘protection’ there are multiple sets of norms. They may either coexist or compete with one another in any given issue area (regime) or across regimes. (e.g., Kegley and Raymond, 1990, Hasenclever, Mayer, and Rittberger, 1997) Some are likely to be compatible, others more contradictory.

Based on these premises, the project has three analytic objectives. First, it elaborates on the question raised by Martha Finnemore and others about how to recognize norms in international behavior. Even if we accept the fact that norms matter, we need further empirical evidence about how they matter. We know that norms shape state preferences, and that they provide the rules and expectations for what is considered ‘appropriate’ or legitimate behavior, and that norms in turn will change and adapt over time. However, we still lack a clear image of the process by which norms perform these functions. Specifically how do international norms constitute state and institutional interests? How do international norms relate to subnational (i.e. group or institutional) or domestic norms? Recent works have addressed this last question for human rights norms but focused on domestic behavior. (Keck and Sikkink, 1998, Risse, Ropp, and Sikkink, 1999) Less is known about these dynamics at the international level.

The dissertation also takes up the debate of agency vs. structure in international relations. The majority of social constructivists emphasize the importance of structural sources of change in contrast to rational choice and neo-realist scholars that tend to focus on agents, notably states, as primary forces of

change and stability in the international system. I align myself with Alexander Wendt, who has suggested that this dichotomy offers only a partial answer to the question of change. (Wendt, 1999) Instead, the focus should be on the interaction or mutual constitution of agents and structure. This implies allowing for greater attention to agency than social constructivists have tended to. Anthony Lang for example has advocated a reconsideration of the concept of agency itself and in particular its political aspects. (Lang, 2002:8-9). More importantly, although the effects of such interaction are systemic, the interaction in fact cuts across multiple levels of the world polity. Thus, in order to understand truly the mutual interaction one must link the systemic with the national and sub-national contestation among competing norms. With the help of the proposed agenda-setting model, this dissertation traces the process by which this inherently social process (as opposed to materialist definitions of structure and agency as described by Waltz for example (Waltz, 1979) occurs.

Constructivist approaches to international relations in particular have argued quite convincingly that norms do matter in an international system in which power relations, and hence anarchy, are socially constructed. In this view state identity and interests are neither fixed nor a priori. They are in fact the outcome of interactions between mutually constituted structures and actors whose identity is derived from norms, culture, and social practices. Norms can be either constitutive, i.e., they create identities and perceptions, or regulative, i.e., they provide rules and guiding principles for behavior. While we now have a much better understanding of the

dynamics of norms evolution, their effect on international policies remains under-specified. Ted Hopf captured the problem of under specification when he reminds us that “determining the outcome will require knowing more about the situation than about the distribution of material power or the structure of authority. One will need to know about the culture, norms, institutions, procedures, rules, and social practices that constitute the actors and the structure alike.” (Hopf, Summer 1998:173)

### Research Design

As mentioned in Chapter One, the hypothesis driving this research project is that increasing convergence among potentially competing protection norms – humanitarianism, human rights, and sovereignty- increases the likelihood of military humanitarian interventions. An antecedent condition to the hypothesis is that decisions to intervene in humanitarian emergencies are a function of some combination of the intervenors’ interests, capabilities and perceptions, the geo-political context or constraints at the time of the crisis, prevailing values and norms. The model presented below aims to capture these combined sets of factors in unpacking the responses to CHEs.

This study presumes that there are four (three intervention and one non-intervention) possible outcomes to the process of normative contestation in response to complex humanitarian emergencies. The following propositions or hypotheses elaborate on the possible outcomes.

1) Competition results in one (or more) norms prevailing over the other(s) and producing a clear-cut outcome in support of it. Thus, if norms protecting sovereignty and non-intervention prevail, we would expect the international community to intervene in a complex emergency, only if

a) their own strategic interests or security were at stake, or  
b) members of the international community (most likely citizens of member states capable of intervening) were exerting domestic pressures on governments to intervene or required ‘rescuing’. (Nye, July/August 1999; Lang, 2002)

2) An alternative outcome from the prevalence of the sovereignty protection norm is of course that there is no humanitarian intervention because the sovereignty protection norm prevailed and the international community supports the non-intervention norm either because it

a) does not perceive a threat or international implications, or  
b) lacks the political will or institutional means to do otherwise and the costs (political, human, and economic) are deemed too high. (Brown and Rosecrance, 1999)<sup>29</sup>; or

c) the moral or ethical case for intervention is tenuous (Walzer, 1992; Roberts, September 30, 2000); or

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<sup>29</sup> This proposition is also informed by the work of John Steinbruner on global security. Note that while his position is that a norm of humanitarian intervention is in fact evolving. However, his treatment of the subject and evidence, suggests that political will (or rather the lack thereof) has in the past hindered the full realization of such a norm.

d) the likelihood of a successful intervention is perceived to be minimal or non-existent. (Regan, 2000; Vertzberger, 1998)

3) Alternatively, if humanitarian or human rights protection norms were to dominate, one would expect the international community to support a humanitarian intervention, provided that

a) the humanitarian imperative was sufficiently compelling internationally and sufficiently salient domestically; (Thomas, 2001; Moeller, 1999; Jakobsen, 1996; Finnemore, 1996b), and

b) institutional capacities and support (both legal and practical) existed to shore up the specific protection norm (Klotz, 1995; Ruggie, 1997; Kuperman, 2001); or

c) advocates or ‘entrepreneurs’ were able to persuade the international community to uphold humanitarian or human rights norms (Keck and Sikkink, 1998; Risse, Ropp, and Sikkink, 1999; Nicholson and Twomey, 1999); and/or

d) there exists sufficient political will and leadership to carry out an intervention. (Adler and Barnett, 1998; Wheeler, 2000).

4) Finally, there is the possibility of an indeterminate outcome where the international community tries to uphold all three protection norms simultaneously or is undecided. Such an outcome generally will consist of vacillation between intervention and non-intervention over the course of a crisis, and among stated rationales for any intervention. Thus an intervention might be claimed to serve humanitarian ends but in fact reinforce sovereignty, or vice versa, (Seybolt, 2001)

Variations in the framing and salience of the humanitarian crisis (Baumgartner and Jones, 1993; Kingdon, 1995; Tarrow, 1994; Snow, 1992) offer further explanations for a mixed outcome.

Cultural, institutional, or evolutionary models of norms alone offer only incomplete explanations of the process of normative influence. An agenda-setting approach, on the other hand, allows one to uncover –through process-tracing- the dynamics by which norms translate into policy outcomes. I therefore propose to apply a policy-agenda setting framework to what is largely an international and transnational problem. This approach is suggested or implied in the international/transnational governance and norms literature, but has received relatively little attention to date.(Gubin, 1995; Livingston, 1992; cf. Edwards, 2000; Florini, 2003)

#### *Level and Unit of Analysis*

The international community and the United Nations are not synonymous terms. Depending on one's level of analysis, the international community encompasses not just the agencies that make up the UN but also states, non-governmental organizations and other representatives of civil society, the military, individuals as well as the set of customary institutions or laws that define the 'community' of interests and values shared by all. However, the United Nations is generally regarded as the central venue for the translation of international norms into policies that impact the international system as a whole. It serves a catalytic function

in this regard, building coalitions in support of coercive actions when necessary. It also increasingly mitigates the structural imbalances inherent in classic approaches to humanitarian intervention that insisted on Western ideals of human rights (universality for example) and an untenable Grotian doctrine of humanitarian intervention allowing “for a full-scale use of force...to end human suffering.” (Knudsen, 1997:148) Therefore, according to some observers, the UN “has an important role to play both in legitimizing and in helping to monitor and implement coercive actions.” (Oudraat, 2000:66) Thus, my analysis focuses substantially on the UN, its agencies and member states. I do however also review normative developments within actor groups not part of the UN, including within member states of the United Nations. As mentioned before, the focus of my dissertation is on systemic change. However, by thinking about the international system not in terms of states alone, but rather in terms of a set of ‘imagined’ or ‘policy’ communities of shared interests one can analyze normative dynamics which cut across levels, from the systemic and transnational to the international state system, down to the national and even organizational/individual level. (See Table 1 below) The matrix addresses the role of both state and non-state actors, and links broad international principles to specific policy decisions.



Table 1: Norms Competition at Multiple Levels during CHE's

<b>Systemic/IR Level (HS)</b>	<b>Societal/Group Level (HG)</b>	<b>Decision making Level (HD)</b>
HS1: Erosion of Sovereignty/Non-Intervention Principle	HG1: Norms Entrepreneurs/Leadership as Prerequisite for Norm Mobilization	HD1: Institutional Capacity & support is critical (capabilities-credibility gap)
HS2: Human Security/Security Redefined	HG2: Importance of Transnational Advocacy Networks	HD2: High Norms Salience is essential (Role of Media)
HS3: Convergence of Humanitarian Norms with National Interest/Geostrategic Position	HG3: Mobilization Opportunity Structures are Key	HD3: Threat/Risk Perception
HS4: Use of Force Predicated on Prior Success/Failure	HG4: Outcome Depends on Framing as State or Humanitarian Protection Frame	HD4: Coordination Mechanisms are critical
HS5: Convergence of International Humanitarian (IHL) and Human Rights Law	HG5: Nature of Population Displacement w/in & outside of Borders Determines International Response (ethnicity/flow characteristics)	HD5: Timely Venue Access and Shift contribute to norm's salience
HS6: International Organizations are more than the Sum of their Members (IO Autonomy)		HD6: Image Change (Norm Perception) is critical

### *Three Characteristics Of The International Community*

I define the “international community” to include three distinct characteristics. First, it is essentially what Eric-Lars Cederman and Mary Durfee refer to as ‘complex adaptive systems’ or self-organizing, i.e. “an adaptive network exhibiting aggregate properties that emerge from the local interaction among many agents mutually constituting their own environment.” (Cederman, 1997: 50; Durfee)

Complexity in this context also refers to the increasingly dense societal networks that have emerged to organize groups of people for particular functions such as

humanitarian assistance or even for and against war within and across states. (West, 2001; Thompson, 1998. An important consequence of this underlying complexity is the uncertainty of outcomes resulting from the interactions and connections that might influence policies. Complex adaptive systems, as Robert Jervis has observed are inherently nonlinear; a fact that influences both the appropriate level of analysis and process of normative influence on policy outcomes. (Jervis, 1997

Secondly, the international community as depicted here is a composite polity that cuts across several levels of analysis. Here, I build on Yale Ferguson and Richard Mansbach's conceptualization of 'nested' polities, where polities are defined as "entities with a significant measure of institutionalization and hierarchy, identity, and capacity to mobilize persons..." and where a range of overlapping or embedded polity types may govern a particular issue domain and in the process of contact with one another may sacrifice some autonomy. (Ferguson and Mansbach, 1996:22ff) Authority, i.e. governance and the exercise of influence, may reside in multiple centers and forms of polities. Scholars have referred to this concept of polities as "multipolarity" (Rosenau, 1990, "decentered sovereignty" (Sassen, 1996) or "perforated sovereignties" (Duchacek, Latouche, and Stevenson, 1988).<sup>30</sup> I will expand on the issue of contested sovereign boundaries below. Held together by the fabric of political community in which members are defined by their shared

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<sup>30</sup> Decentered and perforated sovereignties connote similar processes of cross-boundary authority. According to Ivo Duchacek, 'perforated' sovereignties represent the "ever increasing traffic in both directions [above and below the state] that shows both respect and disrespect for sovereign boundaries." (Duchacek, Latouche, and Stevenson, 1988:5)

understandings and common practices, an international community from this perspective consists of actors –or groups of actors- with sets of values and beliefs rather than strictly geo-political or territorial constructs. Berger, 1996.

In this framework, nation-states are important but only one of several agents in the international system. Indeed, international organizations, especially the United Nations, are just as important as creators and arbiters of international norms. (Abbott and Snidal, February 1998) But other components of international society play key roles as well. They include international agencies affiliated with the UN; regional organizations such as the Organization of African Unity (now Union), international and local non-governmental relief, advocacy and research institutions, which together constitute the ‘international community’ that is to mobilize in response to complex humanitarian emergencies or in post-conflict situations. (Kumar, 1997) Finally, I would add to this list armed actors (both state and non-state, multilateral and national) and populations typically only considered at the margins of society, i.e. refugees and internally displaced people. (cf. Deng, 1993)

The third characteristic of the international community follows from the first two in that while the community’s focus may be international it in fact incorporates domestic issues and politics as much as global concerns. The international community is best described as a multi-level game in the sense of Robert Putnam (Putnam, Summer 1988), in which international norms are generated not only at the systemic level but also at the national and sub-national level as noted earlier in this

chapter.<sup>31</sup> Domestic preferences, coalitions, institutions and practices help determine not only who is a member of the international community but also how decisions are made and on what issues. Thus domestic and international norms mutually reinforce each other.<sup>32</sup> In this sense then, the international community represents not so much an institution or group of actors as it does an idea or regime centered around a particular issue area – for instance humanitarianism and human rights- that creates what James Rosenau has described as a political space or ‘frontier’ that cuts across the boundaries between domestic and international affairs. (Rosenau, 1997; cf. Ramsbotham and Woodhouse, 1996)

*Agency and the International Community: The Role of Norms Entrepreneurs*

As mentioned earlier, from a constructivist perspective of international relations, agency and structure are mutually reinforcing in the process of norms generation, diffusion and competition. Thus while the international community constitutes a part of the structural landscape of international relations, it also is imbued with agency. This is in contrast to the realist position that holds that there is no agency above the level of the nation-state. (Jervis, 1977; Jentleson, 2000) While

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<sup>31</sup> Raimo Väyrynen has referred to this process as “multilevel norms generation.” (Väyrynen, March 2000)

<sup>32</sup> For a discussion of the mutual reinforcement of domestic and international practices, preferences and processes see for example, Evangelista, 1999; Koslowski and Kratochwil, 1995; Risse, Ropp, and Sikkink, 1999. Patrick Regan also notes that in decisions to intervene in civil wars and internal conflicts, the combination of domestic and international influences is critical. (Regan, August 1998). Others have focused more on the global dimensions of civil society and regimes, e.g.: Frost, 2002; Samhat, 1997)

by no means unitary, the international community does represent what John Meyer, et al. and other adherents of the world-cultural perspective in sociology have referred to as “multiple levels of legitimated actorhood.” According to Meyer, “individuals and states mutually legitimate each other via principles of citizenship, while individuals and international organizations do the same via principles of human rights. Between individuals and nation-states lie any number of interest and functional groups that have standing....” (Meyer, Thomas, and Ramirez, July 1997:171)<sup>33</sup> How effective the legitimation via citizenship and human rights in fact is, will be explored later; however it is important here to note that the diversity of legitimation sources both contribute to and are the result of contestation. It is through agency that the international community is reproduced and transformed as agents – influenced by a range of norms- serve as carriers of particular normative positions.

James Rosenau has identified the myriad of actors that “bear the authority of the international community” (p. 267). These actors engage in normative contestation at the micro- and macro level as I will show in subsequent chapters. They also are the bearers of international responsibility and morality, a key element in protection norms. (cf. Campbell, 1996; Vincent, 1986; Lang, 2002) In the case of humanitarian interventions, norms entrepreneurs are not necessarily decisionmakers but can come from the ranks of NGOs or the military and even paramilitary forces as

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<sup>33</sup> McSweeney makes a similar point, noting that “[s]tates are not irreducible actors. They are the expression of the international and the domestic. They are structure to domestic actors, and actors to international structures.” (McSweeney, 1999:161)

well.<sup>34</sup> They can be organized hierarchically or horizontally, in networks or coalitions. Regardless of locus though, they are more likely to represent elites rather than the rank-and-file. An extensive literature exists regarding the role of transnational advocacy networks as promoters of international norms.<sup>35</sup> Others have focused on the role of domestic policy advocates in advancing particular policies. (Kingdon, 1995; Baumgartner and Jones, 1993; Sabatier and Jenkins-Smith, 1999; Nye, July/August 1999) Finally, advocates or entrepreneurs play a central role in the social movements literature (e.g. Tarrow, 1994; Banaszak, 1996). The core point of this body of work is that individuals, groups or institutions can influence the agenda (international and domestic) through their ability to mobilize civil society and elites, define issues and problems, and ensure that once defined or framed, they make it on the agenda or stay off it.

Whether or not a particular category of actor is more or less likely to be successful in promoting particular norms remains debated and indeed is one of the

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<sup>34</sup> Non-state armed actors have played an important role in shaping the debate about humanitarian principles among humanitarian agencies, in part because their very presence raises new dilemmas for humanitarian actors. Thus the UN Office for Coordination of Humanitarian Affairs (OCHA) as well as UNICEF have commissioned studies to assess the status, nature and issues of legitimation and access that arise from non-state armed actors, for example in the African Great Lakes. (United Nations Office for the Coordination of Humanitarian Affairs (OCHA), October 2000)

<sup>35</sup> The term, Transnational Advocacy Network or TANS, was first coined by Keck and Sikkink, 1998. In addition, Thomas Risse and Kathryn Sikkink have explored the role of TANS with regard to the promotion of human rights norms (Risse, 2000; Risse, Ropp, and Sikkink, 1999; Risse-Kappen, 1995; Sikkink, September 1998). Others have investigated the role of transnational groups in advancing arms control norms (Thomas, 2001; Ikenberry, 2000; transparency and environmental norms (Florini, 1996; Florini, 2000); humanitarian and refugee norms (Teson, 1997; Jacobson, 1997; Gubin, 1995; West, 2001; and Nicholson and Twomey, 1999); and of course democracy norms (Florini, 2003); Power and Allison, 2000).

questions I seek to answer with this project. However, all entrepreneurs share certain qualities. In general, successful advocates have legitimacy by virtue of their professional standing or expertise, which provides them with some “claim to a hearing” (Kingdon, 1995:180; cf. (Finnemore, 1996a; Risse, 2000) Furthermore, they are willing to invest resources with persistence on behalf of a particular policy or norm. Kingdon, 1995) Thirdly, they have access or particular skills that allow them to manipulate public opinion and rally segments of civil society or the international community around their particular concern. This could be through international negotiations, lobbying, or media relations to just to mention some strategies. At the same time, a central notion accompanying the concept of ‘norms entrepreneurs’ is that they can come from the ranks of the ‘losers’ in the norms definition or diffusion process. They need not convince their adversaries, but rather need to be able to take advantage of windows of opportunities that present themselves to shift focus or power to their particular normative position. Their persuasiveness can arise from a certain degree of autonomy. Finally, in the area of norms, contrary to policy issues *per se*, moral authority can also play an important role in successful entrepreneurship. This issue will be explored further below.

In sum, the international community is neither unitary nor fixed as a structural element of international relations. It both constrains and empowers agents, state and non-state, in particular so-called ‘norms entrepreneurs.’ At the same time, norms entrepreneurs make the international community what it is: a contested

political space but with a common core of legal, moral and social institutions that can advance competing norms of protection.

*Unit of Analysis*



Complex humanitarian emergencies (CHEs), and specifically the interaction of protection norms in the context of CHEs are my unit of analysis. The analysis by necessity, therefore, covers more than one country in the course of analysis. The majority of complex humanitarian emergencies (CHEs) have occurred in sub-saharan Africa. They include a key test case for the power of humanitarian protection norms: the 1994 genocide in Rwanda. The CHE actually extends far beyond the 100 days in April of 1994. I therefore begin with the Arusha Accords of 1993, which were supposed to settle peacefully an ongoing civil war in Rwanda and conclude with implications of the Rwandan genocide for the region, specifically African Great Lakes region<sup>36</sup> with the 1996 humanitarian crisis which accompanied the civil war in Zaire/DRC (sometimes referred to as Kabila or Congo I). Some would say that the CHE actually extends even further and had ramifications for the second war in DRC in 1998 (Kabila II). One could therefore extend the analysis to the Lusaka Accords of 1999 which were intended to end the wars in DRC and restore peace to the Great Lakes region as a whole. However the full extent of the CHE is beyond the scope of this research. The following discussion elaborates on the summary definition offered in Chapter 1.

*Complex Humanitarian Emergencies – The Unit of Analysis Defined*

Since the end of the Cold War, the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations have had to confront a

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<sup>36</sup> The African Great Lakes region generally is defined to include Rwanda, Burundi, the Democratic Republic of Congo (DRC), Tanzania, Uganda and, on occasion, Kenya.

rapid succession of “complex humanitarian emergencies” (CHEs). Of the fifteen or so CHEs tracked by the United Nations, all had produced ‘war-affected populations’.<sup>37</sup> Complex humanitarian emergencies (CHEs) typically involve sudden, internal social-political and usually violent crises that produce large-scale forcible displacements of populations within and across national boundaries. They generally share similar characteristics. They are derived from internal, often protracted communal conflicts, and are multifaceted in nature. Simultaneous processes of social, economic, environmental, and cultural disintegration compound such political conflicts. They are marked by large-scale forced migrations. Although the terms are used interchangeably, humanitarian emergencies tend to be complex. They create not only traditional military or national security and political crises, but also crises of human or food security. Although natural disasters are in effect also CHEs, my focus here is on man-made disasters.

CHEs have become subject of considerable investigation into their origins and causes, as well as the nature, legitimacy, and effectiveness of military and humanitarian actions launched to resolve these crises. (cf. Hoffmann, Fall 1993, Kuperman, 2001, O'Hanlon, 1997) Raimo Väyrynen offers perhaps one of the most coherent definitions of CHEs, as “profound social crisis in which large numbers of people unequally die and suffer from war, displacement, hunger, and disease owing to human-made and natural disasters.” (Väyrynen, 2000, p. 49) The four criteria

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<sup>37</sup> Cases of past and current CHEs include: Afghanistan, Angola, Armenia and Azerbaijan, Bosnia, Burundi, Cambodia, Chechnya, Democratic Republic of Congo (DRC), East Timor, Eritrea and Ethiopia, Haiti, Northern Iraq, Kosovo, Liberia, Rwanda, Sierra Leone, Somalia, Sudan and Tajikistan among others.

reflect an increasingly common image in the humanitarian crisis literature of the apocalyptic four horsemen (death, war, pestilence and famine); (cf. Natsios, 1997).

In his typology of complex humanitarian emergencies, Väyrynen argues that “[e]mergencies seldom come as a bolt of out the blue.”(p. 55) However, I retain the term “sudden” in my definition to refer not so much to the onset or rate of acceleration as much as to the perception of those confronted with the crisis.

Definitions of CHEs tend to fall into two camps. On the one hand, scholar and practitioners have focused on the consequences and situation on the ground, e.g. a minimum number of 1000 non-combatant deaths annually (Harff and Gurr, 1998) or the breakdown of authority (UN Department of Humanitarian Affairs, 1994). Others define CHEs in terms of the response on the part of international and regional actors.<sup>38</sup> (Stewart, 2000) Since the complexity of a humanitarian crisis is determined not only by the situation on the ground but also the response requirements, this usage seems appropriate. The response aspect is a critical component of CHEs.

Complex humanitarian emergencies, in particular, engage a broad range of state and non-state actors, military forces and civilians, citizens and forcibly displaced populations, within and across territorial boundaries. (Slim, 1998) As briefly noted in Chapter One, the most recent assessment of trends in Global Humanitarian Emergencies produced by the U.S. National Intelligence Council

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<sup>38</sup> Albala- Bertrand emphasizes the response side of the problem of humanitarian interventions and norms: “a [CHE] is a purposeful and unlikely neutral response, intended to....counteract the worse [*sic*] effects of the massive human destitution that derive from an overt political phenomenon, which takes the form of a violent, entrenched and long-lasting factionalist conflict.....” (Albala-Bertrand, 2000:20)

(2001), defines them as “situations in which at least 300,000 civilians require international humanitarian assistances to avoid malnutrition or death. [Their] definition includes those situations in which people need protection in order to facilitate access to humanitarian aid.” (p.1)

CHEs tend to be international in nature even when the conflict itself is an internal one. The extent of forced population flows tends to determine whether or not a civil conflict is considered a humanitarian crisis warranting intervention. (Regan, 2000:23; Väyrynen, 1998) As Larry Minear therefore pointed out, “[p]ost-Cold War crises are no longer simple affairs of single cause or single response.”(Minear, Feb. 24-27, 1997). By definition, they include a multiplicity of actors. (Roberts, 1996)

Whether we refer to them as humanitarian emergencies, complex disasters, humanitarian interventions, or peace support operations, CHEs virtually always require a combination of coordinated civilian and military responses. For humanitarian organizations such as the UNHCR, this evolution of military engagement in CHEs has been a mixed blessing. References to “military humanitarianism” or “humanitarian militarism” reflect the international community’s ambivalence regarding the role of the military. (Roberts, 1996; Ogata, 1998)<sup>39</sup> It has enabled the UNHCR to exercise its mandate of protection and human security but at a price. Neutrality and impartiality –traditionally corner stones of international humanitarianism– have been significantly compromised by military interventions.

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<sup>39</sup>Another variant, “military humanism” is subject of Noam Chomsky’s essay on the 1999 crisis in Kosovo. Chomsky 1999.

This study looks at the degree to which the presence of international force (or lack thereof) and civilian humanitarian assistance in the case of the Rwandan genocide influenced the course and responses to subsequent humanitarian crises in Zaire/DRC. However, for the purposes of process-tracing, I focus on the crisis in the African Great Lakes region as a whole, broken down by chronological phases. (See Table 2, Chapter 5)

*Constitutive Elements of the Model (Variables or Factors)*

For the purposes of this study, I will focus not on the initial formation of protection norms but rather their role in placing military humanitarian intervention on the international agenda as intervening variables. Since I am particularly interested in the processes rather than absolute terms of reference, I have selected variables that allow me to investigate normative shifts and the interaction between norms, agents and structures. Since this study is not really a causal analysis but rather one of ‘understanding’ and uncovering normative contestation processes, the use of the term “variable” may be somewhat misleading. Instead, it is more appropriate to consider the following variables, factors of analysis. For the purposes of this study, I treat norms, as well as the degree of salience each norm commands, primarily as intervening variables; that is to say, they influence outcomes not in a direct cause-and-effect relationship but rather create the conditions in which other independent factors can operate.

My dependent variable is the type of humanitarian intervention outcome, for which I noted at the beginning of the chapter, there are four different possibilities: an intervention defending sovereign principles; one protecting the physical and economic well-being of civilians at risk (primarily refugees and IDPs) as stipulated under international humanitarian law; one protecting citizens' (and forcibly displaced citizens') human rights; or no intervention at all. This is equivalent to Baumgartner and Jones' measure of policy outputs. I am interested in determining what combination of factors and conditions motivates or deters the international community to respond to complex humanitarian emergencies with military force as defined in the preceding section. This variable can be operationalized in two steps. The first is in the form of official United Nations resolutions to approve some deployment of armed forces, either multilaterally or bilaterally. A second measure is the actual level and nature of deployment and behavior of military troops on the ground. This two-step process allows one to measure the strength or intensity of normative influence on the assumption that the stronger the influence the more likely is a completed policy outcome from decision to implementation. The weaker the humanitarian norm is, the greater the likelihood might be that either the decision is made but not followed through or not implemented as originally intended.

My independent variables or factors cut across three levels of analysis (see Table 1 above). They fall into two distinct groups of factors, those within the international community (the first five variables) and conditions on the ground (the last three variables). They are derived from the theoretical arguments presented in

the preceding chapters. Together with the intervening variables listed later on, these factors represent Baumgartner and Jones' measures of normative or policy 'image', 'venue access', nature of the problem, interaction effects and structural context.

Those endogenous to the international community include the existence and nature of norms entrepreneurs, national interest and threat perception, institutional capacities and support for a given norm. Situation-specific conditions entail the geo-strategic position of the crisis area, ethnicity (both the composition of the affected population as well as ethnic differences between the intervener and local population), and the nature and size of forced displacement.

We can map the relationship as follows:

Independent Variables = Norms entrepreneurs + interveners' national interests + threat perception + institutional support + capabilities + geo-strategic position of crisis area + ethnicity + forced population displacement. A summary of possible measures of each variable follows below.

*Norms entrepreneurs:* As argued in studies of public policy and agenda-setting as well as social constructivist theory, the existence of agents willing to promote a particular norm or issue is essential to translating norms into policy. Norms entrepreneurs can be either individuals, organizations or states. They play various roles throughout the process of normative agenda-setting, from the initial problem definition to building the necessary consensus and 'shared understanding' among coalitions of supporting entities typically recruited by norms entrepreneurs. They are advocates and lobbyists, exercising their power through persuasion and

socialization. Norms entrepreneurs initiate efforts to promote humanitarian values and human rights on the international agenda as well as in domestic society. They also tend to be the first to respond to a shift or shock in the international system, such as Rwandan genocide.

Norms entrepreneurs are important not only for sustaining and growing international norms, but also in the critical stages where norms have not yet been fully adopted or reached a consensus stage. In the case of military humanitarian intervention there are at least five sets of relevant actors within the international community:

1) Representatives of international organizations such as the United Nations (including the UN High Commissioner for Refugees, the UN Office for the Coordination of Humanitarian Affairs, the Department of Humanitarian Affairs in the UN Secretariat, and the UN Security Council) and regional multilateral institutions such as the Organization of African States;

2) Representatives of key member states in the international community; i.e. national decision makers. For the cases to be evaluated here, key member states include the countries of the African Great Lakes region (Burundi, Democratic Republic of Congo/Zaire, Kenya, Rwanda, Tanzania, Uganda), the United States, France, Belgium, Canada and the United Kingdom.

3) Representatives of national and international non-governmental organizations (NGOs). The number of NGOs has increased vastly over the past decade; so has their involvement in humanitarian emergencies. For purposes of this



study, I focused on a sample of NGOs most active in CHEs or the policy debate surrounding CHEs such as the International Committee of the Red Cross (ICRC) (a quasi-governmental organization), Doctors without Borders (Medecins sans Frontieres), Care International and Oxfam. I also looked at think tanks or advocacy organizations such as Human Rights Watch, the International Crisis Group and International Alert, since these groups play a very significant role in informing and shaping the public discourse on protection.

4) Military actors obviously are critical to the military intervention issue. In the case of humanitarian interventions, the use of armed force generally refers to multinational forces, such as UN peacekeeping forces. For a variety of reasons, I was able to gain very good access to military staff in the region but not in other countries or the UN. For the latter group, I relied to a greater extent on internal assessments and reports as well as academic publications.

5) Representatives of forcibly displaced populations (refugees and IDPs). By definition CHEs involve the displacement of people. Although not as cohesively organized as some of the other actors, they nonetheless exert significant influence on the processes described here. Since I had only limited access to displaced populations during my fieldwork, I relied more on ombuds organizations who deem to speak on behalf of war-affected populations. In addition to the UN High Commission for Refugees, several NGOs work very closely with and on behalf of refugees and IDPs, i.e. Refugees International and the U.S. Committee on Refugees.

*National Interests and Threat Perception:* This pair of variables is derived both from constructivist claims regarding the importance of persuasion and origin of norms, and the realist presumption that power and defense of territory or national interests drive international interventions. (Jervis, 1976) Since these are ultimately intangible factors, one has to rely on proxy measures. I therefore followed the example of Kegley and Raymond, (Kegley and Raymond, 1986) and others and relied on public statements to define interest. To measure interests of the international community, one I looked for expressions of national interest in speeches, declarations, resolutions, treaties and related publications. Threat perception is even more difficult to assess, since it is so highly subjective. However, here too I was able to approximate some indirect measures such as references to threats in statements and documents, the frequency and typology of such statements. Statements can simply be rhetorical. One therefore should also consider the degree to which actual behavior might reflect interests or threat perceptions. Speed and level of military deployment, for example, might serve this purpose.

*Institutional support and capabilities:* Adherents of institutionalism, some constructivists and public policy experts argue that the existence and strength of formal and informal institutions is a necessary condition for normative/agenda change. In the case of humanitarian emergencies, there are at least two types of institutions to consider: international formal and customary law, and the organizations charged with responding to such crises, many of whom have been identified above. Here the goal was to identify explicit references and support of

international protection norms by means of official records and organizational mission statements or public relations material, institutional strength (i.e. size and budget of organizations), and importance of institutions involved (i.e. visibility, size, number and rank of representatives, staff or committees). Capabilities refer to the international community's capacity to respond to a humanitarian crisis. They include military capability measures (force size, structure and availability); donor commitment or financial resources available; and a variety of coordination and protection mechanisms.

*Geo-strategic position of crisis area:* There has been considerable discussion in the media and scholarly community of the importance of location in humanitarian interventions. For example, many have pointed out differences in international responsiveness to the crises in the Balkans as opposed to sub-saharan Africa. Within a given crisis region there are also other aspects such as state-failure or democratization, resource richness or other factors of strategic significance (e.g., military access) which will affect intervention decisions. A closely related variable of importance in this regard is the history of prior interventions in the same region as it shapes assessments of probabilities of success or failures in the current crisis (Regan, 2000). In this study, however, I hold this factor constant by focusing on only one region.

*Ethnicity:* Conflict studies suggest that ethnicity is an important determinant both of humanitarian emergencies as well as international responses to them (Gurr, Otunnu and Doyle, Rothchild, and others). Ethnicity here refers to two measures: the

ethnic composition of the affected populations in crisis, as well as ethnic affinity or differences between interveners and the local population. This set of measures not only addresses issues of cultural beliefs and values, but also touches on questions of racism and the colonial legacy that might indirectly influence perceptions and policies. This factor too remains fairly constant for the study at hand.

The question of *racism* is a difficult one for the study of CHES, especially those in sub-saharan Africa. Common wisdom suggests that differences in international responses to CHES in Africa as opposed to Europe, for instance, can be explained solely in terms of racism; that international forces will always be less likely to intervene on behalf of black Africans than white Europeans. Clearly racism has an impact on the extent of norms acceptance and on the understanding of who is ‘deserving’ of protection. However, there also indications to the contrary; for example the intervention in Somalia. Moreover, it is not all clear that all members of the international community respond the same way. I will return to the issue of racism later. Suffice it to say here that racism cannot be discounted, but by controlling for geography, there is likely to be little variation in this ‘norm’ and should not cause any further distortions.

*Forced population displacement:* Refugee and internally displaced person flows are an integral phenomenon of complex humanitarian emergencies. Size, composition, duration and frequency as well as impact on host locations of such flows must be taken into account. The degree to which these flows are viewed as a security threat, (see b. above) may also account for international military responses.

This variable is a measure of the nature of the problem but also contributes to our understanding of ‘policy image.’

Intervening or conditioning variables for the purposes of this study include the three types of protection norms (sovereignty/humanitarian/ and human rights) as well as norms salience. Although norms technically are not fixed and hence varied not only in the traditional sense of a ‘variable’ but in fact also in the type of variable they could be considered, I designate them as ‘intervening’ variables for clarity’s sake.

Sovereignty protection norms refer to the international principles, laws, and customs which reinforce sovereignty, i.e. the inviolability of borders, non-intervention, and centralized authority but also responsibility toward a states’ citizens. Humanitarian protection norms by contrast refer to the principles embodied in international humanitarian law and related conventions on the protection of civilians in armed conflicts (including women and children), refugees and internally displaced people. Finally, and indeed closely related to the humanitarian protection norm, is that of human rights protection, derived from the Universal Declaration on Human Rights and related international laws and conventions.

Fundamental to the constructivist argument and my model is the role of norms as enablers of policy action. The challenge is how to operationalize a set of values, beliefs and principles. I believe that by treating norms as agenda items, it is possible to at least approximate their nature and impact. Since I am interested in systemic norms rather than individually held beliefs, and need to take into the

constitutive aspect of norms, the following measures seemed most appropriate: laws, conventions, treaties and resolutions affirming or denying sovereignty or humanitarian claims; legal or policy sanctions against violators of either norm; public statements, official documents and other published expressions of human or sovereign rights.

In keeping with the agenda-setting analogy, issue salience is a variable closely related to norms influence. That is, how central and visible are protection norms. Media and public opinion sources as well as mission statements should yield evidence of salience.

For the purposes of this study I held constant, variables relating to geography, since they would greatly complicate the process-tracing exercise, and ethnicity. If one were to investigate the entire universe of military humanitarian intervention responses or lack thereof, one would have to consider a vast array of different geopolitical and historical factors. Humanitarian crises in the Middle East, the Western Hemisphere or Africa are likely to have different causes and consequences due to various alliance structures, resources bases, etc. Similarly, each crisis would involve a different set of nationalities and actors with any number of coalition dynamics. By limiting myself to a single geographic region, I was able to control for these factors.

#### International Agenda-Setting: A Dynamic Model of Norms Competition

The challenge is how to trace the process whereby the underlying norms influence policy outcomes. Since norms do not translate into behavior, it is necessary

to develop a proxy measure for the process of norms competition. I suggest that equating norms with agenda-items provides such a proxy. I adapt the framework developed by Baumgartner and Jones to explain punctuated equilibria and policy monopolies in domestic politics to an analysis of international normative dynamics.

A central element of the Baumgartner and Jones agenda-setting model is the notion of ‘policy entrepreneurs’ which I have converted into a concept of ‘norms entrepreneurs’. Their framework is built around the concept of ‘policy’ (norms) monopolies sustained through a combination of ‘images’ (how policy is understood and discussed ; i.e., salience and problem definition) and ‘venues’ (institutional capacity and support; i.e. monopolistic or shared institutions or groups with authority for the issue). Their agenda-setting model considers the nature of the problem to be addressed, and policy outputs as part of the analysis. Finally, Baumgartner and Jones identified the positive or negative interaction effects between policy image and venue as well as changes in the political or structural environment in which iterative processes of agenda-setting take place. (Baumgartner and Jones, 1993; True, Baumgartner, and Jones, 1999)

My version of the model thus seeks create an analytic framework for thinking about the *process* of norms competition within the international community. For the scholar, this model offers a set of analytic tools to identify the conditions under which the international community is likely to engage in humanitarian action, i.e. the use of military force in support of humanitarian or human rights goals rather than to defend territorial borders or sovereign authority. For the policy practitioner, this

model might help to clarify the larger normative processes involved in international relations and offer distinct points of intervention if one is desired. Contrary to the evolutionary models of norms formation and diffusion, this model suggests that this is not necessarily an incremental process but rather occurs through a series of “feedback loops” and coalition dynamics in fits and starts. The process of norms contestation is marked by what Baumgartner and Jones have referred to as punctuated equilibria. That is long periods of relative stability in the norms environment will be interrupted by spurts of rapid change and the rise of new norms to the top of the international agenda. According to this view, the international community is comparable to a domestic policy monopoly, with a definable institutional structure and a powerful supporting idea.(Baumgartner and Jones, 1993:7)

Norms –as will be evident more deeply in the following chapter- are not static but rather evolve and mature over time; moving along a continuum of strength (from weak to strong). Thus a norm may initially be relatively weak as the underlying institutions designed to support or reinforce the ‘emerging’ norm. These institutions form through the promulgation of international conventions, treaties and resolutions as well as customary law and practice. As new issues or norms emerge in the course of this process of socialization of the international community, championed by “policy or norms entrepreneurs”, new institutional structures may be created that remain in place and shape agents’ perceptions and preferences for extended periods of time. Coalitions form around particular norms (Sabatier’s core



beliefs) until, through the entry of new actors/entrepreneurs into the international arena or a sudden shock to previously stable structures, new agenda items and issues -in this case new norms- will emerge. The way in which these norms are perceived and framed interacts with the institutional structures supporting the norm, to create a new policy outcome or agenda. Subsequently the equilibrium is upset and reestablished around a different set of norms. The focus here is on processes rather than absolute terms of reference. Once the issues have been defined and framed by various coalitions, the presumption is that norms reach the level of customary and formal laws and universally accepted identities through a process of political negotiation and select practice. The selected variables allow one to investigate normative shifts and the interaction between norms, agents, and structures. The process as described here is not in fact linear, but rather circular.

Baumgartner and Jones say little, though, about the systemic shocks that lead to punctuated equilibria. For greater completeness, I therefore have incorporated the concepts of ‘focusing events’ (Birkland, 1997; mobilization cycles (Tarrow, 1994 and advocacy coalition formation (Sabatier and Jenkins-Smith, 1999 to explain how “punctuated normative equilibria” originate and are sustained. Equally important to my model, are the concepts of ‘cultural framing’ (Schön and Rein, 1994) or idea transformation (Legro, July 2000). Donald Schön and Martin Rein offer another way of looking at this process of norms –or policy- contestation by constructing the underlying rhetorical and action frames that underlie policy controversies. They also argue that framing occurs at three levels: policy, institutional and metacultural.

Finally they warn of assuming a direct causal link, since rhetorical and action frames may be “incongruent” and “it may be difficult to distinguish between conflicts within a frame and conflicts that cut across frames.” (Schön and Rein, 1994: 35ff). Taking this perspective allows one to take into account the ‘composite’ nature of the international community. This model moreover should be able to account for norm diffusion but considering institutional learning as both a contributing factor and a manifestation of norms change or maintenance over time. (Douglas, 1986; Berger and Luckmann, 1966)

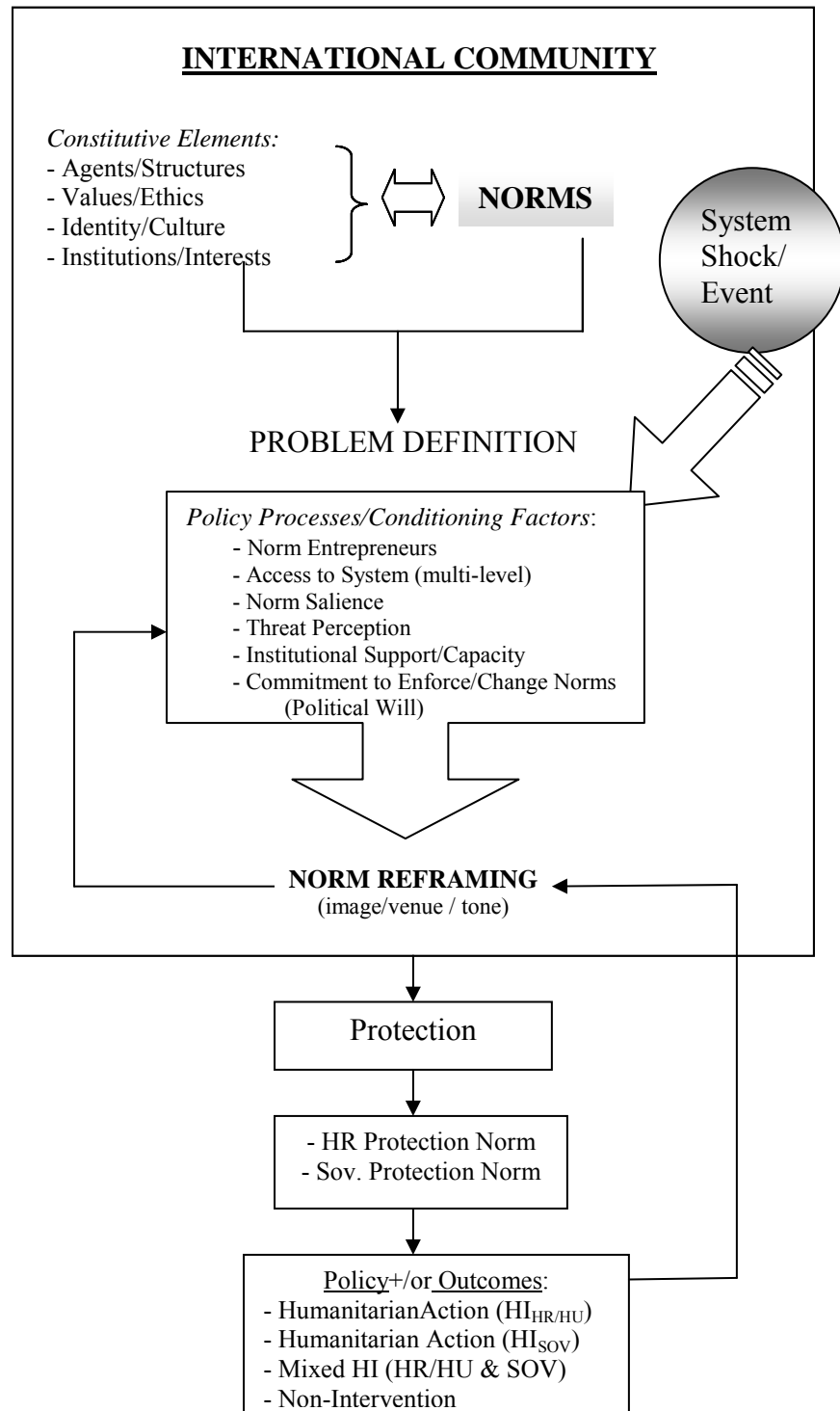
How then do contested norms function in international relations? My model suggests one path. Although the following figure does not adequately capture the dynamics inherent in the model, it at least provides a snap shot of the relationship between norms of international protection, the international community, and its responses to humanitarian emergencies or crises. At the international level, this process can be likened to the dynamics of global policy networks (Reinicke and Deng, 2000; Stiles, April-June 1998) or regime-building negotiations<sup>40</sup>. I argue that the dynamics leading to issue and interest development and those leading to norms development are very similar if not identical.

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<sup>40</sup> For example, international negotiators and policy makers will “undergo adjustment regarding issues and interests cognitively..., perceptually..., and evaluatively.” (Sjöstedt, Spector, and Zartmann, 1994:14)

Fig. 1: International Agenda-Setting: A Dynamic Model of Norms

Competition



While one cannot draw an exact analogy between agenda items and something as abstract as a belief or value, this approach at least offers a proxy measure for the means by which a given norm might reach the top of the international political agenda. Sandra Gubin, for example, explicitly applies John Kingdon's domestic agenda-setting model to transnational agenda-setting for human rights norms. She argues that a systematic examination of the interaction of international and domestic factors to determine the impact of international norms on the behavior of states, requires that one focus on the process by which transnational actors and international organizations seek to influence the agenda of states. (Gubin, 1995:279) I follow her example with this study of international protection norms but extend the focus beyond state behavior to include actors at the national and subnational level.

The one constraint on translating a domestic policy agenda approach to the international level is that agenda-setting in particular depends on accessibility in order to influence or control the agenda, and in the international system, access points are more limited and more difficult to reach. Thus, it becomes more difficult to reach sufficient salience, and control over the problem definition and potential alternatives. (see Livingston, 1992:313;325) Responses to war-affected populations, for instance, are determined by their definition as a problem either of state security, societal security, or as individual security. The fact that the international community resorts to both humanitarian assistance and military intervention in complex

humanitarian emergencies, often simultaneously, suggests that these levels are not mutually exclusive and indeed often operate concurrently.

### Methodology

Although not a “comparative” study per se, since it is a single case-study, this study did utilize a combination of structured-focus comparison (George, 1979) and process-tracing techniques within the single case-study. The reason for a combined approach is that while structured focus comparisons can offer systematic thick description, they generally are considered a weak test and have limited generalizability. Process-tracing can yield a stronger test in that it “explores ...the decision making process by which initial case conditions are translated into case outcomes.” (Van Evera, 1997) It also is an appropriate test of a constructivist norms model in that process-tracing attempts to reconstruct the actors’ definitions of a given situation and streams of behavior within a given framework. (George and McKeown, 1985:35)

### *Data Collection*

This project builds on extensive research conducted in the field (in the Great Lakes region, Europe and the U.S.), interviews, exhaustive literature and documents reviews and some content analysis.

### *Interviews*

I based my interview effort on John Kingdon’s approach to interviews. Accordingly, I selected my respondents based on whom I had identified as key

personnel or as occupying a key position in my secondary and primary source readings as well as the respondents' own recommendations of others. (Kingdon's snowballing technique, 1995:233). The interview questions were designed to identify and track relevant variables and the process by which sovereignty or humanitarian norms were brought to the respondent's attention, how they negotiated competing interests, and how they ultimately reached and implemented a given policy response. Since I was interested foremost in the collective rather than individual decisionmaking process, I hope to identify patterns of perceptions, coalition building or persuasion, and institutional or community-wide consensus on norms/agenda items.

Although a full-fledged panel study was beyond the scope of this current project, it could yield more objective longitudinal data in the future. It is likely that my findings were affected by the interview subject's own biased memories of events. This proved to be especially true when interviewing individuals about events in DRC, where the conflict was still underway. This is another reason for adding a loose content analysis.

Over a period of 15 months and several trips, I conducted approximately 120 interviews with a cross-section and representative sample of relevant actors. (1) In sub-Saharan Africa, I interviewed policy makers and government officials in international and national agencies, military officers, opinion shapers (think tank, media, and academic representatives) and members of international and local NGOs. Although I had limited my geographic focus to Rwanda and the Democratic

Republic of Congo, it was necessary to speak to individuals in the wider Great Lakes region, including in Tanzania, Uganda and Kenya; (2) In New York and Geneva for the international organizations; (3) in Washington, D.C., and in Europe (Berlin, Brussels, Paris, and London) with relevant national actors and experts (scholars and practitioners); (4) in select NGO's in all venues; and (5) military representatives at the UN, national and international peacekeeping training facilities and national military organizations.

I conducted all interviews in person, relying primarily on hand-written notes. Most of the respondents agreed to on-the-record interviews, although some individuals (mostly government officials) requested that their comments be reflected only 'on background.' The interviews have generally followed a structured-focus, open-ended format. During these sessions, I have asked about the impact of refugees and IDPs on regional security considerations; security and protection problems in the camps or IDP settlements; the role of regional/local civilian and military actors, of UN member states and agencies; and how humanitarian principles are operationalized in the field. Specifically, interview subjects were asked to comment on three questions. How –if at all- did they (or their institutions) translate the classic humanitarian principles of neutrality, impartiality and proportionality (and one might add independence) in their respective operational setting – either in a policy environment or in field operations. They were asked to consider the priorities of protection; to determine the relationship between local and international efforts, civilian and armed actors (both legitimate national or UN forces and non-state

groups) during the time frame in question. Secondly, they were queried on their respective assessment of the impact and/or relevance of human rights for their work or situation. In other words, whom or what were they trying to protect and by what means? Did different standards apply to international staff, local citizens, refugees, and IDPs? Thirdly, interview subjects were asked to consider the relative benefit or detriment of an international military presence in humanitarian emergencies. Would a greater or lesser international military presence at any or particular points in time made a difference in the progress of the crises of concern here?

The goal of the interviews was to pin down six areas of concern:

1. The meaning of protection to each category of actors included in the model, and the level or intensity of consensus within and across organizations and society;
2. The process by which either sovereignty or humanitarian principles reached the attention of the individual or organization;
3. The process of negotiation among competing interests and values;
4. The process by which these values were translated into operational or policy decisions;
5. The patterns of perceptions, coalition-building and persuasion that occurred throughout; and finally,
6. The limits on humanitarianism or the prospect of humanitarianism by any means.



Primary source materials such as UN Security Council Resolutions, evaluation reports and other relevant documents and secondary literature in disciplines supplement the information gathered here. First, what was the role of the international community in the region in 1994, 1996 and 1998 respectively from each of their perspectives.

### *Content Analysis*

Since I had not planned a quantitative assessment at this time, my content analysis will did not involve elaborate coding schemes or validity tests. Instead, I built an extensive database of relevant material – both secondary and primary- including, the contents of public statements, internal documents as accessible, public opinion data (Eurobarometer and PIPA Polls) and related publications to corroborate, clarify or correct impressions derived from the interviews. Through an analysis of official records, I would expect to find information on the tone and perceptions of the international community with regard to humanitarian crises, issue salience and intensity of support, or lack thereof, for military deployments.

Together with my literature review and historical research, these data yielded sufficient information to begin the empirical data collection and analysis process. The brief case description in the next chapter served to fine tune the model and research tool. Since the primary goal of this study is to develop the theoretical model, much energy was invested in that enterprise.

### *Limitations and Key Assumptions*

Several assumptions inform this research design. Norms matter but they do not operate in a vacuum. One therefore must take into account their relationship with other factors and conditions that shape the agenda-setting process. In this process, perceptions of facts are as important as the facts themselves. Although the general assumption is that norms are “good” in an ethical sense, this is in fact possible to have “bad” norms that reinforce detrimental or negative behaviors. It is for this reason that one must distinguish between the prescriptive and constitutive aspects of norms. International protection norms can serve both. States matter in the international system but not alone. Non-state actors, as well military actors all have the potential of acting as catalysts or entrepreneurs of systemic change.

This research project posed several challenges. First, norms are difficult to operationalize and isolate. At best, one can arrive at proxy measures and analogies representative of norms. Secondly, given the nature of norms it is impossible to establish direct causality. At best, one can pinpoint the direction of change, i.e. influences. Thirdly, it is difficult to distinguish between the rhetorical invocation of norms and their real impact. However, most scholars of norms agree that the very fact that an actor would be compelled to invoke a normative claim means that it the norm is exerting some influence. Finally, although the assumption is that by definition norms are universal, it is not clear how generalizable their interaction with exogenous conditions is. The case studies may only be able to illustrate the types of processes one might look for in other cases of humanitarian emergencies.

This dissertation by necessity had to be limited in scope. It does not explore in greater detail questions of the colonial legacy and racism, for example, beyond the very limited discussion of independent variables. Similarly, the range of actors interviewed is likely to be incomplete and representative at best given constraints of time, resources, and access.

The use of a single case-study has significant limitations, but I contend that these are outweighed by the advantages for a more in-depth analysis of a case as noted by Stephen Van Evera. A major question is that of generalizability. Is it possible to generalize the findings from only one case in one geographic region. Indeed, it is unlikely that a single case-study will yield predictions directly across other cases; particularly if one takes into account the ‘Africa’ problem of racism. However this study does indeed test theories through sufficient richness in its data. What is generalizable are the analytic tools – the primary focus of this dissertation.

#### From Rights to Responsibilities: Punctuated Equilibria and the Evolution of International Protection Norms

A brief historical overview of the evolution of international protection norms provides some preliminary insights into the process of punctuated equilibria. As mentioned in the previous chapter, sovereignty represents a form of shared understanding. As such, it also serves as the basis for creating and pursuing new rights and responsibilities. (Finnemore, Spring 1996) The norms underlying international legal protection are by no means new. Some might argue that

Westphalian sovereignty involves a significant element of protection – in this case of borders, territory rights of self-defense among others, as set out in the United Nations Charter. But at the same time, a regime has emerged to protect not only the rights of sovereign states but of individuals. By definition sovereignty includes a state's responsibility to protect its citizenry. Thus, since World War II, an extensive normative and legal framework had been created to protect the rights of individuals as governed by international human rights and humanitarian law.

Core legal “protection instruments” include most notably the four Geneva Conventions of 1949 and the two additional Protocols of 1977; the Universal Declaration of Human Rights; the 1951 Convention relating to the Status of Refugees; numerous international covenants on civil, political, social, economic and cultural rights, anti-discrimination based on gender or religion, against torture and on the rights of the child.<sup>41</sup> The Guiding Principles on Internally Displaced Peoples (1999) contributed substantially to safeguarding this highly vulnerable population both physically and legally, and to bridging the gap between the existing refugee rights regime and the rights and responsibilities of sovereignty and citizenship. And yet, the continuing violations of human rights as well as the volatility of states

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<sup>41</sup> Most of these legal instruments were signed and mostly ratified from 1965 to 1989. For a detailed listing and description of core instruments, see United Nations High Commissioner for Refugees, February 2, 2001; International Rescue Committee. “What is International Protection,” <http://www.intrescom.org> (January 2002), and International Committee of the Red Cross, May 2001. For more general discussions of international humanitarian law and human rights law, see Fleck, 1999; Gardam, 1999; Hegarty and Leonard, 1999; and Meron, 1997.

suggests that international protection norms are far from entrenched in the international community.

*Historical and Legal Context of UN Humanitarian Action in the African Great Lakes Region*

One cannot understand the role of the United Nations in the humanitarian crises that gripped the African Great Lakes region in the 1990s without taking into account the historical and legal precedents. The historical antecedents lie both in the Cold War and post-Cold War period with the United Nations Operation in the Congo (UNOC), 1960-1964 on the one hand and the UN Operation in Somalia (UNOSOM), 1992-1993. Both have been extensively described and analyzed elsewhere. (e.g. Boulden, 2001 Suffice it to say here, that both operations cast a long shadow over the international community's decisions regarding intervention and protection of civilians in the Rwandan genocide in 1994; subsequently in the crisis which precipitated the collapse of Zaire in 1996, and in the civil war and accompanying humanitarian crisis in the Democratic Republic of Congo in late 1998/1999.

Authorized by the UN Security Council by a series of resolutions passed in July and August 1960 (Res. 143-146), ONUC is important for several reasons beyond the geographic linkages. Not only was it the UN's first *de facto* peace enforcement operation (and only second armed peacekeeping operation with for more than 30 years the largest deployment of military and civilians).<sup>42</sup> It also was

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<sup>42</sup> I use the term *de facto*, since technically the UN Security Council -under instructions of then Secretary General Hammerskjöld- avoided any explicit references to enforcement

the first time ever that the Secretary General made use of Art. 99 of the UN Charter, to convene the Security Council to discuss a civil conflict and humanitarian crisis as a “threat to peace and security.” Finally, although technically the UN was successful in fulfilling its mandate to restore internal peace and order to secessionist provinces of Congo, it did so at considerable costs of life and legitimacy.( Boulden, 2001:23)

There are numerous similarities between ONUC and the UN’s response to the most recent Rwandan crisis. Not only did the mandate for UN operations change over time as it had in 1960-1964, beginning with a basic non-coercive military mission to monitor implementation of the Arusha peace accord of 1993 (UN Observer Mission Uganda-Rwanda, UNOMUR), and to assist in the delivery of humanitarian relief (UN Assistance Mission for Rwanda, UNAMIR I), both approved by Resolution 872 which the Security Council adopted on October 5, 1993, and ending with a peacekeeping operation for humanitarian reasons (to protect displaced persons, refugees and civilians at risk and to support relief efforts in Rwanda) authorized under UN Security Council Resolution 918 on May 17, 1994. Another similarity was that UNOC troops, when finally authorized to use force (in December 1961), just like the UNAMIR troops in Rwanda, “were forced simultaneously to protect civilians in danger and to protect themselves at a time of reduced strength.” ( Boulden, 2001:34)

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under Chapter VII of the UN charter which would have evoked Art. 42 of the Charter requiring member states to take action to restore international peace and security and to override Article 2(7) protection of domestic jurisdiction. On this point, cf. Boulden, 2001:31.

Both operations had in common a significant gap between mandated resources and operational realities on the ground as well as between mandated mission and local perceptions regarding the impartiality of UN troops. In other words, in both cases, UN missions did not have adequate troop strength when it was most needed, nor were they able to convince their “host” government of their impartiality and humanitarian objectives. While UNOC was perceived to be working towards a pro-Western, anti-Communist government in the Congo, UNAMIR forces had difficulties convincing Rwandan Tutsis that they were not simply at the behest of their former colonial taskmasters, and Hutu government supporters, i.e. the French and Belgians. The massacres at ETO, the technical school in Kigali in May 1994, when UN troops were withdrawn to evacuate Belgians from another town, just as the Interahamwe (Hutu extremist forces) were approaching the compound, resulting in the slaughter of virtually all of those who had taken refuge at the school, only reinforced this view. (cf. United Nations, 15 December 1999)

Finally, UNOC is important for the present discussion in another way. Although it restored order to the Congo, the very nature of peace support operations such as this contributed little to long term peace building.

#### *Legal context*

The legal basis for UN humanitarian action in complex humanitarian emergencies or internal armed conflict also has been and continues to be the subject

of extensive analysis.<sup>43</sup> Comments here will therefore simply serve to remind the reader of the relevant issues to consider. In essence, humanitarian action involves principally the UN Charter; specifically Chapter VII, Articles 39-42 and 51, calling for collective action in case of self-defense of member states or the protection of nationals among other provisions. These are typically peacekeeping or peace-support options. Chapter VIII governs armed peace enforcement and military sanctions authorized by the UN Security Council. At the same time however, the Charter itself, prohibits the threat or use of force against another sovereign state (Art. 2(4)) or the interference in a state's domestic jurisdiction. Thus the UN Charter itself embodies a fundamental tension that pervades the entire issue of humanitarian intervention: that between sovereignty and human rights.

Humanitarian action furthermore is governed by the Geneva Conventions of 1949 as well as the additional Protocols to the Convention passed in 1977. All told more than 20 important multilateral treaties in the field of human rights and refugee law create legally binding obligations for nations.( Bilder, 1992:6) Of particular note here is the African Charter on Human Rights and Peoples' Rights, that entered into force October 21, 1986, and which established a system for the protection and promotion of human rights to function within the regional framework of the then extant Organization of African Unity.<sup>44</sup> The current state of UN humanitarian action

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<sup>43</sup> Cf. {Fleck 1999 #496}; {Gardam 1999 #492}; {Hegarty & Leonard 1999 #456}; {Chopra & Weiss 1998 #495}; {Meron 1997 #490}; {Teson 1997 #181}, among others.

<sup>44</sup> For more information on the African Charter see for example, Buergenthal, 1995, Flinterman and Ankumah, 1992, and Levitt, Fall/Winter 2001.



is an outgrowth of two opposing legal trends. On the one hand there is the tension mentioned above between states' autonomy and the protection of their nationals' civil and human rights. On the other hand, UN practice has in fact set in motion a gradual convergence between human rights law and humanitarian law. This convergence is far from complete and accounts for significant gaps in UN humanitarian action particularly in the area of protection of civilians in armed conflict.

Only recently, has the international community recognized the importance of protecting not only refugees but also internally displaced persons (IDPs) and humanitarian workers, as these populations are increasingly vulnerable to violence and isolation from humanitarian relief access in situations of armed hostilities among warring parties. To this end we now have guiding principles for the treatment of IDPs as well as UN General Assembly resolutions protecting civilian humanitarian workers and their right to humanitarian access, but the humanitarian community has adopted a distinctly 'gradualist' approach to creating a "right" of humanitarian intervention. (Beigbeder, 1991 :384)

The legal challenge is one of reconciling differences in human rights and humanitarian law as a "compromise between military and humanitarian requirements." (Greenwood, 1999:32) Differences such as universality and neutrality which are fundamental principles of human rights law but applied more selectively in humanitarian law create difficulties for UN humanitarian action on the ground. For example, "[a]lthough there is a growing trend in the international community

toward recognizing a right to provide humanitarian assistance and protection without consent, many States continue to contest that right.” (Ruddick, April 1997:481) In the case of Rwanda, UN Resolution 929 which authorized the French to launch “Operation Turquoise” in 1994 on the grounds of humanitarian assistance, was a rare exception but also problematic for the UN and indeed for the receiving government of the newly installed Rwandan Patriotic Front.

*Political and Bureaucratic Dimensions of UN Humanitarian Actions*

Two major themes are evident in the discussions on UN humanitarian action. The first theme is the problem of too many ‘cooks in the kitchen’ and the number and diversity of objectives the international community sought to fulfill in the African Great Lakes crises from 1994 on. UN humanitarian responses required a highly complex and typically poorly choreographed coordination not only within the UN system but also between the UN and international non-governmental organizations, regional organizations and governments, and local populations as well as among key individuals.

The second theme is one of gaps in necessary institutional mechanisms and resources as well as in clarity of mandates and objectives. In the African Great Lakes these gaps led to time lags and significant divergence of outcomes from their original intent, ultimately only perpetuating the conflict in the region.

*The UN structure and responses*

UN humanitarian coordination in Rwanda and later in Zaire/DRC has involved a dizzying array of actors and agencies both from the political and operational arenas of the UN. Within the UN, they included the Secretary-General and his representatives on the ground, the UN Security Council and the UN General Assembly on the political side. In addition, units with primarily military peacekeeping objectives had to share the arena with humanitarian agencies, most notably the UN Development Program, the UN High Commission for Refugees, the World Food Program, the UN High Commission for Human Rights, and UNICEF among others. The recently established Department of Humanitarian Affairs (established in 1992) and its Emergency Relief Coordinator, that by 1996 had become the UN Office for the Coordination of Humanitarian Affairs (OCHA), as well as the Interagency Standing Committee (IASC) provided important but still nascent coordinating mechanisms both within headquarters and in the field. In addition, non-governmental organizations with observer status sought to mobilize support for their activities within the UN, liaison offices of various UN departments and agencies, and as participants in international conferences.

Until the 1990s the UNSC involved itself only rarely, if at all in human rights issues. This was so not only because the UN Charter does not explicitly allow humanitarian interventions -hence the need to justify such actions under Chapter VII- but also only after the end of the Cold War, was the kind of consensus on shared values needed for effective humanitarian intervention even possible.(cf. Bailey, 1994; Malone, 1998) The passage of UNSC resolution 681, citing humanitarian

grounds for the intervention in Iraq, marked a transition to a new phase of more activist responses by the UN Security Council to humanitarian crisis on the grounds that they constituted threats to peace and security.

Although generally laudable as a mobilizing force, the Security Council's new humanitarian role has been a mixed blessing on several fronts. Some have argued that elevating humanitarian crises to the level of Chapter VII "threats to peace and security" has unnecessarily politicized humanitarian assistance. By definition, it has compromised traditional humanitarian principles of independence and to some extent impartiality by tying humanitarian action more closely to the national interests of as small number of individual member states with agendas of their own. One could also argue that by shifting the political locus for humanitarianism from the General Assembly to the Security Council, such actions are less representative, less democratic and less transparent to the international community as a whole. Moreover, by framing humanitarian action in terms of Chapter VII requirements, an inherent bias toward coercion and peacekeeping and away from traditional relief seems to have emerged. Ironically, for Rwanda it also has meant a disproportionate emphasis on relief for refugees -as the most visible external 'threat to peace and security' in the region- over assistance to internally displaced peoples or ending the genocide itself.( Klinghoffer, 1998)

Inter-agency coordination has proven to be a particular albatross with regard to UN responses to humanitarian crises in the African Great Lakes. Thus in the case of Rwanda, the UN ended up not only having to respond to war on the ground but in

fact serious battles for resources and turf within its own ranks. (Khan, 2000:85ff)

Here the Secretary-General had sent not only a Special Representative but also a Humanitarian Coordinator in addition to the Resident Coordinator (typically the head of the UNDP mission in the field). UN's field operations in the Great Lakes have consistently suffered from inadequate demarcations of responsibilities and mandates, competition for scarce financial resources and attention at UN headquarters. It pitted the UN High Commissioner for Refugees against the UN Development Program, further exacerbating the disjuncture between short-term relief and long-term viability. Notwithstanding the general benefit -referred to earlier- of linking human rights and humanitarian initiatives more closely, another complicating factor has been the dilemma of protecting human rights in life-threatening situation, which imposed greater restrictions on achieving consensual humanitarian access to victims.(Wright, 1996:56 ) Thus agencies such as the UNHCR "have increasingly downplayed their human rights roles rather than risk disrupting operations." ( Lautze, Jones, and Duffield, March 1998:38ff) The debate over whether to apply a "back to basics" approach or a more integrated "meta-regime" human rights/human rights approach is not just an academic one, but has had real implications for affected populations and humanitarian coordination in the Great Lakes. Both in Rwanda and in the eastern DRC, delivery of humanitarian assistance was complicated by the inability of individuals and organizations to transcend their at times contradictory perspectives, leading to competition and mistrust among and within humanitarian organizations as well as with the recipient populations and governments.

Inter-agency coordination in the region also suffered from the fact that the UN initially was spread too thinly across multiple emergencies at the same time (Bosnia, Somalia, and Haiti) and was only beginning to develop appropriate institutional coordinating mechanisms. The Integrated Operations Centre created in Rwanda in 1994/1995 illustrates these structural weaknesses. Intended to deal with the IDP problem in Rwanda, engage the newly installed RPF government and balance civil-military relations between UNAMIR's peacekeeping mandates and the humanitarian relief objectives, it was "more of a concept and process than an ad hoc institution"... and ultimately failed in part because it was never able to reconcile the mandates of the humanitarian community and of the local government.( Kent, 1996:68,78ff) Such weaknesses led to a greater dependence on NGOs such as the International Committee of the Red Cross (ICRC), military forces deployed to the region, and the good graces of national governments, further diffusing if not counteracting the UN's long -term humanitarian impact. These weaknesses of the UN Security Council and other UN agencies are generally known and readily exploited by combatants. Again one must point to the situation in the eastern DRC since 1996 as a case in point, where the emergency has been compounded by systematic violations of human rights by all sides.(cf. Bailey, 1994) They have been the impetus for calls for UN reform at all levels. Overly bureaucratized and entrenched hierarchical and interdepartmental procedures within the UN system and

among some of the larger NGOs appear firmly entrenched even in the most dire emergencies leading to significant implementation time lags.<sup>45</sup>

The civil-military relationship in humanitarian support and protection operations has been covered extensively elsewhere and will not be elaborated on here.<sup>46</sup> In general the relationship has been problematic in the Great Lakes region. Not only was there considerable blurring and overlap but also contradictions in the respective roles. Inadequate mandates often forced civilian, unarmed humanitarian workers to face security risks to which governments would not expose their own military personnel. Presumed to protect innocent civilians, UN troops have frequently done little more than protect themselves (e.g. in Rwanda) or not been deployed at all (in eastern Zaire and until recently in the DRC for example). On the other hand, civilian humanitarian actors, particularly some of the NGOs active in the region, have expressed grave concern that the lack of coordination has allowed the military to lead humanitarian operations, thereby linking them too closely to political interests and military strategic priorities or the member states.

Finally, one must note the importance of individual leadership in this process of norms competition. The United Nations is made up not of faceless, abstract bodies

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<sup>45</sup> Special Envoy Khan for example reminds us that by the time UNAMIR II was actually deployed on the ground, its original mandate was no longer relevant to the needs on the ground. (Khan, 2000) Similarly Juergen Dedring and Shashi Tharoor have lamented the relative inflexibility of the UN bureaucracy. (Tharoor, 1996, and Dedring, 1996).

<sup>46</sup> For a review of civil-military relations in complex humanitarian emergencies and forced displacement see my own article in *International Migration Review* (March 2001) as well as Lange, Summer 1998 and Ogata, 1999.

alone. Individual personalities play a key role not only in mobilizing appropriate responses and resources but also in how well humanitarian coordination functions. The evidence shows that the UN Secretary General is central to the success or failure of humanitarian operations. The position not only serves as a counterbalance to the institutional weaknesses of the UN Security Council in the area of intrastate - especially ethnic- conflict but also as an advocate for general principles of humanitarian principles who theoretically at least stands above the fray of interagency or member states' national interests and biases. This was the case in the ONUC mission in the 1960s as well as the more recent missions in the Great Lakes region. Several analysts have suggested that the delay in UNSG Boutros-Ghali's visit to Rwanda until 1995 contributed significantly to the perceived drop in legitimacy of UNAMIR operations by regional actors as well as to the bureaucratic delays in proclaiming the Rwandan crisis a genocide or the urgency of the refugee crisis in the Kivus in 1996.(cf. Klinghoffer, 1998:139; Ramcharan, 1993:36ff) Much has also been made of the communication gap between UNAMIR Commander Romeo Dallaire and his taskmasters in New York. (Kuperman, 2001:89ff) More recently UN Secretary General Kofi Annan has actively lobbied the international community to reverse the overly cautious and reluctant peacekeeping trends in Africa and elsewhere.

However, since the end of the Cold War, it has become amply clear that the existing legal framework is a necessary but insufficient condition for safeguarding individual citizens. Protection needs have extended beyond legal concerns to basic



physical safety and rights to life, liberty and sustenance. Global conflicts, especially civil wars, have claimed at least five million civilians in the last decade alone. By some count that amounts to 75% war casualties being civilian. Another tens of millions have been forcibly displaced. As the line between combatants and unarmed civilians, even women and children, has blurred, the international community has been forced to focus more centrally on the need to protect civilians in armed conflicts.<sup>47</sup> Even humanitarian workers themselves are increasingly at risk as they participate in more and more humanitarian “actions” and emergency responses rather than more traditional post-cease fire environments. As UN Undersecretary-General and Emergency Response Coordinator Kenzo Oshima pointed out in his 2001 report to the UN Security Council, between 1992 and 1998, 153 UN civilian personnel lost their lives while another 43 were taken hostage. Since 1998 alone, 198 have died and 240 were taken hostage.(Oshima, March 30, 2001) In the face of dramatic violations of existing international human rights and humanitarian laws, the United Nations has gradually expanded the normative framework to include a series of guiding principles and Security Council resolutions to safeguard unarmed civilians, women and children in armed conflicts.

### *The “Somalia Syndrome”*

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<sup>47</sup> cf. UN Undersecretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Oshima, June 10, 2001. See also the website of the UN Office for the Coordination of Humanitarian Affairs ([www. Reliefweb.in/ocha\\_ol/civilians/](http://www.Reliefweb.in/ocha_ol/civilians/)) for a comprehensive overview of the issues involved in protecting civilians in armed conflicts.”

The impact of the perceived failure of UNOSOM in Somalia was to make the international community, particularly the Permanent Five member states of the UN Security Council intervention-shy. The U.S. in particular, but also other Western powers, became increasingly averse to casualties among their peacekeepers, less inclined to send them into situations of armed conflict, and more reluctant to respond with the level of resources and commitment complex humanitarian emergencies called for. (e.g. Thakur and Thayer, 1995) Thus the African Great Lakes crises found an international community suffering simultaneously from casualty avoidance and compassion fatigue, not to mention distracted by the Balkans crisis.

As we saw in eastern Zaire in 1995 and 1996 or in Somalia, the UNHCR in fact could not rely on the host state to meet its international obligations because of lack of capacity and political will. Ironically, although considered missions other than war, humanitarian military action is considered a legitimate extension of UNHCR's protection mandate as long as it abides by the traditional principles of war of limitation, distinction and proportionality. (UNHCR, 1995; Teson, 1997; Gaus, 1999) The international regime protecting refugees and more recently internally displaced populations no doubt has contributed significantly to an increasingly prevalent norm of protecting the individual from belligerent state or non-state actors. (Loescher, 1994). However, this ethical stance is somewhat problematic particularly in the context of CHES, when individual rights are not always readily discernable from larger group survival strategies. (Hayes et. al., 1997)

A concomitant feature of the emerging African order is a call for a rethinking of sovereignty and the concept of non-intervention, “to conceive of security without the centrality of the state.” (Venter, 1996:134) Increasingly, albeit very reluctantly, African leaders have come to recognize that a dogmatic, inflexible attachment to the principles of non-intervention and sovereignty is counterproductive for regional conflict management. Until recently, the OAU, as the most visible and most inclusive representative of the African regional order, primarily declared, promoted and reinforced norms of nonintervention and respect for existing (colonial) boundaries.(Farer, 1993:175) The failure of the OAU and ECOWAS to intervene effectively in intrastate wars caused by ethnic or religious conflicts has been attributed not only to the structural inequalities of the region rooted in its colonial past, but also to an unwillingness of member states to use available mechanisms in a proactive, preventive fashion. Consequently, whereas most international governmental organizations tasked with collective security increased their effectiveness in the settlement of disputes and conflict management in the late 1980s and early 1990s, the OAU did not.( Weiss, 1993:65) Of course part of the explanation lies in the lack of resources which has meant that sustained financial support for military peacekeeping operations and logistic capabilities are rarely available to member states. And yet, it is also a matter of political will, which has prevented member states from agreeing to a course of action in often controversial conflicts.<sup>48</sup>

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<sup>48</sup> See Ruth Wedgwood on this point. She attributes the OAU’s failure in Chad in 1981-1982 and during the Rwandan genocide of 1993-1994 to the fact that its call for troop

Gradually, however a normative shift seems to be underway which is weakening the strict adherence by Africans to sovereignty and non-intervention norms, especially in the area of human rights. More and more African scholars and activists are joining the ranks of those arguing for a relaxation of those principles in favor of effective regional conflict management. Especially in the face of transborder security challenges, more Africans are persuaded by the idea that a delegation of some national sovereignty to collective or regional institutions can be in the interest of each member state.( Fung, 1995:81) Although the OAU had established a regional human rights regime in 1981 (the Banjul Charter on Human and People's Rights) it was not legally binding or really enforceable. Moreover, as Robert Jackson has criticized, it allowed member states' sovereign rights and citizens' political obligations priority over human rights.(Jackson, 1990:155-157) Since the 1991 Kampala process was initiated, several regional confidence building and conflict management mechanisms such as the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), based on the European CSCE, have been established.<sup>49</sup> If implemented as envisioned, they would significantly curtail states' sovereignty and open up opportunities for greater international

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donations were ignored among other factors (Ruth Wedgewood in Crocker, Hampson, and Aall, 1996: 279) Richard Joseph cites the military weakness of African states, despite stockpiles of armaments, as one of several "critical reasons why African regimes have been so reluctant to make war on their neighbors." (Joseph, Fall 1997:176)

<sup>49</sup> For an excellent summary overview of continent-wide as well as subregional initiatives, see Stephen John Stedman, "Conflict and Conciliation in Sub-Saharan Africa" in (Brown, 1996:261ff).

intervention in internal affairs. refugees and internally displaced persons (IDPs) occupy a central place in the African regional security calculus.

In 1991 Perez de Cuellar advised the international community as follows: “We need not impale ourselves on the horns of a dilemma between respect for sovereignty and the protection of human rights. What is involved is not the right of intervention but the collective obligation of states to bring relief and redress in human rights emergencies.” (UNDOC/46/1/p.10)

At the same time though, despite an initial euphoria over then Secretary-General Boutros Boutros-Gali’s Agenda for Peace (United Nations, 1992), member states and analysts seemed only too willing to herald the death of the principles of sovereignty and non-intervention. And yet, the more expertise the United Nations acquired in the humanitarian enterprise, the more cautious and confused did the international community’s response to complex humanitarian emergencies become.<sup>50</sup>

For the past forty years, the international refugee regime has continued to evolve and adapt its decision-making procedures and rules to meet the needs of new circumstances, continuously expanding beyond its original purely humanitarian, non-

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<sup>50</sup> Assessments of UN performance in peacekeeping and peace-support operations are too numerous to cite fully here. Examples include Human Rights Watch’s Leave none to tell the story: Genocide in Rwanda (Washington, D.C., March 1999), the UN’s own inquiries and panels into operations in Kosovo and Rwanda, the Report of the Independent Inquiry into the actions of the United Nations during the 1994 Genocide in Rwanda (UN Document S/1999/1257); and the Report of the Panel on United Nations Peace Operations, also known as the Brahimi Report (March 2000). A growing volume of documents by various UN and NGO experts focuses on the specific issue of protection of civilians in armed conflict. See the Office for the Coordination of Humanitarian Affairs (UN OCHA) website, [www.reliefweb.int](http://www.reliefweb.int) for more information and lists of available documents. For other expert evaluations, see also the works of Larry Minear and Thomas Weiss, among others, under the auspices of the Humanitarianism and War Project, among others.

political emergency response conception. In the fifty years since the end of the Second World War, the international community has developed a “complex network of institutions, laws and agreements specifically designed to meet the needs of people who have been forced to leave their homeland.”(United Nations High Commissioner for Refugees, 2000:30-31) The modern international refugee regime evolved from the early efforts of the United Nations High Commissioner for Refugees tasked with repatriating “footloose millions ... in the way of military action,”(Gordenker, 1987:16) in the aftermath of World Wars I and II. The 1951 United Nations Convention on Refugees (the Geneva Convention) not only codified the definition of a refugee and the right to asylum, but also gave rise to the creation of the contemporary system under the auspices of the UN High Commissioner for Refugees (UNHCR). Even in the early phases, political and military concerns about stability and security appear to have provided an incentive for the creation of this regime as much as humanitarian reasons.

The definition of refugees has played a crucial role in the way the refugee regime has evolved over time. Definitions do matter because “refugee status is a privilege or entitlement, giving those who qualify access to certain scarce resources or services outside their own country...”(Zolberg, Suhrke, and Aguayo, 1989:3; cf. Newland, Spring 1993) The initial approach was refugee-specific and grounded in the Geneva Convention of 1951 which presupposed exiled populations and in fact allow for international action only once populations have crossed a national border. This exile-orientation has limited the effectiveness of the international refugee

regime, particularly in response to modern complex humanitarian emergencies, in that it addresses neither an obligation by states to grant asylum—as opposed to the right of refugees to seek asylum—nor the right of refugees to live safely within the borders of their own country. Refugees may well fall under no clear jurisdiction and the very regime, which is supposed to protect them in fact exposes refugees to rights abuses resulting from the loss of citizenship rights and homelessness.

Limited both by the laws and agreements governing its activities and overwhelmed by the unique aspects of contemporary refugee crises, the international refugee regime was overtaken by events and the emerging international system of the post-Cold War world. As a consequence, in practice, definitions of refugees and other forcibly displaced populations have changed to reflect more accurately the realities on the ground. They suggest a change in underlying norms and a greater reliance on concepts of identity in determining the security and protection of refugees. In essence, the international refugee regime has undergone two distinct but related evolutionary paths. On the one hand it has developed as a set of norms and principles distinct from those governing migration and immigration controls, creating an alternative, more invasive paradigm for the protection of refugees than for immigration.<sup>51</sup> Secondly, there has been a shift from “low” or local, humanitarian

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<sup>51</sup> James Hathaway makes the distinction that “[w]hile state self-interest influences the form and substance of protection, refugees unquestionably benefit from at least a partial abrogation of whatever general prerogative states may be said to enjoy in regard to immigration control.” (in Cornelius, Martin, and Hollifield, 1994:51).

to “high” or state-centered politics.<sup>52</sup> This shift appears largely conditioned by the ability of the local communities to control refugees and by the degree to which refugees are perceived as a threat to the country. More often than not, national responses to refugees are generated at the national rather than the local level, often by agencies not normally concerned with population problems such as the foreign or defense ministries. De facto, the expanded definition of refugees and of the international refugee regime has forced open the elite boundaries of international security to a convergence of theory and policy.

One significant step toward developing a real “culture of protection” and perhaps resolving the dilemma of international interventions in complex humanitarian emergencies that place humanitarian and sovereignty norms on a potential collision course is the publication in late 2001 of the International Commission on Intervention and State Sovereignty’s (ICISS) report on “The Responsibility to Protect.” This Canadian report reflects a significant paradigm shift in the conceptualization of humanitarian intervention not as a right of intervention but a responsibility to protect. The report suggests that while differences remain throughout the international community’s approach there is considerable convergence around the notion that sovereign and individual human rights are not mutually exclusive, and that either states, or in the absence of a functioning state, its

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<sup>52</sup> “Local” in this context has a dual meaning. On the one hand it refers to grass-roots or communal concerns, e.g., the displacement of Tutsis within Rwanda before, during and after the Genocide of 1994. On the other hand, the term refers to domestic politics in other states responding to humanitarian crises.



neighbors and/or international institutions should intervene whenever human rights are at risk.

The ICISS process furthermore is a particularly vivid example of normative agenda-setting as proposed in my model. Having largely framed the question of humanitarian intervention around a zero-sum understanding of norms of non-intervention and human rights, the series of challenges posed by humanitarian emergencies in Somalia, Rwanda, Bosnia, and Kosovo shocked the international community into revisiting the previous acceptance of sovereignty protection norms. Member states, in this case primarily Canada, joined forces with a number of NGOs such as Medecins Sans Frontières and academic centers such as the Project on War and Humanitarianism (at the time at Brown University) and the Ralph Bunche Center at City University of New York, as well as a few well-placed individual ‘norms entrepreneurs’ such as Andrew Mack, to respond to Kofi Annan’s speech to the UN General Assembly in 1999.

The Secretary General’s challenge to the international community to change the prevailing definition and policy of international security to the members of the UN and the international community had provoked a heated debate around these issues. It also spurred two parallel trends that first emerged at the end of the Cold War: a more expansive definition of security centered around the well-being of peoples rather than nation-states, and efforts to identify appropriate means of protection for civilians in armed conflict and at risk.

### **Chapter 3**

#### **A THEORETICAL FRAMEWORK FOR NORMS COMPETITION IN HUMANITARIAN CRISES**

This chapter presents the theoretical basis for the question of contested international protection norms and their role in complex humanitarian emergencies. I begin with a presentation of the theoretical debate regarding the nature and role of norms in international relations. Embedded in a social constructivist approach, this review of the literature takes note of alternative theoretical perspectives relevant to the debate. The second half of the chapter is devoted to the relationship of norms to interests, culture, and identity, as well as the role of morality and ethics in international relations. This chapter provides the theoretical foundation for the key concepts and terms of the research puzzle and of my model of international normative agenda-setting.

#### **Theoretical Foundations for the Study of Norms Competition - The State of the Literature**

Although very much grounded in a social constructivist framework, this dissertation borrows liberally from other theories in order to fill existing knowledge gaps in that framework. In that sense, it follows in the footsteps of recent work on transnational advocacy networks (TANS), particularly in the human rights domain (Keck and Sikkink, 1998; Risse, Ropp, and Sikkink, 1999; Florini, 2000), which has demonstrated the importance of linkages across domestic and international

dynamics. Constructivists and institutionalists alike point to the mutual influence of domestic and international politics in creating and institutionalizing norms. However, because we are dealing with a far more competitive environment in international relations, international norms are more complex and contentious than in the domestic context. Whereas these works offer strong explanations for normative change within societies, their account for normative change at the transnational level (i.e. within the international community) is less convincing. While the spiral model of gradual socialization through pressure by TANS and domestic pressure groups accounts for acceptance of political and civil rights norms in non-Western countries, the authors themselves point out that it does not explain responses to human rights abuses in civil war (Risse, 2000:205) Nor do these works adequately explain the apparent weakness of TANS in influencing the international normative agenda – especially of member states who helped create the human rights norms in question. To fill in some of these gaps, my model combines three different theoretical streams: international relations, comparative politics and public policy.

#### *Contributing Theoretical Perspectives*

Rational choice, neo-realists and neo-liberal scholars focus on behavior outcomes but take a different approach from constructivists. They favor materialist explanations such as military power or wealth to explain state (and generally only state) behavior in the international system. (Waltz, 1979, Krasner, 1999) As commonly interpreted, this view claims that norms have no significant impact on

intervention decisions. Instead, they are trumped by other factors such as national interest, political power, capabilities. Neo-liberal explanations give greater credence to ideational factors but at the end of the day still focus on utilitarian rather than normative reasons for patterns of international behavior (e.g., Goldstein and Keohane, 1993). Much of the debate in international relations for the past decade has addressed these differences in emphasis.<sup>53</sup> Increasingly however, it is becoming clear that this may be an artificial divide. Instead, the relationship between normative or ideational factors on the one hand, and material factors on the other, may be a matter of degrees of strength and interaction rather than an oppositional dichotomy. The question regarding norms thus becomes one not of whether they matter, but how much and under what conditions.

In addition to constructivism, several other theoretical approaches help to specify the norms identified in this study. They include theories of international organizations, transnational governance and networks (e.g. Brown, 2002; Cusimano, 2000; Florini, 2000; Reinicke and Deng, 2000; Rosenau, 1997; Simmons and de Jonge Oudraat, 2001). As mentioned above, the research problem requires an understanding of national and sub-national dynamics as well. The premise is that the social movements literature (e.g. Snow, arrow, Banaszak, 1996), and that on agenda-setting and problem-definition (Kingdon, 1984, Sabatier, 1999) offer greater insights

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<sup>53</sup> Several extensive overviews of these debates have been published. One of the most comprehensive reviews is contained in the fiftieth anniversary issue of *International Organization* (Katzenstein, Keohane, and Krasner, Autumn 1998). More recently, Finnemore and Sikkink provide an updated overview specifically of the constructivist research program. (Finnemore, 1996b).

into how a norm ‘travels’ from the individual to the institutional and systemic level. While Frank Baumgartner and Bryan Jones (1993) help to explain how policy issues rise and fall on national agendas over time, theorists such as Mary Durfee provide insights into complex adaptive systems, such as the ‘international community’.

The issue of social or institutional learning is central not only to the process of norms diffusion but also to competition among norms. I therefore draw on works that address the means and implications of such forms of learning and how they might lead to particular intervention outcomes, (e.g. Lang, 2002, Avant, 1994, Barnett and Finnemore, 1999, Douglas, 1986). The process of agenda-setting as well as normative influence described below ultimately is one of mobilization and issue-framing. Sidney Tarrow’s *Power in Movement* (1994) highlights these mechanisms from a social movements perspective and adds the notion of cyclical mobilization to the model. More interpretative work such as that of Peter Berger (Berger, 1998) further clarifies the processes of mobility, culture and identity that drive international norms competition.

International norms are present in most issue areas, but for purposes of this investigation I limit myself to protection norms derived from the literature on sovereignty, peacekeeping and refugee or humanitarian regimes (e.g. Nicholson and Twomey, 1999; Deng, 1993). The underlying assumption is that the dynamics that occur at the intersection of the forced displacement of populations and the preservation of individual and sovereign rights involve some of the most basic norms for international relations today. They are what Habermas and others have referred to

as a ‘grundnorm’ – a foundational primary norm. Moreover, these dynamics are central to the emerging concept of ‘human security’, the most recent manifestation of protection norms. In this regard, I follow the school of “critical security studies” (Krause and Williams, 1997; McSweeney, 1999), which draws on more interpretative, post-modernist traditions as well as feminist scholarship as well as sociological and anthropological approaches to culture and identity (cf. Meyer, Thomas, and Ramirez, July 1997; Snyder, Winter 2002). These approaches allow for a more refined and less state-centric analysis of the structures and actors that constitute the “international community.”

A sub-set of international relations research most relevant to this project is the burgeoning literature on nontraditional uses of force as well as on forced migration. Works such as those by Connaughton, 2001; Daniel and Hayes, 1995; Mayall, 1996, just to mention a few, provide the content to an otherwise rather abstract framework on the use of force for humanitarian purposes. Furthermore, understanding refugee and internally displaced peoples movements is crucial to specifying the impact of contested norms on conventional notions of identity and citizenship inherent in the principles of sovereignty and human rights. To this end, I look to scholars that have placed forced migration in the context of security and peacekeeping, human rights, international humanitarian law, and crisis management, (cf. Newland and Meyers, 1999, Cohen and Deng, 1998, Bayefsky and Fitzpatrick, 2000, Dowty and Loescher, Summer 1996, Helton, 2002, Weiner, September 1998).

### *A Social Constructivist Perspective Of Norms*

The international relations component relies primarily on normative theories – most notably the social constructivist school of thought represented by Alexander Wendt, John Searle and Friedrich Kratochwil among others; and proponents of ethics in international relations, for example Michael Walzer’s “just war” theory (Walzer, 1992). As Jeffrey Checkel has pointed out constructivism falls somewhere between rational choice and postmodernist theories (Checkel, 1998). It is closely related to regime theory but is better suited to explain informal rules and identity formation. It is important to note that a variety of constructivist perspectives have emerged since social constructivism as a school of international relations was introduced in the mid/late 1980s. These range from those often referred to as “mainstream” (i.e., neo-realist or neo-liberal in orientation, e.g. Katzenstein, Finnemore, and Wendt) to more interpretative or post-modernist versions, e.g. Nicholas Onuf (Onuf, 1989), which focus on culture, identity and discourse. I adopt a largely realist form of constructivism akin to the “normative realism” of Gary Goertz (Goertz, 1994) which emphasizes the role of powerful groups in creating (and propagating) norms and the idea that norms and self-interest are neither completely antithetical nor consistently compatible across different actors and institutions (Goertz and Diehl, December 1992; Kegley and Raymond, 1986; Raymond, November 1997; Nye, July/August 1999).<sup>54</sup> In contrast to neorealists, however, this approach does give credence to

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<sup>54</sup> Ted Hopf offers a succinct summary of the constructivist contribution to international relations. “In the absence of norms, exercises of power, or actions, would be devoid of meaning.” Ted Hopf. (Hopf, Summer 1998 :173) A more recent example of a more realist approach to normative theory can be found in the work of Ward Thomas

culture and identity as fundamental to the constitutive dimension of norms and for shaping preferences. (Goldstein and Keohane, 1993; Lapid and Kratochwil, 1996; Sikkink, 1993) From this literature, one can derive a ‘hybrid’ model that treats norms as inherently linked to national interests on the one hand, and culture and identity-formation on the other.

In thinking about international responses to complex humanitarian emergencies, it quickly becomes evident that limiting the debate to the “why” without considering the “how” of change in international relations creates significant problems for the understanding of “new” security issues such as forced migration. An approach that assumes a priori state or social interests, preferences, and identities, without evaluating the source of those behaviors cannot fully explain the dynamics inherent in the refugee-security nexus. Contrary to structural explanations, more interpretative constructivist theories can offer some insights by focusing on the role of norms in the international system. Thus, to understand and respond to transformations in security, the use of force and forced population displacement, we must explain how norms change and how they influence behavior.

Contrary to neo-realist and neo-liberal theories, e.g. hegemonic stability theory or regime theories, that presuppose an anarchic self-help system as the basis for international relations, social constructivism builds on a very different set of core assumptions around the nature of international relations, the relationship between interests and ideas, and structures and agents. Most importantly, interests and

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Thomas, 2001). Thomas argues for the close interrelationship between state interests, power and norms.



preferences of actors – taken as fixed and given by mainstream theorists- are endogenized by constructivists. They “emerge from processes of social interaction and communication. Domestic, international, and transnational discourses provide the framework in which actors define their preferences and build consensus-based coalitions.” (Risse-Kappen, 1997: 262) Thus from this perspective the logic of anarchy is itself a social construct. According to Alexander Wendt (1995, 1999) the international system consists of agents (individual units such as states) and structures (the system of states as a whole) that interact at multiple levels of analysis. This interaction both leads to and is influenced by a range of potentially competitive norms.

### **Norms Defined and Contested**

Norms are integral to the fundamental processes of international relations, i.e., the interaction and mutual constitution of agents (state and non-state actors) and structures (the constraints and opportunities of the international system and within societies) Wendt, 1999. The social constructivist approach thus privileges non-material factors to explain change in international relations.

They are generally defined as collectively shared values and principled beliefs of standards of behavior and identity, are the product of three elements: acquired knowledge and skills, socialization, and the environmental context, i.e. cultural, historical, political, and economic factors and capabilities. They create preferences and help shape interests and the decisions that flow from them which in

turn shape the context that brought them forth.<sup>55</sup> There are slight variations in how norms are viewed – whether purely as preferences, as constraints upon behavior, or as outcomes. In general, norms comprise all three characteristics to some degree. Together these elements constitute a set of values (both ethical and material) and expectations of behavior and identity, which are transmitted through repeated iterations of structure-agency interaction. Individual values and expectations become mutually understood standards, i.e., “shared experiences about appropriate behavior held by a community of actors”.( Finnemore, 1996a:22; cf. Raymond, November 1997:218).

In an early foray into the study of norms from a game-theoretic perspective, Edna Ullman-Margalit, identifies “certain types of norms [that] are solutions to problems posed by certain interaction situations.” (Ullmann-Margalit, 1977:9)<sup>56</sup> Others have drawn similar conclusions about norms as solutions to coordination problems (Abbott and Snidal, February 1998; Rosecrance, February 1999). Gary

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<sup>55</sup> The literature generally distinguishes between ‘regulative’ and ‘constitutive’ norms. The former refer to the rules that guide behavior as embodied in regimes for example. The latter form the identities of actors, i.e., who is part of a regime or community is determined by the values and beliefs they share.(cf. Kratochwil, 1989, Jepperson, Wendt, and Katzenstein, 1996) Whereas violations of regulative norms are generally countered by sanctions against the violators, violations of constitutive norms are more likely to result in fundamental changes or even collapse of the underlying regime, community or coalition of beliefs. Regarding the relationship of norms to their context, see Goertz, 1994 and Reisman and Baker James E., 1992

<sup>56</sup> Ullman-Margalit proposes three elements of social norms, specifically norms of obligation such as the protection norms to be discussed here: “a significant social pressure for conformity to them and against deviation” (akin to Axelrod’s “metanorms”; (cf. Axelrod, 1992:55 *passim*); people’s belief in their indispensability for the proper functioning of society; and “expected clashes between their dictates...and personal interests and desires on the other.” (Ullmann-Margalit, 1977:13)

Goertz offers a useful typology of norms ranging from ‘cooperative’ (problem-solving) to ‘hegemonic’ and ‘pure reciprocity’ norms. Additional types of norms, have more ‘normative’ or deontological force and tend to conflict with pure self-interest and tend to be diffuse and decentralized in their sanctioning power. (Goertz, 1994:232ff) These are the type of norms at stake in dealing with humanitarian emergencies. More importantly, such social norms entail some inherent obligation. Other scholars such as Russell Hardin distinguish between ‘universalistic norms’, applicable to all, and ‘norms of exclusion,’ which apply to a select group. (Rosecrance, February 1999)

It seems reasonable to assume that these various processes generates multiple sets of values and expectations that coexist with varying degrees of convergence. As a consequence, “while norms are inherently consensual...they evolve in part through challenges to that consensus.”( Finnemore, 1996b:160) Political actors, structures and the regimes within which they operate, are presumed to adhere to multiple norms simultaneously. These are reflected in the fabric of international strategies and choices. Indeed, one of the debates regarding norms concerns the relative autonomy of international or global norms from group norms. While a number of social constructivists, (e.g. Barnett and Finnemore, 1999) accord relatively high degrees of independence and influence to systemic norms and international institutions, others question an exclusive focus on global norms, arguing that subnational principles and beliefs may be as or more important. (Legro, Winter 1997:58; Koslowski and Kratochwil, 1995:158) This thesis seeks to investigate this question further.

Norms by their very nature change, confounding their direct observation or study. Norms by definition refer to an ideal state of “oughtness” rather than a direct result. That ideal state is continually modified and shaped by a combination of other factors present in the international system. The process of norms transformation does not necessarily mean the death as much as the mutation or adaptation of a given norm. We see this, for example, in the case of the norm of sovereignty and indeed with the norm of non-intervention, both of which have been modified substantially in recent years. Thus the norm of sovereignty, which previously was seen in terms of positive capabilities (“freedom to”), it has since decolonization become equally identified with notions of “negative sovereignty” (Robert Jackson), that is the right to “freedoms from”. Moreover, these two norms point to another complicating dimension of normative change – the potential embeddedness of one set of norms within another. One model for this relationship is that of the “egg-box”, in which the value contained in each sovereign ‘egg’ is protected by virtue of the inviolability of its shell, which itself is protected by the egg-box which contains the egg. Here, the non-intervention norm serves as a constraint on the sovereignty norm but also preserves it.<sup>57</sup>

If one assumes that norms are formed in part through contestation, then one has to accept two implications for the establishment and transformation of norms. Not only do they depend at least in part on preexisting institutional structures with

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<sup>57</sup> Model developed by Stanley Hoffmann (1978) and R. Vincent (1986) as described Ramsbotham and Woodhouse, 1996 p. 35.

which actors interact but within which also they are embedded, but they are unlikely to represent a permanent, rationality-based consensus.<sup>58</sup> In short, norms are dynamic, intersubjective and subject to change. They are the instrument or tool which connects to actors, structures and political behavior with one another, and which imparts legitimacy and “normative force” to international relations. When questions arise regarding the legitimacy of particular actions or behaviors, for example in the case of military interventions, one has to turn to the underlying normative framework to resolve the question. Thus, two options are possible. Either the behavior is indeed in violation of established norms and therefore should be halted. Or it could be the case that the action is in compliance with one set of prevailing norms but in conflict with a set of new or less firmly-established norms; i.e. “emerging” norms.

Ultimately, the exact role of any given norm in international relations is a function of the slice of time within the process. International relations scholars have struggled with the dynamism of norms. Holding norms constant for analytic purposes inevitably means that one can only gain an incomplete picture of their role. For instance, analysts interested in norms formation will consider norms a dependent variable, derived from the environmental context, acquired or learned knowledge and

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<sup>58</sup> Bertrand Badie, for example, makes the claim that a plurality of actors (as exists in the international system) leads to a plurality of rationalities interacting in the international system. Under such conditions “it is difficult to establish norms and rules for most international action.” See Anna Leander. “Bertrand Badie: Cultural Diversity and IR” in Iver Neumann and Ole Waever, eds. *The Future of International Relations*. New York: Routledge, 1997, pp. 160-161. Also Audie Klotz. *Norms In International Relations Theory: The Struggle Against Apartheid*. p. 24ff.

skills, and socialization. And yet, in interactions within the international community norms function both as independent and intervening variables. At this point they constitute identities and perceptions of agents as they interact with the structures of the international system. That interaction in turn modifies existing norms, technically now dependent variables, weakening some and strengthening others. In closer proximity to actual policy outcomes norms become intervening variables, shaping the specific interests, perceptions, capacities and external constraints which together lead to a given policy outcome. The policy outcome in turn serves to further reinforce or diminish a given set of norms in a positive (or negative) feedback loop.

This is why it would be misleading to simply think of norms – in this case protection norms- in terms of traditional paths of causation from an independent to an intervening to a dependent variable. More accurately they are all of the above. However, for the sake of mapping the research puzzle, I generally limit myself to considering norms as an intervening or ‘enabling’ variable, recognizing their interaction not only with other norms but also other factors to produce policy outcomes.

### **International vs. Group or Institutional Norms**

Norms compete not only horizontally, i.e. across different simultaneously held international or social norms, but also vertically from individually held norms to systemic or meta-norms. It is important to distinguish between international norms, such as the norm of non-intervention or human rights, and national or group level

institutional norms, such as norm of impartiality and neutrality of humanitarian organizations such as the International Red Cross. The latter may be embedded within international conventions or customary law, but will be applicable to a particular subset of individuals or institutions. Thus the norm of impartiality for example is universal in that it applies to all humanitarian organizations, but not necessarily to human rights advocates, for example. International and local norms or customs are also likely to vary from one another both in content and in application.<sup>59</sup>

Lee Banaszak offers a useful framework that can be adapted for the purpose of ordering the different levels of norms. She distinguishes between collective values and beliefs that have an effect on the macro-level (social structure), the meso-level (interaction of groups), and the micro level (individual experience). The levels may coexist or conflict with one another and “new values and beliefs may either supplement or contradict established ones”. (Banaszak, 1996:34-37) This framework not only captures the dynamics among different levels of social norms but also reflects the mutual interaction between social structure and agency that shapes norms contestation. It is limited, however, in its focus on processes occurring within a given society. Hence, we can expand the framework to incorporate multilateral and

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<sup>59</sup> For a discussion of the lack of congruence between international and local norms see Finnemore, 1996a:136-7, and Rosenau, 1997. On the problem of conflicting norms within a single institution, see for example, Myron Wiener’s discussion of the UN High Commissioner for Refugees. (Weiner, September 1998)

transnational norms that play an important role particularly in the context of complex humanitarian emergencies. (Ruggie, 1998).<sup>60</sup>

Furthermore, one should distinguish between norms affecting the state from those affecting society or informal political communities or nations. That is, subsystemic norms (Legro, Winter 1997) may be as influential in determining international behavior as state level norms.<sup>61</sup> For instance, international norms protecting refugee rights, such as the right to asylum, frequently are undermined by equally valid national norms of protecting a state's citizens. (von Sternberg, 2002; Uvin, 2000) Regional organizations such as the Organization of African Union (OAU) have promoted norms that are both more inclusive than their international counterparts, such as the definition of refugees, but also more exclusive with a far stricter interpretation of non-intervention norms than prevalent with in the United Nations.<sup>62</sup>

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<sup>60</sup> Scholars who have focused on transnational norms and dynamics include Florini, 2000; Risse-Kappen, 1995; Keck and Sikkink, 1998. Slightly different in focus but nonetheless at the transnational level, is Francois Debrix' concept of 'supergovernmentality' which refers to institutions such as the European Union. (Debrix, 1999 )

<sup>61</sup> By the same token, Michael Walzer distinguishes between rights of the political community and those of the state. (Walzer, 1992) Eric-Lars Cederman makes a similar distinction between norms that affect national communities or nations and those of concern to the state. (Cederman, 1997). According to Alexander Wendt, however, subsystem dominance is in fact a relatively recent phenomenon, whereas transnational determinants have shaped international relations much longer. (Wendt, 2000:176)

<sup>62</sup> For a more extensive discussion of African perspectives on intervention norms and on the relationship between the OAU and the UN, cf. Samkange; Adebajo and Landsberg, Winter 2000. A similar point regarding regional organizational norms has been made about NATO, Risse-Kappen, 1996.



Scholars have noted the ‘pathology’ of international institutions that produces a distinct normative dynamic within the United Nations and affiliated agencies.

(Barnett and Finnemore, 1999; Barnett, 2002; Weiner, September 1998; Foot, 2000)

Norms vary within and across institutions. Civilian organizations are likely to promote different norms than their military counterparts. Indeed, the ethical and operational dilemmas associated with integrating civil-military norms lie at the core of much of the debate over the use of military force in humanitarian emergencies.

(cf. Kennedy, 1997; Weiss, 1999) This issue will be explored further below.

International non-governmental organizations share some but not all institutional norms of international governmental organizations, even when they cover the same issue area such as humanitarianism. (West, 2001) Finally, Robert Axelrod points to ‘metanorms’, which guide appropriate compliance with other kinds of norms; for example the norm of sanctions as a response to violations of norms. (Axelrod, 1992).

As a consequence of the multiple levels at which norms are created, interpreted and spread, international norms may translate into unintended or divergent policy outcomes. In short, even with a focus on international norms, one must look beyond the international-domestic divide to fully capture the complexities of norms competition and diffusion.

### **Theories of norms evolution and diffusion**

Norms gain force through internalization and socialization. They become institutionalized through a derivative and highly political process of interaction

between shared knowledge, material resources, and practices prevalent among states as well as the interests of individual actors. This study offers an alternative understanding of change in international norms (both in type and degree of acceptance) over time to those that stress analogies to genetic or biological evolution (Axelrod, 1992, Florini, 1996, and Raymond, November 1997). Accordingly, “a new norm gains legitimacy with the rule community when it is itself a reasonable behavior response to the environmental conditions facing the members of the community and when it “fits” coherently with other prevailing norms....”(Florini, 1996:376). Other have proposed a process of norms cascades (Finnemore and Sikkink, Autumn 1998, Weiner, September 1998) or spirals (Risse, Ropp, and Sikkink, 1999), the notion of normative shifts (Bell, 1999), and finally processes of persuasion, argumentation and pressure as a means of norms diffusion (Foot, 2000; Risse, Winter 2000).

While all of these approaches help identify the means by which norms are first initiated, and offer some explanations for their relative degrees of strength and persistence, these approaches tend to minimize the degree of political conflict inherent in norm creation, adherence and promotion. They tend to overemphasize the cooperative dimension of international relations. Instead, I uncover the process of normative contestation (and subsequent adaptation and change) in the international system using an agenda-setting model. That is not to say, that prevailing explanations for norms competition are wrong, but rather that they are incomplete.

The model for norms contestation presented in the following pages suggests that change is not a linear, evolutionary process but rather as a series of punctuated equilibria around “normative monopolies.”<sup>63</sup> That is, sudden shocks to the system will disrupt longer periods of stability among particular norms and shift the balance of power among them. They may return to favoring original norms or settle around a new set of prevailing norms. Viewed through the lens of processes of contestation – rather than simply focusing on outcomes- normative shift raises questions about institutional learning that forms the basis of much of the research on normative development. Can and does the international community –as an institution- learn, and what are the implications for humanitarian protection norms?

#### *Competition and Causality of Norms*

Why should one care about norms competition? An assumption underlying this work and suggested by evidence of international responses to humanitarian crises from Bosnia to Somalia to Rwanda, is that contested norms are likely to contribute to inconsistent and unclear policies.<sup>64</sup> Therefore, understanding how particular norms compete with one another in the arena of humanitarian intervention can help explain the variation in intervention outcomes. Note, however, that I do not

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<sup>63</sup> This concept is derived from the public policy agenda-setting literature, most notably the works of Baumgartner and Jones, 1993 and Kingdon, 1995)/Kingdon, 1984

<sup>64</sup> Peter Katzenstein takes this argument one step further by claiming that herein lies the reason why norms would not determine outcomes directly: “They are contested and they are contingent.” (Katzenstein, 1993:286)

claim to explain the cause of variation directly, but rather focus on the prior step of specifying the elements that contribute to a causal explanation. A focus on norm contestation has certain methodological advantages. It offers a more accurate image of global realities, since norms do not exist in a political or normative vacuum. A focus on competition allows one to look specifically at the interaction and constitutive effects of norms. According to Martha Finnemore, the “[t]ensions and contradictions among norms leave room for different solutions and different arrangements, each of which makes legitimate claims based on the same norms.” (Finnemore, 1996a:136). As new norms emerge through competition, decisions taken at the point of contention may appear to contradict or deviate from the prevailing interests and the previously known normative framework. Once a norm is firmly established, policy outcomes, interests and norms are more likely to be in equilibrium with one another.

Critics of social constructivist research have noted that it does not specify sufficiently which norms are likely to prevail under which conditions. (Checkel, 1998, Finnemore and Sikkink, 2001:905). Knowing that norms matter is necessary but not sufficient to explain policy changes. One must also take into account the specific mechanisms by which norms compete, and either succeed or fail to influence intervention outcomes. According to Finnemore & Sikkink (1998), the issue of causality in norms research has centered around four different hypotheses: (1) Neoliberal and regime scholars such as Keohane and Krasner argue that norm conformance can be attributed to material self-interest. (2) Others have focused on

the underlying behavioral logics of utility maximization, i.e. “consequence,” or of principle and desirability, i.e., “appropriateness,” by which particular identities and rules become internalized and generally accepted. (March, 1994) 3) The issue of choice versus historical determinism is at the heart of the third approach to normative causality. Whereas rational choice scholars (e.g. Elster, 1989) argue that rational actors conform to norms based on available choices, institutionalists and neo-liberal international relations scholars point to the high degree of internalization induced through social structures that virtually eliminate any opportunity of ‘choice’. (Goldstein and Keohane, 1993, Krasner, 1999). (4) The fourth debate regarding norms centers on the issue of persuasion, i.e. “the process by which agent action becomes social structure, ideas become norms, and the subjective becomes the intersubjective.” (Finnemore and Sikkink, Autumn 1998, p. 914) Contrary to legal scholars, psychologists and sociologists, international relations scholars have not been able to explain this process very well.

Recent scholarship on the role of norms in international relations has sought to provide additional empirical evidence for the mechanisms involved in determining which norms are more likely to prevail and how their influence is manifested in policy outcomes.<sup>65</sup> From these efforts two themes emerge that serve as the basis for my approach to causality and contested norms. The first theme concerns the

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<sup>65</sup> Scholars have considered the norms of de-colonization (Jackson, 1993, of humanitarian intervention (Bell, 2000, Finnemore, 1996b, Väyrynen, 1998, Wheeler, 2000; on the use of force (Legro, Winter 1997); assassination (Thomas, Summer 2000; and human rights among others (Risse, Ropp, and Sikkink, 1999, Keck and Sikkink, 1998, Hawkins, 20-24 February, 2001).

relationship between constitution and causality of norms. The second relates to the underlying logic of norms.

### *Understanding causality*

First, norms are likely to have both constitutive and causal effects just as they tend to consist of a mix of regulative and constitutive characteristics. (Katzenstein, 1996, Wendt, 1999) It is the balance between these two aspects that will vary from norm to norm. Thus, whereas regulative rules are intended to have explicitly causal effects, “constitutive rules define the set of practices that make up a particular class of consciously organized activity – that is to say, they specify what counts as [sic] that activity.” The focus thus is more on identifying the reasons for certain actions – ideational factors such as legitimacy or the power of rights, for example- occurring rather than the actual cause of an event. (Ruggie, Autumn 1998: 869, 871)

And yet, as Finnemore and Sikkink have pointed out – drawing on their own work and that of Alexander Wendt and Michael Barnett, “[c]onstitution in this sense is causal, since how things are put together makes possible, or even probable, certain kinds of political behavior and effects.”<sup>66</sup> (Finnemore and Sikkink, 2001:394) The distinction between a neorealist or rationalist and constructivist approach to causality is not so much an appositional one as King, Keohane and Verba would argue. (King,

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<sup>66</sup> This argument is closely related to rationalist and game-theoretic understandings of rules and is grounded as much in the work of sociologists and early constructivists such as Emile Durkheim and Peter Berger and Thomas Luckman as Jon Elster. For example, Martin Hollis offers the following definition: “Whereas regulative rules presuppose an activity to regulate, constitutive rules create one.” (Hollis, 1987:138)

Keohane, and Verba, 1994 More accurately the relationship should be viewed as a sequential one; that is, constitutive analysis is logically prior to causation, just as ‘understanding’ precedes ‘explanation’. (Habermas, 1984;Wendt, 2000; Alker, 2000).

This dissertation’s primary enterprise thus is one of ‘understanding’ or ‘verstehen’ as conceptualized by Weber and currently represented by scholars concerned with communicative action such as Habermas and Risse.<sup>67</sup> Process-tracing through a multi-level agenda-setting model to assess the impact of humanitarian protection norms is a methodological approach that conforms with this conceptualization of “constitutive causation.” Norms reflect a balance of identity- or context-creating and regulating characteristics. Furthermore, constitution and causality are logically linked. Alexander Wendt suggests that we consider constitutive and causal theories as complements rather than rivals. “In the end we should expect of constitutive theories no less than causal ones that they be logically coherent, rely on publicly available evidence, be in some sense falsifiable, and be true or false based on their correspondence to the world....” (Wendt, 2000:171) It is in this vein, that this project will make and test the claim that understanding how protection norms came to be and shape both the identity and scope of activity of key actors in the international community, leads to an understanding of the causal factors

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<sup>67</sup> Max Weber’s approach to ‘verstehen’ as a methodology was essentially an interpretive one that “sought sociological explanations through understanding the ‘world view or basic systems of belief’ that people have. (Hughes, Martin, and Sharrock, 1995

for, and patterns of, international intervention in response to complex humanitarian emergencies.

*The two logics of norm adherence*

A second theoretical finding that informs the theoretical approach to norms contestation offered in this dissertation relates to the two “logics” that typically divide rationalists from constructivists. As mentioned above the underlying assumption for most constructivist research on norms is that they are more closely associated with the “logic of appropriateness”, that is they arise out of the structure of common expectations and understandings, shared assessments of communication and persuasion, culture and identity. Martha Finnemore, for example, explains that “[s]ocial structures of norms and rules govern the kinds of action that will be contemplated and taken. They also define responsibilities and duties, thus determining who will contemplate and take action.” (Finnemore, 1996a. The logic of consequences, in contrast, is derived from agents’ preferences and focused on utility-maximization. It is outcome-oriented by definition. (March, 1994 Rationalist and game-theoretic scholars have emphasized norms that are consequentialist in nature and designed to solve coordination problems to maximize utilities of individuals or states. (e.g. Axelrod, 1992; Goertz and Diehl, December 1992) Neo-realist and neo-liberal international relations scholarship rests on this consequentialist approach in which material power asymmetries (economic or military) lead actors to make rational choices among available alternative actions. Indeed, Stephen Krasner goes so far as to characterize international norms as “often contradictory” based on the



competing logics and that –in his view- the logic of consequences dominates the logic of appropriateness or else remains in a state of conflict leading to what he calls “organized hypocrisy” among states. (Krasner, 1999

Nevertheless, both constructivists and rationalists recognize that the two logics are “intimately connected.” (Finnemore, 1996a:30)) Contrary to the traditional division of labor between the logics of appropriateness and consequences respectively, it can be argued that this is “a false dichotomy.”<sup>68</sup> While constructivists claim that such a separation is one of “analytic convenience,” some sociologists have advocated a mixed approach (e.g., Olberg, July 1995 that allows for action to be guided by both rationality and norms as initially suggested by Elster. (Elster, 1989). And indeed, some social constructivists have followed suit by promoting what Finnemore and Sikkink have referred to as “strategic social construction”. (Finnemore and Sikkink, Autumn 1998; Legro, Winter 1997).

A ‘mixed-logic’ approach to politics that norms can explain why on the actors or groups of actors with divergent interest are engaged in similar behavior and yet may lead to differentiated policy outcomes. Here I follow in the footsteps of Anthony Lang, who argues that the dominant sociological approaches to constructivism tend to overlook the ‘political’ nature of agency, which by definition involves competition and conflict (as well as cooperation) in the sense of E.E.

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<sup>68</sup> Darren Hawkins points out this conceptual trap in norms research. Accordingly, he argues, “[f]ocusing on norms as an explanatory variable does not deny that states act in strategic ways, and a focus on power need not imply that states ignore concerns for appropriateness. “ (Hawkins, 20-24 February, 2001; see also Legro, Winter 1997; Krasner, 2001)

Schattschneider<sup>69</sup>. (Lang, 2002) Tuomas Forsberg, for example, points to normative factors and concepts of justice as driving territorial disputes. His point, and one that I share, is that norms “do not decrease conflicts” automatically. (Forsberg, 1996:445) Similarly, Jon Elster points to “the plurality of norms” that “may in turn create new problems” in wage bargaining for example. (Elster, 1989:113) I also take cues from Thomas Risse and Juergen Habermas’ concern with communicative action and the notion that the ‘logic of arguing’, closely linked to the constitutive aspect of norms, “provides a mechanism for both learning and norms socialization in social settings.” (Risse, Winter 2000:87) In other words, focusing on competition among norms allows one to focus more directly on the interaction across different norms, and among various agents within given structural constraints and opportunities.

#### *From Norms to Values: Ethics and Morality*

Before addressing the debate on the role of morality and ethics in foreign policy and international relations, and specifically with regard to humanitarian intervention and the use of force, it is necessary to clarify the difference between these various concepts and how they relate to norms.

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<sup>69</sup> Schattschneider argued that “the dynamics of politics has its origin in strife... both the process and outcome of politics depend on four dimensions that shape conflict: scope, visibility, intensity, direction of conflict.” (xxii-xxiii) But he also notes that “there is nothing intrinsically good or bad about any given scope of conflict - change in scope makes possible a new pattern of competition, a new balance of forces.” (17) (Schattschneider, 1975). I will return to this notion in the discussion of normative agenda setting.

## Values, Morals and Ethics

Greg Nielsen offers a useful distinction between norms and values, noting that norms in fact can “vary in how closely they are connected to values.” According to Nielsen, “values and desires refer to particular differences and choices while norms and roles refer to limited kinds of universal expectations about how to act.” (Nielsen, 2002:26) Norms refer to voluntary agreements and aspirations or ideals whereas values reflect specific wants and beliefs about the worth of a goal or object. Relatedly, Emile Durkheim noted once that values and society are closely intertwined. “A society cannot be constituted without ideals [i.e. norms],” which one comes to value; consequently “value is made by society.”<sup>70</sup> It is essentially a social (intersubjective) fact as opposed to a moral fact or rule, that, according to Durkheim is “invested with a special authority” characterized by obligation to obey.<sup>71</sup> Terry Nardin elaborates on this idea by arguing that “values such as legality, morality, and justice” are best regarded “... as values embodied in the constraints governing all action.” (Nardin, 1983:12-13)

Just as values are integral to society, so is morality or a code of ethics. McSweeney, for example, considers morality the key link between individual and group identities that “cohere in a societal identity....only by virtue of higher-level moral decisions about what counts and what is not to count in the image we want to have of ourselves and the correlative image we want to construct of others.”

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<sup>70</sup> Emile Durkheim, from *Sociology and Philosophy*, pp. 92-93, quoted in Simpson, 1963

<sup>71</sup> Cf. Berger and Luckmann, 1966 on social and moral facts.

(McSweeney, 1999:77) Moral rules also play a central role for Nardin for whom they are directly relevant to human rights because they “give rise to rights and duties. In his view, it is these rules, not the rights that are fundamental. (Nardin, 1983:299) Thus while not all norms are moral or ethical, the strength of those that are depends not only on a common moral or ethical understanding but also a close link to the interest and power-structures of a society prepared to uphold those norms.<sup>72</sup>

### **The “Normative” or Moral Authority of Norms**

Recall that norms do not simply regulate legal or political behavior, they in fact prescribe as state of “oughtness” of such behavior. The argument presented here is based on the assumption that norms, by definition, serve an important meta-ethical and epistemological function. They give meaning and justification to judgments of moral and non-moral obligation or values but they also convey a common set of beliefs and knowledge.<sup>73</sup>

The moral authority of norms serves as a bridge between individual self-interests and national interests, whereby it becomes in one’s self-interest to take into account the interests of others. In the eyes of some, being able to represent ‘the public interest’ or ‘common good’ thus invests a norm with power comparable to

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<sup>72</sup> Ward Thomas, rejecting an ethics-self-interest dichotomy, distinguishes between “power maintenance norms” where the norm is a direct outgrowth of the distribution of power and “Convention-dependent” norms reflecting compelling moral principles, that may or may not be in a state’s interest to uphold. (Thomas, 2001)

<sup>73</sup> For an elaboration of these concepts, see William Frankena, *Ethics*. 2<sup>nd</sup> ed. Englewood Cliffs, N.J.: Prentice Hall. 1963, 1973, p. 11ff; also Richard B. Brandt. “Epistemology and Ethics, Parallel Between” in *Encyclopedia of Philosophy*. Vol. 3, New York: Collier Macmillan & Free Press. 1967. pp. 6-8.

that of geo-strategic interests.<sup>74</sup> This holds true especially for humanitarian and human rights norms. There are however, varying interpretations of what constitutes ‘normative’ or ethical. For example, Michael Barnett points out that for the United Nations at the time of the Rwandan genocide, not to intervene was deemed to be the right thing to do, given resource overstretch and the general ethical universe of the institution at the time. (Barnett, 2002 ) In general, the debates over ethical norms tend to take place along two different dimensions: varying interpretations of morality, one the one hand, and of international society, on the other.

Moral arguments regarding protection norms fall into two categories – one based on justice and the other on obligations. The first group of arguments supporting the moral authority of norms is derived from Immanuel Kant’s “just peace” or Michael Walzer’s “just war” theory. These tend to favor non-intervention and the need to justify any humanitarian action according to the precepts laid out in “Just War”. Within this category one will find both legalist and ethical arguments. (cf. United States Institute of Peace, August 2000; Zalaquett, 1998; Lepard, 2002) A second category of moral arguments is premised on an universal obligation to relieve suffering. (Barry, 1998: 82) Advocates of this position represent many of the humanitarian aid organizations but also struggle with a much weaker legal or conventional basis, since few provisions in international law truly oblige states or individuals to act in a certain way.

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<sup>74</sup> For a discussion of the moral authority of norms see for example: Charvet, 1998; Risse, 2000; Lepard, 2002; Höffe, May 8/9, 1999.

The second set of arguments regarding the moral authority of norms focuses less on the source of the authority and more on the extent or reach of such authority. English School scholars of international relations, for instance, distinguish between cosmopolitan and communitarian perspectives on international society; the former advocating global governance structures and obligations, the latter focused on the rights and obligations that come with citizenship or membership within states. (cf. Brown, 2001; Wheeler, 2000; Bell, 2001). Others distinguish between partial and universal rights and obligations (Etzeberria, 2001; or between pluralist and solidarist views of the world (Jackson, 2000; Smith and Light, 2001). Here the ‘clash of norms’ tends to be either among norms that apply to varying populations or among those that represent universal principles on the one hand, and more localized ones on the other. Thus Mohammed Sahnoun, then Special Envoy of the United Nations Secretary General for Africa, lamented the struggle that humanitarians face between universal and local norms in the delivery of aid. (Sahnoun, 1998:90). Michael Ignatieff in contrast traces the evolution of a ‘moral internationalism’ that rises and falls in popularity throughout history. (Ignatieff, 1998)

Finally, one cannot ignore the detractors from any kind of relevance of morality for international relations or foreign policy. Many neo-realists and ‘neo-conservatives’ in the U.S. fall into this camp as reflected in the writings of Henry Kissinger, Charles Krauthammer and Robert Kaplan.<sup>75</sup> This group would consider

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<sup>75</sup> Robert Kaplan, for example, argued in an article in the *National Interest* that “our moral values... Represent our worst vulnerabilities,” and that international law would play a smaller role in conflicts in the future. (cited in Mufson, February 17, 2002).

humanitarian interventions appropriate only if they coincide with a clear-strategic interest or are 'rescue missions' for a state's own nationals. Morality and ethics and the issues that incorporate them such as human rights are deemed at best inappropriate and at worst detrimental to a state's foreign policy or international relations. This thesis clearly does not support this view and instead follows the lead provided by scholars such as Nicholas Wheeler and Brian Lepard in accepting the fundamental legitimacy not only of humanitarian intervention and human rights as part and parcel of international relations, but also of the notion of an ethical obligation to relieve suffering. The question again is not one of "whether" but "how" and at what cost.

#### *Norms, Institutions and Interests*

As already suggested above, the link between norms, interests and outcomes is neither determinate nor unidirectional. Rather norms merely enable actors to choose among competing interests in order to achieve a particular goal. The challenge is how to specify the relationship between norms and interests, whether self-interest or national interest.

Finnemore, Klotz and others have shown how norms shape interests; that is they are prior to interests. Juergen Habermas reminds us that already Max Weber and Karl Marx referred to "the 'world images' created by 'ideas'," that "have, like switchmen, determined tracks along which action has been pushed by the dynamic of interest." (Habermas, 1984:193) The problem is that norms are not readily

distinguishable from the interests they have produced. As Katherine Sikkink notes with regard to the emergence of human rights policies, it is not simply a “victory of ideas over interests” but rather that “ideas reshape the understandings of national interest.” (Sikkink, 1993:140;) Moreover, some analysts have noted that in the process of mutual constitution, state interests can constrain the effectiveness, strength or interpretation of norms as well. (Checkel, 1998: 330ff; Abbott and Snidal, February 1998). The point is that one cannot consider norms in a vacuum or, in the words of Peter Berger, “some kind of Platonic heaven segregated from vested interests”. (Berger, 1998:360) Instead, we find many examples, particularly in the study of intrastate conflicts, peacekeeping and humanitarian crises, where norms and interests interact, through a relationship either of affinity or opposition. Scholars have posited different theories about the relationship between norms and interests, and similarly between ideas and interests, generally linked to the role of agency<sup>76</sup> and power in determining outcomes. Whereas rational choice scholars generally would argue, as does Jon Elster (Elster, 1989:131), that adherence to norms by definition is antithetical or appositional to acting in one’s self-interest, social

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<sup>76</sup> One of the central debates between social constructivists and realists focuses on the significance of human vs. state agency in international relations. The latter tend to deny the relevance of human agency, whereas constructivists follow Anthony Giddens’ theory of structuration and argue that “the notion of agency attributes to the individual actor the capacity to process social experience and to devise ways of coping with life....Within the limits of information, uncertainty and other constraints that exist, social actors are ‘knowledgeable’ and ‘capable’ (Long, 1992 cited in Moser, 2001:4-5). This point should not be confused, however, with the relationship between agents and structures mentioned earlier. Social constructivists, in their focus on norms, culture and ideas, have sought to de-emphasize the role of agents over-all in favor of structure and context.



constructivists are more likely to see the potential for convergence of individual or national interests and norms.:( Brown, 2001) <sup>77</sup>

Ken Hartigan, one of the earlier proponents incorporating norms into interest-based analyses, noted in his study of Mexican and Guatemalan refugee policies, that while these policies were based on calculations of the national interest, that calculus was altered by international norms and international policy options: “Norm guided policy options were fitted to existing interests and interests were reordered in response to international incentives.” (Hartigan, Summer 1992:729) Others reached similar conclusions, noting that while realist interpretations of national interest alone are not helpful in explaining peace enforcement and humanitarian interventions, for example, national interest does play an important role in mobilizing and pressuring decision makers toward or away from intervention outcomes. (Goertz and Diehl, December 1992; Jakobsen, 1996)

Some accord even greater weight to national interest, arguing that “as long as decisions to undertake interventions are primarily taken at the national level, national interest considerations under one guise or another, are likely to determine states’ decisions to intervene or desist from such intervention.” (Weiner, 1993:86)The evidence shows, however, that the meaning or content of what constitutes a national

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<sup>77</sup> N.B.: Even though he denies the rationality of a belief in norms, even Jon Elster cedes the possibility that adherence to norms could in fact serve self-interests. (Elster, 1989:131ff) Goertz and Diehl therefore note the importance of controlling for self-interest “to demonstrate the positive impact of a norm.” Although they too do not deny the possibility of convergence, in order to tease out the independent effect of norms, it is necessary to focus on points of conflict between norms and self-interest. (Goertz and Diehl, December 1992:644).

interest has been transformed over time, to include not only traditional concerns of power politics and territoriality but more normative considerations such as human rights or the protection of refugees. Whether it is the Lawyer's Committee on Human Rights extolling the virtues of refugee protection as a component of US national interest, or President Clinton measuring interests not based on "how small or distant [these] places are,.." but rather "what are the consequences to our security of letting conflicts fester and spread;" or UN Secretary General Kofi Annan encouraging governments "to have a broader view of what their national interest means, particularly in this borderless and interdependent world, a transformation of national interest has and continues to take place," shared values and beliefs, i.e., norms, clearly contribute to this evolution. (Lawyers Committee for Human Rights, November 2000; Clinton, February 26, 1999; Duke, January 30, 2003:C8) Even Joseph Nye Jr. argued in Foreign Affairs that "Americans", for example, "have rarely accepted pure realpolitics as a guiding principle...." (Nye, July/August 1999:31) He offers a useful definition of national interest (at least for democratic states) as "simply the set of shared priorities regarding relations with the rest of the world. It is broader than strategic interests, though they are part of it." (Nye, July/August 1999:23) A major challenge in normative theory, therefore, is to disaggregate the effect of norms and interests on a given outcome. This thesis offers one possible avenue of analysis by focusing on the agenda-setting attributes of norms that may transform specific interests and vice-versa.

As noted earlier, one should be careful not to equate norms with actual behavior. Ian Clark, for instance, echoing Kenneth Waltz, describes the position of norms as occupying “an uncertain twilight zone somewhere between underlying power configurations and the resultant political outcomes.” (Clark, 1989:35) Norms generally refer to a set of ideals rather than concrete behavior, even though they may prescribe (or proscribe) certain behaviors. They involve some sense of justice and rights that indirectly translates into behavior that may or not be ethical. (A more detailed discussion of the relationship between norms and ethics follows below). Consequently, deviation from the norm in and of itself does not deny existence or the validity of a given norm.<sup>78</sup> Norms also are the foundation of international regimes governing issues as disparate as arms control and human rights, but they extend beyond the individual regime. Thus, even those who do not subscribe to a particular regime may subscribe to the underlying norms. For example, even though the United States has refused to endorse an international criminal court, the US does in general support and advocate norms that protect the rights of victims of human rights abuses or those leading to the prosecution of war criminals.

One crucial link between interests and norms are international and domestic institutions. They help to generalize rules, link issue areas, and move from

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<sup>78</sup> Juergen Habermas argues that “valid norms must be capable in principle of meeting with the rationally motivated approval of everyone affected under conditions that neutralize all motives except that of cooperatively seeking the truth”,...[i.e. Verstehen] but he goes on to distinguish between “ideal” and “empirical” validity, whereby ideas and interests are joined together to produce “de facto regularities of behavior” . (Habermas, 1984:191)

individualized principled beliefs or values to social norms<sup>79</sup>. (cf. Goldstein and Keohane, 1993; Jackson, 1993) Peter Berger refers to these as ‘mediating institutions’, designed to mediate among normative conflicts. (Berger, 1998) Norms can take the form of formal institutions such as laws, treaties and conventions, as well as informal understandings such as customary law, general moral and ethical ‘common wisdom’, and the power of ideas. (Goldstein and Keohane, 1993; Rapaport, 1992; Ruggie, 1998) In addition, numerous scholars have identified international institutions as a source of influence over state interests. (Barnett and Finnemore, 1999; Abbott and Snidal, February 1998) Others have focused more on the role that domestic institutions play in the degree of openness to in determining the degree of openness to international norms. (Cortell and Davis, 1996; Hartigan, Summer 1992; Legro, Winter 1997) Theories of institutionalism as well as of organizational culture have sought to explain policy outcomes that seem to run counter to national or self-interests of agents.<sup>80</sup> However, norms are not identical to

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<sup>79</sup> On this point Robert Jackson picks up on the earlier analogy to ‘railway switchmen’, explaining that norms – embedded within institutions- do more than switch to a different track, but rather “in effect alter the tracks –and the trains that run along them.” They thus fulfill a fundamental constitutive, identity-forming function. (Jackson, 1993:113)

<sup>80</sup> See, for example, Deborah Avant, Christopher Gibson and Don Snider on civil-military relations, (Avant, 1994; Gibson and Snider, Winter 1999); Elizabeth Kier and Jeffrey Lango on culture and military doctrine (Kier, Spring 1995, Legro, Winter 1997) and Raymond Friedman on the relationship between norms and organizational culture. (Friedman, April 1989) Others have sought to explain the relationship between member states and international organizations or alliances within an institutionalist and organizational cultural framework, e.g. Abbott and Snidal, February 1998, Barnett and Finnemore, 1999, Pion-Berlin and Arceneaux, October 1998, and Bensahel, November 6-7, 1998.). International institutions are also the source of social and structural changes for scholars such as John Ruggie, Edella Schlager and Kendal Stiles. (Ruggie, 1998; Schlager, 1999; Stiles, April-June 1998)

either rules or institutions. As Finnemore and Sikkink (1998) point out norms and institutions refer to different levels of aggregation: “the norm definition isolates single standards of behavior, whereas institutions...[refer to] a ‘collection of practices and rules.’” (Finnemore and Sikkink, Autumn 1998:891) Institutions thus bridge the gap between interactions at the individual or ‘micro’ level and broader cultural processes. (Friedman, April 1989) Norms and institutions are symbiotically linked to one another. They can reinforce one another through mechanisms such as legitimacy, i.e. “the normative belief by an actor that a rule or institution ought to be obeyed.” (Hurd, Spring 1999:5; cf. diZerega, Spring 1995).

This distinction is important for the subject of this thesis as sovereignty, for example, rightly should be treated not as a single norm but a collection of norms. (cf. Sikkink, 1993) For the purpose of this project, therefore I have selected a particular norm – that of protection- from those associated with the “institution” of sovereignty as a whole.

#### *Constitutive Norms – Sources of Legitimacy and Identity*

Norms, embedded in institutions, serve to legitimize behavior explicitly or implicitly at all levels of analysis among ‘actors of a given identity’. Jepperson, Wendt, and Katzenstein, 1996) As Friedrich Kratochwil points out, norms are not only “guidance devices but also the means to pursue goals, share meanings, communicate with each other... and justify actions.” Kratochwil, 1989:11ff; cf. Heisler, Summer 1992) In other words, they are constitutive and regulatory

guidelines governing international behavior. Traditionally, the discussion of norms has been limited to specific issue areas and regimes. In such a context norms are primarily regulative or ‘units of instruction’. Violation of regime norms tends to lead to punishment in the form of legal or political sanctions. But international norms extend beyond the limits of a regime. According to Nicholas Onuf, for example, norms or “rules “give” any regime its scope and coherence by demarcating roles.” (Onuf, 1989:145) That is, they determine not only what is ‘permissible’ (a regulative function) but also what is ‘possible’ behavior (a constitutive function).

Constructivist scholars argue that while norms or rules can be both regulative and constitutive (Onuf, 1989), the constitutive functions are prior to regulative effects. They “lead to changes in actors’ interests and identities... as well as the possible emergence of new actors... likely to produce regulative norms that will be compatible with the new or strengthened constitutive norms.”( Klotz, 1995:26-27) According to Daniel Philpott, for example, ‘constitutive rules here define the board, the number of players and the moves that each player may perform.... Without these rules, the game itself would not exist.<sup>81</sup>” In the international system, by comparison, constitutive rules define authority and “create the system in the first place”. (Philpott, Jan. 2001:309) Thus the analytic focus is on the identities that construct and reconfigure interests rather than the actual behavior. (Jepperson, Wendt, and

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<sup>81</sup> John Searle notes that constitutive rules form the basis of social facts, a key building block for social constructivism. The general rule achieves normative status and “creates the possibility of abuses” [but also compliance] “that could not exist without the rule.” (Searle, 1995:48)

Katzenstein, 1996:66). For instance, Keck and Sikkink have demonstrated the effect of international human rights norms (and their associated institutions and networks) on changing the meaning of national interest to incorporate a rights-based concept. It is unlikely, in their view, that networks or advocates would have been able to change states' understanding of national interest without the constitutive persuasive force of the ideas and norms in question. (Keck and Sikkink, 1998; Sikkink, 1993) That is the very identity of the state is tied up with the constitutive norms and subsequent practices followed by a group of actors who understand themselves as part of a given normative framework. (cf. Adler and Barnett, 1998; Koslowski and Kratochwil, 1995). This view contrasts with Stephen Krasner (Krasner, 1999) and other realist informed scholars who would deny that the international system has constitutive rules.

The constitutive aspect of norms is particularly relevant in the case of protection norms, where the concern is not only with what constitutes appropriate 'protection' behavior, but who has the authority or obligation to protect whom.<sup>82</sup> These constitutive rules are closely linked to questions of culture and identity, or –in the context of international relations- sovereignty and citizenship.

### *The Relationship between Interests, Culture and Ethics*

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<sup>82</sup> In a somewhat more cynical but –as this study will show- more or less accurate view of the constitutive power of norms, Mohammed Ayoob concludes that “those who define human rights and decree that they have been violated also decide when and where intervention to protect such rights should and must take place.” (Ayoob, Spring 2002:91)

Political culture embodies the set of values, beliefs and norms that define the collective identity of a community and hence the interests that drive it. From the notion of collective identities arises the concept of collective responsibility, a fundamental component of the protection norms discussed below. Collective responsibility in turn reflects a shared ethic or ‘code of conduct.’ Whose responsibility it is to protect whom or what is highly contested but that should not detract from the existence of underlying shared ideals or ethical principles. As mentioned earlier, norms are not inherently “good” and hence should be differentiated from both values and morals. Nevertheless these concepts could all be considered part of an ethic, i.e. a set of truths about how one should live. Without subscribing to cultural relativism, ethical beliefs and norms are closely linked in that they originate from within a given culture and customs. (Coady, July 2002:13ff) But since virtually every culture contains ideas about rights and wrongs, it is possible to consider the existence of universal truths which provide the basis for the ‘normative’ in norms. By extension, then it is possible to link ethics to international relations through the norms. According to this perspective, ethics, values and national interest are part of the same calculus rather than an ‘either/or’ proposition.<sup>83</sup>

### *Culture, Identity and Citizenship*

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<sup>83</sup> Proponents of such a link cover a broad spectrum of views, from pragmatists such as Andrew Natsios, to more constructivist perspectives of Ward Thomas and Anthony Lang to post-positivists such as Chris Brown. (Natsios, 1997; Thomas, 2001; Lang, 2002; Brown, 2001)



As Katzenstein reminds us, “[n]orms do not float freely in political space. ... Institutionalized norms are collectively held and exist external to actors. They are part of an objective reality that often, though not always, commands some formal sanctioning mechanism.” (Katzenstein, 1996:21) Influential are not only actors and institutions informed by practice, as the constructivists would have it, but also significant historical and cultural trends. Wheeler and Booth point out, for instance, that “[u]nique political, cultural, historical and geographical factors tend to produce varied cognitive dynamics on the central issue of security.” (Wheeler and Booth, 1992:38) In response to the overly behavioral emphasis of constructivism, a theoretical approach to change is emerging which seeks to reintegrate culture, identity and historical processes into international relations.

As noted above, social norms are derivative of common cultural understandings as interests are linked to the underlying actors’ identities. Norms are both a product and source of a collective identity among peoples, whether constituted as nations, nation-states, or groups of individuals within a given institution, polity or network. At the same time, international norms – so note Kegley and Raymond- can “either breed a culture of trust or a culture in which mistrust is pervasive;” (reaffirming that norms are not always “good” or positive in their impact.) (Kegley and Raymond, 1986) For social constructivists, institutionalists, and many critical IR scholars, culture plays an important role as a vehicle for the linked processes of

identity formation and norms diffusion.<sup>84</sup> The difficulty with cultural and identity based approaches to international relations, however, is that as Yoseph Lapid and Friedrich Kratochwil have pointed out, these concepts –like interests- are socially constructed categories and hence are neither fixed nor unitary. Instead, they are likely to be reconstructed and reinterpreted throughout history and with each interaction. (Lapid and Kratochwil, 1996) Similarly, Alexander Wendt and David Campbell have developed identity theories that focus on the relational or intersubjective nature of identity. (Wendt, 1996; Campbell, 1996) Others have looked at identity through the lens of ‘otherness’, i.e. that identity (and culture) serve primarily to distinguish “us” from “them” <sup>85</sup> (Ferguson and Mansbach, 1996; Kratochwil, 1996; Nielsen, 2002:152-3)

These perspectives offer perhaps a more realistic insight into the processes of national or group identities. They also serve as a basis for understanding other fundamental concepts of international relations such as the notion of international or

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<sup>84</sup> Peter Berger and Jeffrey Checkel, for example, have both addressed the interaction between international norms and national culture, noting that norms can “delineate cultural cleavages” but also be constrained by the resilience of national cultural characteristics to external influences. (Berger, 1998; Checkel, March 1999) As noted earlier, Jeff Legro’s work is an example of hypotheses that seek explanations for the variation in norms adherence and acceptance in the subnational culture –in this case military culture. (Legro, Winter 1997)

<sup>85</sup> Alexander Wendt distinguishes between two types of identity, corporate and social, that refer to the characteristics that “constitute actor individuality,” i.e. the recognition as an actor by others (corporate identity) or to “the sets of meanings as a social object” (social identities). According to Wendt, social identities answer the “who am I/are we” question relative to a given structure of shared expectations and serve as a key link in the mutual constitution of agents and structures. (Wendt, 1996:51)

political communities.<sup>86</sup> It does, however, complicate any systematic analysis of norms. Identity theories tend to be very ambiguous regarding any claim to causality and run the risk of cultural determinism.<sup>87</sup> Nevertheless, evidence bears out the premise that the closer the cultural-normative ‘match’ or fit, the greater the impact of norms is likely to be.

The concept of collective identities is fundamental to the social constructivist perspective of the at times competing norms associated with sovereignty, citizenship and human and the formation of particular polities. Ferguson and Mansbach remind us that “politics do not evolve in a vacuum,” and that instead “human beings identify themselves in a variety of politically relevant ways.” (Ferguson and Mansbach, 1996:33,35) When these identities converge they tend to produce the collective identities that underpin political communities for example and produce common beliefs, understandings and expectations among individuals that may never even meet. (Anderson, 1991; Florini, 2003) These in turn serve as one mechanism by which norms link to policy choices. (Klotz, 1995) Collective identities act as drivers of ideational and normative change as well. (Goldstein and Keohane, 1993; Legro, July 2000) Bill McSweeney for one, though, cautions against treating collective identity a priori or independent from structural and material factors for

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<sup>86</sup> Some form of collective identity is evident for example in Reinhard Bendix and Karl Deutsch’s conceptualizations of ‘political community’, Benedict Anderson’s ‘imagined communities’, and Emmanuel Adler and Michael Barnett’s ‘pluralistic security communities.’ (Bendix, 1964;Deutsch, 1957;Anderson, 1991;Adler and Barnett, 1998)

<sup>87</sup> For a critique of identity theory from a regime perspective, see Hasenclever, Mayer, and Rittberger, 1997. A functionalist critique can be found in McSweeney, 1999.

instance. “Collective identity is not out there, waiting to be discovered.”

(McSweeney, 1999:77) Instead identity is best seen as a process, a social act or social fact resulting from a recursive and discursive combination of domestic and international interactions. Embedded in mediating mechanisms and institutions, for example state formation, individual identities thus translate into collective structures and behavior. (Jackson and Nexton Daniel H. September 1999; Mamdani, 2001:15)

Nevertheless, because identity fluctuates historically and situationally, conflicting collective identities may contribute to tensions among and within communities, and raise questions of what or who constitutes legitimacy and authority in the international system. (Florini, 2003; Hall, 1999; Pasic, 1996) For example, identity politics helps to explain the crises in Rwanda, Burundi and Sudan, where “an underlying ‘war of visions’ pitted sharply different imaginings of the virtuous polity against one another.” (Young, July 2002:556)

If we think of identity as claims about ourselves as distinct and in relation to others, then citizenship and the concomitant idea of membership in a larger collectivity (our collective identity) is an important component the process of identity formation. According to Greg Nielsen, drawing on Habermas and Durkheim, “citizenship is about membership in, and the juridical significance of, a nation as a political entity that also has a normative or ideal dimension....” (Nielsen, 2002:151) In this vein, Friedrich Kratochwil defines citizenship as both ‘belonging’ and as conferring ‘status’ or a ‘bundle of rights’. In his view, citizenship is the “right to have rights” and thus serves as ‘gatekeeper between “humanity” in general and

[communities]...” (Kratochwil, 1996:182,186) It is this politically constitutive aspect of identity that contributes to the constitutive role of protection norms associated with sovereignty and human rights and outlined below. It raises questions not only about who can claim the benefits of citizenship in the sense of both belonging and status, but also about where the authority to extend and protect those benefits lie.

Tracing the constitutive claims of citizenship furthermore provides an indication of how the relationship between states and individuals has evolved historically. (cf. Bendix, 1964; Checkel, March 1999; Walker, 1994) Cultural theory recommends instead that we conceive of a “world of ‘polities’ rather than states and focus on the interrelationships among authority, identity and ideology.”( Lapid and Kratochwil, 1996:12) What we find is that Benedict Anderson’s ‘imagined communities’ are not so much territorially bound but rather are defined by cultural boundaries. David Jacobson refers to a ‘deterritorialization of identity’ leading to a “breakdown of the belief that political identity, and hence political agency are functions of sovereign control of a territory.” (Jacobson, 1997:17, 128ff) This does not automatically translate into a demise of the sovereign state but rather a shift in purpose from an exclusive to a more inclusive construct. The constitutive claims of citizenship derived both from national and transnational sources may also constrain the relative autonomy of the international community, one of the core debates in

international relations.<sup>88</sup> The notion of distinct spheres of community or polity and territory relative to citizenship is manifested especially during complex humanitarian emergencies and raises the specter of a fundamental shift in the ‘constitutional order of international society.’<sup>89</sup> (Mayall, 2000) I will return to this debate in the next chapter.

### *Conclusion*

To summarize, this chapter introduced the research puzzle and underlying premise and goal of operationalizing norms contestation. The goal is to assess how norms compete with one another and in the process influence international relations. The subsequent literature review offered evidence not only for the existence of social norms but also developed the social constructivist approach to international relations that emphasizes interaction, intersubjective beliefs and the mutual constitution of

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<sup>88</sup> Daniel Thomas, for example, proposes that since states have multiple identities [as all actors do] and are “beholden to multiple standards of appropriate behavior...state actors will comply with those norms that are connected to the most salient of their multiple identities and violate or seek to change norms that are connected to less salient identities.” Factors such as the density of networks and communications determines salience in this context. (Thomas, 2001:14,16) Even scholars who support the fundamental premise of anarchy are prepared to accord states this type of agency. (Wendt, Spring 1995.; Thomas, 2001).

<sup>89</sup> Francois Debrix, for example, has suggested that the redistribution of resources and people during the Rwandan humanitarian emergency, aided by international humanitarian organizations, reflected both a rhetorical and spatial reconceptualization of the nation-state of Rwanda. (Debrix, 1999:200) Mervyn Frost also noted that even in the absence of a functioning state, claims to citizenship rights persist but the locus of responsibility for their protection shifts to the international community. (Frost, 2001) In the case of the African Great Lakes a conflation of internal and external or ‘dual’ citizenship crises lead to a fundamentally contested notion of citizenship and ultimately the humanitarian emergencies of the 1990s. (Mamdani, 2001).

agency and structure. The chapter also points to some of the weaknesses in current constructivist theorizing and proposes some alternative approaches. Since norms are not fixed, the study of norms presents certain methodological challenges. Notably, it is not possible to approach the question of causality in a conventional or unidirectional path from independent variable to dependent variable. Instead, the focus is on understanding, as a precursor to establishing causality. In addition, I provide a rationale for focusing not on the regulative dimension of norms, but rather the identity-shaping or constitutive aspects, as central to the question of humanitarian intervention.

Furthermore, this chapter specifies the relationship between international norms and group norms, noting that norms compete not only ‘horizontally’ across issue areas but also ‘vertically’ across levels of analyses. I then draw links between norms and other factors that are deemed to influence international relations, such as interests –national and self-interest-, culture and identity. Finally, the chapter concludes with an elaboration on the ‘normative’ dimension of norms, i.e. their links to values, morality, and ethics. This discussion is particularly relevant to understanding the conditions under which the international community is likely to support or resist humanitarian intervention; the subject of the next chapters.

## **Chapter 4**

### **CONTESTED BOUNDARIES: THE INTERNATIONAL COMMUNITY, HUMANITARIAN INTERVENTION AND INTERNATIONAL PROTECTION NORMS**

This chapter delves more deeply into the boundaries that international protection norms confront. It elaborates on key concepts such as the ‘international community,’ complex humanitarian emergencies, and positions the thesis within the central debates regarding the meaning and status of sovereignty, the ethics of intervention, and the redefinition of security around the emergent human security paradigm. I discuss the humanitarian imperative and ethics of intervention as well as the still extant principle of ‘non-intervention’. The chapter briefly traces the evolution of the concept of sovereignty and security. Since a core element of sovereignty are the citizens of any sovereign entity, their displacement through force – as a link to the evolving definition of security – is important. I therefore briefly define war-affected populations: refugees and internally displaced peoples. I conclude the chapter with a discussion of three competing protection norms: sovereignty human rights, complex humanitarian emergencies, and humanitarian intervention.

#### **The International Community Defined: The Mutual Constitution of Agency and Structure**

An important theoretical challenge in identifying the impact of international norms is to define the international system and systemic change, when such change occurs at multiple levels of analysis. Moreover, the term ‘international community’



suffers from both overuse and underspecification in contemporary discourse, leaving the –false- impression that there exists some unitary actor or institution called “the international community.” In fact, the way in the context of competing norms, the international community embodies elements of both ‘structure’ and ‘agency’. In the following sections I will define the concept and offer a justification for its appropriateness for the purposes of tracing the contestation among international norms.

***‘Structure’: An ‘imagined’ international community***

Contrary to neo-realist views, the constructivist view holds that the essential terms of reference of the Westphalian system –sovereignty, security and power-- are neither fixed nor inviolable but rather contested and socially ‘constructed’. (Adler and Barnett, 1998) Increases in refugee flows as well as other transnational activities in the realm of economics, trade, and even crime, for instance, support the notion that national boundaries are more permeable, and in some respects perhaps less relevant, especially if one considers ethnic or religious affinities across borders. (Cusimano, 2000; Kratochwil, 1996; Deng, 1995) I therefore propose a multi-level, multi-dimensional representation of ‘international community,’ that builds on the theoretical platform of Benedict Anderson’s “imagined communities”, of shared identities derived not solely from personal familiarity or kinship but across individuals who may never meet and yet share common values, beliefs and certain characteristics. (Anderson, 1991). I define international community in terms of the concept of political communities first articulated by Karl Deutsch (Deutsch, 1957).

Emanuel Adler and Michael Barnett further elaborated on the concept with their work on security communities Adler and Barnett, 1998. Franke Wilmer (Wilmer, 1993) adopts a similar approach of political communities to incorporate transnational non-state actors in her work on indigenous movements.

The proposed framework begins with a characterization of the international system as an international society. This concept in of itself is subject to considerable controversy. While English School scholars such as Hedley Bull (Bull, 1995) as well as those realists informed by the English School such as Mohammed Ayoob (Ayoob, 1998, define the international society exclusively as a pluralistic society of states operating under rules of exogenous anarchy, solidarists or cosmopolitan see a society of individual human beings. (Brown, 2001; Bell, 2001; Barry, 1998) Others distinguish between international society as a ‘purposive’ or ‘practical’ association. The former joins individuals across national boundaries to promote common values and goods, while the latter builds on a set of common practices and rules such as diplomacy or customary law independent of the ends sought. (Nardin, 1983).<sup>90</sup>

The constructivist or constitutive approach falls somewhere in the middle. From this perspective, international society consists of social institutions and rules that govern membership. Membership can be extended to include civil society, families, as well as the state itself. (Brown, 2002) In fact, states are a product of the constitutive processes of international society. (Thomas, 2001; Finnemore, 1996a)

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<sup>90</sup> For an overview of the English School approach to international society and the various dimensions of pluralist and solidarist perspectives, see Wheeler, 2000 or Brown, 2002.

International society therefore can incorporate a multitude of ‘political’ or ‘nested’ communities representing a variety of shared norms. In this sense it should not be confused with a world society or world government. As Nardin notes, the “precise content of the common good, ..., depends upon the circumstance of particular communities....” (Nardin, 1983:17)

One might argue that this is no different than an international system, but here again I share Nardin’s preference for the term “international society” because it implies a concern for international law and morality that is absent or weak in the realist conceptualization of the international system.<sup>91</sup> R. J. Vincent offers a particularly visual image to capture this concept of international society, by comparing it with an “egg-box” that separates and cushions sovereign states or “eggs”, their morality contained in the yolk within a fragile shell. The nature of the egg-box and its relationship to the eggs varies with the particular theoretical perspective one has of international relations. For cosmopolitans or solidarist, “morality has us out of the egg-box, cracked, and into an omelet,” for realists the egg is fried – thus still contained. (Vincent, 1986:123-124) Moreover, the notion of international society reflects more accurately the reality of the contemporary world, as both a “discernible universal *societas* [sic] of states which since 1945 has been centered on the United Nations and is defined by operative standards of behavior specified by the Charter,” (Jackson, 2000:344) as well as a growing civil society with

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<sup>91</sup> Barry Buzan and Ole Wæver are among the scholars who have developed theories of ‘societal security’ that follow similar reasoning as I do here. (Buzan, Wæver, and de Wilde, 1998)

membership that can cut across domestic boundaries through transnational non-governmental organizations and a global set of rights protecting civilians. (Florini, 2000; Frost, 2001)

*Rationale For A Composite International Community*

Although protection always has been a central function of international relations, a focus on the international system of states alone would miss the complexity of the normative dynamics involved in international protection in CHEs. Instead one must, move “beyond the international society approach’s exclusive concern with coercive action by states against states, and with the movement of troops across borders.” (Jones, 1995:246) Reconceptualizing the international system in terms of such communities rather than individual states, allows a more in depth analysis of interactions across the systemic, social and domestic levels contained within the international community. Political will, for example, when translated to the systemic level, “is more than just the sum of attitudes and policies of individual countries.” International Commission on Intervention and State Sovereignty (ICISS), December 2001:215) In this context, as we shall see, leadership and coalition-building are crucial dimensions in the translation of international norms into international action (or inaction) on the ground. The manner in which each level is mutually constituted becomes much more apparent when we think of the borders of an “international community” not as fixed and static but rather as constantly negotiated interest and value positions.

### *Contested Boundaries of Citizenship and Sovereignty*

A key element in the debate over the influence of norms is the nature and scope of the nation-state. In the constructivist framework presented here, states themselves are by no means unitary actors. Rather they are representative of and necessarily responsive to a collection of subnational and transnational groups, albeit to varying degrees.<sup>92</sup> The choice of strategy pursued is not only a function of specific cultural, historical, and domestic determinants such as social structures, party politics and ideology but also of the issue area of concern. Contrary to traditional notions of nation-states defined by rigid boundaries, many of today's humanitarian crises, from the Balkans to Burundi, have forced the international community to come to terms with the fact that "boundaries are not a natural phenomenon but are an intrinsic part of the politics of exclusion and domination." (Zalewski, 1994: 236). Barkin and Cronin, thus, distinguish between international norms favoring national (population-derived) and state (territorially-bound) sovereignty. "While the specific expression of sovereignty may remain constant, that which is considered to be sovereign changes." (Barin and Cronin, Winter 1994)

As noted above, contested boundaries thus affect not only the international community as a whole, but that component which is considered 'sovereign', i.e. traditionally the state. Scholars of globalization, refugee flows, ethnic conflicts, and

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<sup>92</sup>Frank Pfetsch and Peter Katzenstein both have shown that a range of behaviors coexist within the parameters of the European integration, ranging from traditional national actors to coalitions or selective cooperation; to mutual recognition and harmonization, and what is typically referred to as "standardized treatment", i.e., uniform behavior on the part of a supranational organization. (Pfetsch, 1994:124-130ff. ; cf. Jepperson, Wendt, and Katzenstein, 1996:63ff.)

environmental problems have for some time now pointed to the increasing porousness of territorial borders and boundaries. (cf. Cusimano, 2000; Simmons and de Jonge Oudraat, 2001; Mills, 1998); Hyndman, 2000:xxix) International relations scholars with a post-modernist or critical bent furthermore have advocated divorcing the concept of sovereignty from territoriality; arguing instead for a more cultural, socially constructed conceptualization of boundaries.<sup>93</sup> (e.g. Campbell, 1996; Shapiro and Alker, 1996) Some have even predicted the end of sovereignty altogether through ‘power shifts’ or assaults on the sanctity of sovereign power.<sup>94</sup> Nowhere are these boundaries of the sovereign state more at risk than with regard to international interventions. (Chopra and Weiss, 1998; Jackson, 2000)

#### *Sovereignty and the State*

The concept of sovereignty is closely tied to the conceptualization of the state. An in depth discussion of both concepts is beyond the scope of this thesis, however a brief summary of the debate over definitions will highlight some of the

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<sup>93</sup> David Jacobson for instance, argues that “[t]he ‘imagined community’ of the nation-state was bounded, finite and internally characterized by a deep, uniform and horizontal comradeship. Other nations...belonged to the “foreign” or “alien”. In the emerging order, we still have imagined communities ...but instead of being horizontal, territorial, and boundary oriented they are transterritorial and centripetal. Boundaries are culturally (rather than politically or physically) meaningful.” (Jacobson, 1997:133) On the other hand, Martin Heisler has reminded us that “territory can serve as a basis for exercising some degree of autonomy” for ethnic groups. (Heisler, September 1977:4)

<sup>94</sup> One of the more influential recent treatise on “power shifts” is Jessica Mathews’ article in Foreign Affairs. (Mathews, January/February 1997) For a less optimistic view of this trend, see Norman Lewis, who argues that the erosion of sovereignty only amplifies existing global inequalities. (Lewis, April 1996:33) Camilleri and Falk elaborate on the various arguments for and against the erosion of sovereignty further. (Camilleri and Falk, 1992)

points of contestation.<sup>95</sup> The fundamental issue is whether or not the state has been eclipsed or eroded by developments such as globalization and the rise of civil society. Proponents of the continued relevance of the state, (Evans, October 1997, Halliday, 2001; and Krasner, 2001), are pitted against those who argue that at the very least, the concept of sovereignty is in sore need of a conceptual overhaul.<sup>96</sup> The debates over the nature and role of the state range from questions regarding the state as unitary (the realist view) or disaggregated (the liberal perspective) actor; the purpose of the state as concerned primarily with its own survival (neo-realists), utility maximization (neo-liberals) or as a natural outcome of a system of cooperation rather than anarchy (Ibn Khaldun of the 14<sup>th</sup> century already had argued this position). As mentioned earlier, scholars also debate whether states represent agency or structure in the international system; whether they are strong or weak based on the criteria such as a monopoly over violence, state autonomy and territorial boundaries. (e.g. Holsti, 2000; Putnam, Summer 1988; and Migdal, 2001; Migdal, 1988). Finally, there are those who pit the role of the state as protector from violence against those who see the state as a source of threats to security. (Waltz, 1959; Wheeler and Booth, 1992; Krause and Williams, 1997, and Buzan, 1991)

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<sup>95</sup> For a traditionalist perspective on sovereignty, see Bull, 1995, Krasner, 1999 and Jackson, 1990. For a constructivist view, see Onuf, 1998 and Biersteker and Weber, 1996. A more critical, post-modernist view is offered by Weber, 1995, as well as by Doty, 1996, and Camilleri and Falk, 1992. For a discussion of sovereignty in the context of current affairs, see Cusimano, 2000, Cusimano, 2000 and Heller and Sofaer, 2001.

<sup>96</sup> Much of the social constructivist camp of scholars supports those who argue for a redefinition of the term 'sovereignty,' e.g.: Kratochwil, 1996.

Historically, individual states sought to protect their relative position vis-à-vis other states. A state or set of states relied on the ability to project power, and to control the use of force both externally and internally, in order to maintain or gain territory and the sanctity of its borders.<sup>97</sup> States were as strong as their ability to maintain or gain territory and the sanctity of their borders. Individual human rights were more or less subordinate to the rights of nations to exist as sovereign states. Most scholars identify the origins of sovereignty with the Treaty of Westphalia of 1648. The central premise of Westphalian sovereignty was a central authority's – the state- more or less absolute control over its territory, the population residing in that territory and the means of force to enforce political and legal control.<sup>98</sup>

A core feature of Westphalian sovereignty was/is the concept of non-intervention by external actors in the domestic affairs of the state. This principle of non-intervention is enshrined in the United Nations Charter of 1945 as a reaction to two world wars; i.e. in Article 2, paragraphs 4 and 7.<sup>99</sup> It since has been reinforced

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<sup>97</sup> For an overview of the relationship between sovereignty and intervention see Lyons and Mastanduno, 1995 and Camilleri and Falk, 1992 among others.

<sup>98</sup> One of the debates on the issue of sovereignty is the degree to which it was ever intended to be truly absolute. With the exception of a few absolute monarchies in earlier centuries, Stephen Krasner, for instance, has argued that sovereignty has never been absolute. (Krasner, 1999)

<sup>99</sup> Since this provision is so central to the debate over humanitarian intervention, it is important to cite the actual text: Art. 2(4) states: "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." Art 2(7) states: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to



through the process of de-colonization and the creation of new states in the second half of the twentieth century. This process gave rise to a distinction between ‘positive’ and ‘negative’ sovereignty, whereby the former focused on aspects of self-determination and the latter defined a state’s status relative to external relations<sup>100</sup>. (Jackson, 1990) Since the end of the Cold War, the norms of absolute sovereignty and non-intervention, while still relevant, have become increasingly diffuse. Alan James, Stephen Krasner, and others have addressed this issue by pointing out that sovereignty is neither absolute nor unitary as a concept. The international system no longer is a monolith, nor are its members “black boxes”. Instead, the plurality of actors and interests forces the question of what is actually being protected? (Mandel, Spring 1996) An absolute right to sovereignty no longer exists, if indeed it ever did.

#### *Sovereignty Defined and Redefined*

Sovereignty is neither static nor fixed in terms of the sources of its legitimation or its role in the international system.( Biersteker and Weber, 1996) Definitions of sovereignty tend to differentiate between legal and political sovereignty. Stephen Krasner has expanded this discussion by creating a typology of sovereignty defined by territory, autonomy, recognition and control, arguing that Westphalian sovereignty is in fact only one type of sovereignty.<sup>101</sup> Kurt Mills, on the

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settlement under the present Charter; but this principle shall not prejudice the application of enforcements under Chapter VII.” (UN Charter, Art. 2(4);(7), 1945)

<sup>100</sup> The issue of self-determination has been subject of increased scrutiny as well in recent years. See for example, Danspeckgruber, 1997; Falk, September 19, 1999.

<sup>101</sup> The other types of sovereignty are international legal sovereignty, focused on mutual international recognition and political status within the international system;

other hand, refers to ‘three different building blocks of sovereignty below the level of the state...human rights, popular sovereignty, and a more nebulous concept of self-determination and people’s rights.’ (Mills, 1998:51) Thus, much of the definitional debate regarding sovereignty focuses on three factors: legitimacy (recognition and laws); authority (power and regulation); and rights and obligations (responsibility). (Hochstetler, Clark, and Friedman, December 2000; Onuf and Klink, 1989) Regarding the issue of legitimacy, sovereignty debates have been concerned with sovereignty’s status as either a legal or political principle. Scholars have focused on the conditions that accord sovereign states legitimacy.<sup>102</sup> Concerns regarding the sources of legitimacy for a sovereign power range from conditions supporting or arguing against non-intervention and international recognition to domestic governance structures. The issue of legitimacy is intimately tied to the question of humanitarian intervention. (Teson, 1997; Wheeler, 2000; Adler and Barnett, 1998)

A second dimension of sovereignty is the exercise of authority.<sup>103</sup> Here the focus is really on the role of the state as a central authority relative to other non-state

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domestic sovereignty, addressing the organization of political authority within the state; and interdependence sovereignty, the ability of authorities to regulate flows of goods, information or capital in and out of their physical borders. (Krasner, 1999)

<sup>102</sup> Legal issues are addressed by scholars such as (Brown, 2002; Philpott, Jan. 2001; Ruddick, April 1997; Chopra and Weiss, 1998; Ku and Diehl, 1998). On the specific question of international legitimacy see Falk, 1998 and Hurd, Spring 1999.

<sup>103</sup> The term ‘authority’ is problematic as well as Onuf and others have noted. (Onuf; Wendt, 2000) I rely here on Ferguson and Mansbach’s definition: “ ‘Authority’ in our conception is effective governance, the ability to exercise significant influence or control across space over persons, resources, and issues.” (Ferguson and Mansbach, 1996:28)

or sub- and supra-national centers of sovereign authority or power. Increasingly, we find that a state must operate within the context of multiple centers of authority as globalization and democratization pressure state authorities to relinquish all or part of their authority in a variety of domains.<sup>104</sup> (Sassen, 1996; West, 2001) From this perspective, sovereignty is a function of three definitions of the state: as sovereign in the Krasnerian sense, as an institution involving decisionmaking and identity formation, and as a security guarantor. Failure of any or all of these functions constitute a collapsed state in the eyes of William Zartman. (Zartman, 1995:5) As mentioned earlier, the nature of authority lies at the heart of the concept of self-determination of states.

Thirdly and related to the first point, sovereignty is concerned with control. Traditionally, this meant control over territory and the means of force. As borders have become more contested and in the wake of increasing intrastate conflict, sovereignty has become more limited and increasingly divorced from the territory that a sovereign state might occupy. (Heller and Sofaer, 2001; Cusimano, 2000; Biersteker, 1981) Sovereignty, thus, may not reside in states alone. Indeed, for many parts of the globe, most notably sub-saharan Africa, sub- and supranational actors may in fact retain greater sovereignty. (Arlinghaus, 1984)<sup>105</sup> This is particularly the

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<sup>104</sup> In this sense sovereignty can be understood both as a “quantity of power” and as a “definition of statehood.” (Newman, 1996:16)

<sup>105</sup> To illustrate the challenges that multicentric authority poses for international relations, consider the case of the US-proposed “African Crisis Response Force” (ACRF), which in 1996 soon became a dead letter, despite support from the OAU and countries removed from conflict zones like Kenya and Mali, because South Africa was unwillingly

case in the current era, when humanitarian intervention appears to be increasingly subcontracted by the UN to “coalitions of the willing.” Subcontracting, for instance, as a strategy of risk-avoidance and privatization of such public goods as peace and security, is the practical consequence of an idealized reification of civil society and non-governmental actors. Notions of sovereignty, national borders and the legitimate claims of the state on society are increasingly contested but still very much the basis for newly created or defined institutions of regional security.<sup>106</sup> The African regional security environment, for instance, is replete with interaction among different levels of analysis, from the domestic to the international environment, and the individual to the state.

### ***Sovereignty as Responsibility***

Finally, a key issue and the core of what I refer to as the “sovereignty protection norm” is the question of responsibility and accountability. The lines between internal and external, domestic and international spheres of responsibility have become increasingly blurred. Indeed, one could argue that most states’ acts of

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targeted for leadership and provision of hardware. (Adebajo and O'Hanlon, 1997; Berman and Sams, 2000)

<sup>106</sup> Common wisdom holds that national boundaries in Africa are merely artificial colonial legacies without legitimacy for an “African” order. Recent studies, including Keller and Rothchild, 1996, argue that this is not entirely true; that boundaries are as integral to African polities as anywhere else. Paul Nugent explicitly refutes the notion that “boundaries were merely things done to unsuspecting Africans” and cites numerous examples of trade, social and political actions in Africa that benefited from long-standing recognition of borders. (Nugent and Asiwaju, 1996: 60ff). What is apparent, however, according to Rothchild, is that “the weakening of the African state and the concomitant rise in ethnic, religious, and regional identity politics have meant that powerful subgroups are now in a position to challenge state institutions effectively.” (Keller and Rothchild, 1996:231).

responsibility are responses to *both* domestic pressures and needs as well as international demands. Facing a growing number of collapsing states, the international community – led by the United Nations- has begun to think about a more engaged form of sovereignty, i.e. “sovereignty as responsibility and not just power.” (Annan, 1998:57) This motivation appears to have prevailed in the case of European responses to the Balkan crisis. It also is factor in international debates regarding humanitarian intervention in sub-saharan Africa. According to Nicholas Wheeler, this conceptualization of the state is one “in which states accept not only moral responsibility to protect the security of their own citizens, but also the wider one of guardianship of human rights everywhere.” (Wheeler, 2000:12) This definition remains controversial but does reflect a certain minimal consensus regarding the obligations of the state vis-à-vis individual citizens.<sup>107</sup> It also refers to the role and rights of individuals as the penultimate basis for sovereignty. (Brown, 2002; Jentleson, October 2000) Accordingly, the recognition of a state’s sovereignty is dependent on the state’s ability/willingness to serve its people’s interests and guard or advance their human rights. (Annan, 2000; Deng, 1998; Jacobson, 1997; Evans and Sahnoun, April-June 2001).

Sovereignty –however defined- is subject to negotiation and contestation just as are individual rights. (Mandel, Spring 1996) In this sense it very much embodies the constructivist concept of ‘intersubjective beliefs’, i.e. sovereignty represents a

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<sup>107</sup> Thus Peter Uvin in his treatise on the pathology of development aid in violent situations cites William Gamson’s observation that “in most societies, the boundaries of some universe of obligation are often hotly contested and changing.” (Uvin, 1998:178)

‘collective intentionality that can exist only within the framework of shared meanings.’ (Searle, 1995) Thus, in the course of redefining sovereignty, W. Michael Reisman notes, “although the venerable term “sovereignty” continues to be used in international legal practice, its referent in modern international law is quite different. International law still protects sovereignty, but...it is the people’s sovereignty rather than the sovereign’s sovereignty.” (Reisman, October 1990:869)

A convincing argument can be made from a constructivist perspective to consider sovereignty not only a social construct, but indeed as a ‘constitutive principle.’ Onuf. This means, that sovereignty represents not only a set of regulations and expectations about legitimate state behavior but also defines who is eligible for all that sovereignty implies. Thus “[t]his contemporary change in content of the term “sovereignty” also changes the cast of characters who can violate sovereignty;” obviously with significant implications for humanitarian intervention. (Reisman, October 1990:869) Similarly, Jennifer Hyndman points to the ‘dark side’ of the concept of imagined communities on which sovereignty is based, noting that imagined community defines not only who is a member, but also serves as a basis of exclusion. (Hyndman, 2000:xxv) CHEs tend to reflect this exclusionary function of sovereignty.

#### *Sovereignty under Siege: Humanitarian Intervention and Forced Migration*

The emergence of a new norm of sovereignty is apparent especially in response to increases in the number of citizens forced to leave their homes and often their nations. First, scholars have argued that “a large-scale movement of people

across national borders, under duress, internationalizes what might otherwise be purely domestic issues related to the causes of that movement.” With this formulation, derived from John Stuart Mills’ principle of liberty among individuals, sovereignty defined as the right to freedom from external intervention, ends when a state’s actions or inactions within its own borders impinge on another state. (Dowty and Loescher, Summer 1996:44-45) Such a concept of limited sovereignty would also explain the desire or perceived need for control —physically, politically, culturally and socio-economically— over refugees by both the sending and receiving countries.

More recently, however, the push has been toward “positive” sovereignty, i.e. “sovereignty as responsibility and not just power.” (Annan, 1998:57) Traditional principles of sovereignty and non-intervention continue to operate, even if they no longer hold absolute primacy. Accordingly, “...states and armed opposition groups, as well as other less traditional actors, are challenging conventional notions of territorial sovereignty and insisting upon greater accountability.” (Weiss, Winter 1994:109-110) States must be held accountable for the conditions that force their populations across borders or into internal displacement. They are equally responsible for creating conditions that ultimately will allow the safe return of refugees. United Nations High Commissioner for Refugees, 2000 Some have referred to this as a “root cause strategy” which would focus on preventive action. Independent Commission on International Humanitarian Issues, 1988; Hyndman, 2000)

Migration, in general, can have an impact on the prevailing cultural norms of a society as well as its economic and environmental sectors. Furthermore, if one presumes a multi-centric composite polity as described earlier, and recalling that Westphalian sovereignty had established a presumption against interference by other states, then issues of identity and migration also become tied to societal security in that they “drive the underlying perceptions of threats and vulnerabilities.” (Wæver, et.al.:5; cf.. Buzan: 93-94)<sup>108</sup> Refugees and internally displaced people (IDPs) thus are important sources of change in the international system

### *Refugees and Internally Displaced People*

In the case of forcibly displaced or war-affected populations<sup>109</sup>, international norms reflect a wide range of attitudes about human rights, individual rights, and sovereignty. According to the UN definition, a ‘refugee’ is a person outside his or her country of origin who possesses a “well-founded fear of persecution by reason of race, religion, nationality, membership of a particular social group or political opinion.” Limited initially only to refugees from World War II, this definition of refugees was enshrined in the 1951 UN *Convention Relating to the Status of Refugees*. In 1967, a protocol was added to eliminate the specific reference to World

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<sup>108</sup> Warren Zimmerman also suggests that migration can also create the perception of threats where none actually exists. (Zimmermann, 1996)

<sup>109</sup> Although legally different, the problems facing and associated with refugees and internally displaced people tend to be the same. I therefore use the term “forcibly displaced” or war-affected populations to connote all civilians caught up in situations of conflict and violence. This usage is in line with generally accepted practices within the humanitarian community today.



War II European refugees. However, the definition still excluded significant portions of the civilian population forced to flee their homes as result of some destructive event. Particularly refugees in Africa and Latin America were ill-served by the original definition. As a result, the Organization of African Unity (OAU) in 1969 (the Banjul Charter) adopted a broader definition of refugees to include individuals “compelled to leave their places of habitual residence because of external aggression, occupation, foreign domination, or events seriously disturbing public order. The Cartagena Declaration of 1984 expanded the definition to include those “fleeing generalized violence, international conflicts, and serious disturbances of public peace”<sup>110</sup>. One way of thinking about the process of forced displacement is the “notion of ‘home’ and the loss of it for reasons beyond one’s control, the alienation and suffering that follow, are the main components of ‘uprootedness.’”( Independent Commission on International Humanitarian Issues, 1986:xvi) From this perspective, the process of refuge or flight is the very antithesis of sovereignty.

Refugees are increasingly perceived as a challenge to the integrity and security of both the sending and receiving states.” (Loescher, Summer 1992:4) More recently, individuals who have been displaced by violence or sources of persecution but have not actually crossed an international border, i.e. internally displaced people

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<sup>110</sup> For a history of the term ‘refugee’ and associated conventions, see e.g. Frelick, 2000; Fitzpatrick, 2001; Dowty and Loescher, Summer 1996; Bissland and Landren, Autumn 1997; Nicholson and Twomey, 1999; and Cohen and Deng, 1998.

(IDPs) have joined the ranks of forced migrants.<sup>111</sup> Although IDPs have co-existed with refugee flows throughout history, their cause has only recently been taken up by the international community, which hitherto had not included these populations in international humanitarian or human rights law or even customary law.( Huggins, November 14, 1995) Their rise to prominence in the last decade attests to the strength of a more limited concept of sovereignty that allows the international community to concern itself with an ‘internal’ or domestic problem.

During the early stages of the international refugee regime, governments in effect defined broad categories of people as belonging to nation-states and relegated others to the ranks of outsiders. An alternative perspective “asserts that individuals have status and worth independent of their relationship to states.”( Krause and Williams, 1997:232)<sup>112</sup> Yet, we should refrain from claims that the nation-state or sovereignty is in “terminal decline.” At the same time, underlying changes in worldviews from one defined by Realism towards globalization have created political spaces for the treatment of refugees as a security problem. Refugees are not

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111 The most exhaustive and groundbreaking work, both scholarly and policy-oriented, has been produced by two scholars in particular, Roberta Cohen of the Brookings Institution, and Francis Deng, currently special envoy of the UN Secretary General for IDPs. For an overview of the IDP issue, see (Cohen and Deng, 1998 and Cohen and Deng, 1998; cf. Davies, 1998, Deng, 1993, Minear and Kent, 1998). The United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) has become the primary locus of IDP issues, working closely with the UN High Commission for Refugees. (United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 1999)

112 See also Finnemore, 1996a:71; and Wæver and others, 1993 for a more extensive discussion of threats to identity.

only a consequence of upheavals in the global political system but also active shapers of the international system and regimes, which govern them.

The numbers of refugees and internally displaced persons today are staggering. According to the U.S. Committee for Refugees, “the number of people forced from their homes by violence and repression stood at more than 35 million at the end of 1999, compared to the fewer than 29 million uprooted people in 1990.” (U.S. Committee for Refugees, June 13, 2000) As of 2002, the UN High Commission for Refugees (UNHCR) considers just under 19.8 million individuals, or approximately one out of every 300 persons on earth,” of concern”. This included 12 million refugees (14.9 according to the USCR) and more than 6 million internally displaced (20 million by USCR’s count).<sup>113</sup> During the mid-1990s these figures were almost twice as high. Africa today hosts approximately 20 percent of the world’s displaced, compared to about one-third in the mid-1990s, and the African Great Lakes region specifically accounts for the world’s displaced resided in Africa. These figures attest to the fact that refugee flows are an inevitable outcome of internal conflicts and, paradoxically, one way in which regional and global security concerns are linked, particularly in Africa.

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<sup>113</sup> See UNHCR Statistics at a Glance, January 2002. Refugee and IDP statistics are at best approximations of reality and vary considerably from source to source. Thus for instance, the U.S. Committee for Refugees, cites figures of 14.9 million displaced world-wide for the same time period as the UNHCR figures. At the same time, USCR’s figures for IDPs is much higher than UNHCRs (20 million vs. 6.3 million) The discrepancies arise from the selection criteria and reporting mechanisms used. Also not all IDPs are “of concern to the UNHCR. For a discussion of refugee data problems, see Schmeidl and Jenkins, 1998.

Although not for the first time by any measure, the international system today faces transnational population flows (including refugees) of increased frequency and complexity. Consequently, at the end of the Cold War, greater attention is paid to refugees as a potential risk or threat to international security. Not only do refugees and IDPs impose economic and social strains on the host country but over time it has become increasingly difficult to distinguish between civilians and combatants. Refugees are more likely to radicalize their host populations and invite third party interventions.<sup>114</sup> And yet refugees are also the primary victims of conflicts, the lucky ones if one considers the deadliness of most African conflicts. In this dual capacity, refugees represent the nexus between two competing sets of norms: those of defense of territorial integrity and non-intervention on the one hand, and international humanitarian norms governing the refugee regime on the other hand.

*War-affected populations and threats to peace and security*

Concepts of citizenship and alien also resonate in alternative conceptualizations of security and responses to refugees as threats to security. In the Realist tradition, security of “citizens” is virtually synonymous with that of the “state.” By definition, therefore anyone outside the state represents a potential or actual threat. Especially in thinking about refugees and violence, it is useful to consider the underlying historical and cultural pressures. Finnemore stresses that, “violence is a fundamentally different mechanism of change than cognition.... Often

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<sup>114</sup> See Michael Brown’s taxonomy of refugee effects on regional conflicts in Brown, 1996: 592ff.

there are choices to be made even within the constraints imposed by force, but outcomes imposed externally through violence are not captured by a cognitive theoretical framework.” (Finnemore, Spring 1996:43; cf. Lapid and Kratochwil, 1996) In other words, a cultural approach may lead to a more integrated approach to security, which cuts across different issue-areas but also across the different levels of analysis.

Independent of their legal status forcibly displaced or war-affected civilians have always been linked to concerns about peace and security. One dominant justification for the linkage is that the increase number of refugees and internally displaced is a direct function of increasing levels of violence in the world. The prevailing tendency has been one of expansion in the definitions of refugees, on the one hand, and the concept of security on the other. Driving this shift is the dynamic process of change and competition among the norms governing international relations as a whole, i.e. sovereignty and non-intervention. Viewing international responses to refugees through a security lens helps to demonstrate the degree to which -contrary to realist views- the essential terms of reference of the Westphalian system are neither fixed nor inviolable but rather a highly contested social construction.

Thinking about refugees in the context of changing definitions of sovereignty and security is somewhat analogous to the “chicken and egg” problem: what came first? The relationship between international migration/refugee flows and security is very much an interactive one. As individual states and non-state actors have become

more aware of refugee flows and the concomitant pressures on society, they have found themselves lacking adequate responses. Forcibly displaced peoples have and are shaped by the security problematic at all levels of analysis. Whether or not it is appropriate to consider security primarily from the perspective of refugees or IDPs remains questionable, but it is undeniable that they cannot fail to influence state behavior in terms of security as “the remaining of states ... raise[s], in many dramatic and sometimes catastrophic ways, the problem of security as it affects human groups in all their diverse cultural and material circumstances.” (Nolutshungu, 1996:17) The increased focus on refugees in modern uses of force and security calculations reflects the degree to which refugee regimes and international security interests have converged.

Forcibly displaced populations constitute a bridge between the state-centric and non-state based sovereignty. Traditionally, refugees have been viewed primarily as a tragic by-product or victims of modern international relations, which called for humanitarian relief and emergency responses. Beyond that, they were left to fend for themselves or at best considered the concern of local entities or international charity. And yet history shows that refugee movements constitute both cause and consequence of conflicts. Although a range of social, economic and cultural problems play a significant role as causes of refugee flows, the conflicts that generate them and the responses to them by national, regional and international actors are intensely political. Several categories of conflicts have contributed substantially to the increase of the forcibly displaced. They include inter-state wars.

Fears of occupation, ethnic conflicts among linguistic, racial or religious communities either engaged in secessionist or autonomy struggles or persecuted by the state or dominant society (ethnic cleansing) also have contributed significantly to the growth of war-affected populations. Others again flee non-ethnic civil conflicts over ideological or class differences, and authoritarian and/or revolutionary regime persecution of opponents (genocide or politicide). Dangerous environments produced by fighting (including the deployment of land mines), and “primitive logistics” where armed forces have little or no regular supply system, also cause mass displacement. (cf. Weiner, Summer 1996; Posen, Summer 1996:72-77 ) At the same time refugees themselves can be a source of inter- and intra-state tension as they frequently become tools of foreign policy, warfare and military strategy. (cf. Loescher, Summer 1992) This is exacerbated when refugees are armed. As a result of modern conflicts eradicating the distinctions between combatants and non-combatants and with increased arms flows, a distinct class of refugees, the “refugee-warriors” has been created. More often, refugees themselves are enlisted in the pursuit of national security objectives by both the sending and the receiving states. Ultimately, refugees affect not only the societies within given territorial borders but also regions as a whole, potentially aggravating regional tensions through spill-over of conflicts across national boundaries.<sup>115</sup> In a sense, the refugee flows constitute an

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<sup>115</sup> See for instance (Brown, 1996). Throughout this volume, the destabilizing impact of refugee spill-overs across boundaries are cited as a reason for the importance of internal conflicts in international relations.

inevitable by-product of increased interdependence among states.<sup>116</sup> Whereas, during the Cold War regional conflicts may have been contained by the fear of proxy wars or escalation, refugee flows potentially are significantly more destabilizing; witness the Balkan crisis, the Liberian civil war or the crises in the African Great Lakes.

The link between refugees and security is embedded in the perception of refugees as threats, real or potential, to national and international security. Even when unarmed, the very nature of refugee flows in and of itself can be perceived as a threat to security. “Arriving unannounced and uninvited, landing in large numbers on the borders..., [massive flows] resembled an invading force (Suhrke, 1993:180) The characterization of refugees as threats to security and stability seems to be more prevalent in the late- and post-Cold War era. The perception emanates not only from the refugees’ potential military role, but also indirectly from their political, economic, social and cultural impact on the receiving, host country as well as the sending country. It follows that threat perceptions of refugees are highly situational.<sup>117</sup> Especially in developing countries, massive refugee flows are likely to upset the delicate balance of socio-economic factors, including ethnicity and

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<sup>116</sup> Mel Gurtov, for example, offers a series of definitions of interdependence which range from the economic sphere to global developments “beyond the capacity of nations to control.” Accordingly, interdependence manifests itself in increased refugee flows and the growing number of transnational movements. (Gurtov, 1994:10-11).

<sup>117</sup> Myron Weiner, (Weiner, 1993), and Warren Zimmerman, (Zimmerman, 1993), offer an extensive list of ways in which refugees are a threat, actual and perceived, both to the sending country as well as the host or receiving country. Georges Vernez also lists a series of factors influencing threat perception of migrants, but argues that no consensus is possible because of the variations in situations, which generate threat perceptions. See Vernez, 1996.



religion, which contribute to development.<sup>118</sup> As the history of the Rwandan refugee crisis illustrates, the very process of going into exile can politicize and radicalize a group or population. Three recent cases of conflict and intervention are good examples of instances when refugees were deemed a “threat to peace and security”-- Iraq, Haiti and Rwanda.(cf. Warren Zimmerman in Teitelbaum and Weiner, 1995:90-91; Davis, 1996:120-130) By-and-large these threats are defined in state-centric terms, as a weakening of state structures and physical boundaries.

Refugees potentially threaten at least three security dimensions, e.g. strategic, regime and structural aspects of nation-states, not only for the host country but also the sending country. As noted earlier, a key element in the linkage between refugees (and migrants) and security is the fear of loss of control over territorial boundaries, populations and bureaucratic processes, especially for the host country. The host country becomes more vulnerable to cross-border terrorism, retaliation or incursions, smuggling and other criminal activities; not to mention the fear of retaliation from the sending country. The connection between forcibly displaced populations, especially refugees, and security thus is embedded in the perception of refugees as threats, real or potential, to national and international security. (Ruth Wedgwood in Wippman, 1999:245ff, cf. Mandel, 1997)<sup>119</sup> Threat perceptions of refugees therefore

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<sup>118</sup> James Milner refers to this phenomenon as the “indirect security burden” posed by refugees. (Milner, May 2000:28.)

<sup>119</sup> In the cases of the Kurds in Northern Iraq in 1991, the Haitian refugees in 1993, and the refugees fleeing genocide in Rwanda in 1994 constituted both a humanitarian crisis as well as a “threat to peace and security”. A key element in the linkage between displaced populations and security is the fear of loss of control over territorial boundaries, populations and bureaucratic processes, especially for the host country.

are highly situational. And yet, it is not so much the “real” as much as the perceived threat that influences policy responses most significantly. (Mandel, 1997) This mismatch between reality and mission may account at least in part for the mixed, and often unintended, outcomes of humanitarian interventions and peacekeeping operations.

Refugees also can have an important beneficial impact on security. Not only do refugees serve as sources of labor but they also provide leverage for increased international attention and assistance or in international negotiations. This holds true for both the sending country (more so in the case of migrants than refugees) as well as the host country. Indirectly refugees contribute positively to regional and national security through increased transparency among states. Thanks to the role of the media – the “CNN factor” made infamous by the Gulf War and Somalia– the plight of refugees attracts almost instantaneous international attention to regions, countries or population entities previously ignored. Increasingly, international monitoring and early warning mechanisms accompany actual or potential refugee flows, forcing much greater exchanges of information. In this context, refugees themselves serve a confidence-building function for international relations as a whole. Indeed, an overemphasis on prevention and repatriation strategies as a response to refugee flows may in fact reinforce a false image of refugees as threats and undermine public support for protection regimes. (Newland, 1995).<sup>120</sup>

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<sup>120</sup> One consequence of the misperception of refugees as threats which clearly undermines the protection regime are the cases of armed attacks on refugee camps. Elly-

Scholars rooted in a more neo-realist tradition note “the need for a security/stability framework for the study of international migration that focuses on state policies toward emigration and immigration as shaped concerns over internal stability and international security.” (Weiner, 1993:3) Even in the face of increased international intervention, the refugee regime as it is currently configured remains wedded to preserving the system of sovereign states. (Newland, 1995:45; Schachter, 1993:25) Critics of realist notions of the nation-state, on the other hand, are inclined to argue that under such circumstances statecraft, narrowly defined as ensuring a society’s security against potential external enemies, in an interdependent world entails more than diplomacy of war and peace; “...massive refugee flows may threaten societies from without and within simultaneously.” (Gurtov, 1994:25)

The linkage between war-affected populations, sovereignty, and security reflects an evolution in the role of threats and in threat perceptions. For most of modern history, security has been defined in negative terms, as the *absence* of insecurity or fear. Threats are perceived in terms of vulnerabilities to external influences of either the state or individuals. As Robert Jervis tells us, “the predisposition to perceive a threat varies with the person’s belief about his ability to take effective counteraction if he perceives danger.” (Jervis, 1976:374) Neorealists are inclined to view perceptions and threats as objective variables tied to the capabilities of (presumably rational) actors. In this view, threats are given or fixed and exist *à priori*.

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Elikunda Mtango’s chapter, “Military and Armed Attacks on Refugee Camps,” in Loescher and Monahan, 1989: 87-121, is particularly informative on this point.

Critical theory, however, urges analysts to consider beliefs, perceptions, and threats themselves as social constructs. In terms of the societal concept of security, for instance, “[t]he security of a society can be threatened by whatever puts its “we” identity into jeopardy.” (Wæver and others, 1993:43) The sources of threats as well as the ‘objects’ of threats become subject to interpretation and not necessarily tied to a particular set of capabilities. Some critical theorists in fact argue for a more positive or active approach to security. Thus, security is defined not only in terms of *absence* but in fact in terms of the *emancipation* from threats which are based on “collective meaning structures” or shared understandings.<sup>121</sup> If one accepts the idea that threats are not static but dynamic, then it also means that the concept of security as a response to threats necessarily changes over time.( Bloomfield, 1993:200)<sup>122</sup> This dynamic has significant consequences for our understanding of protection of civilians, especially forcibly displaced people.

### ***Humanitarianism and Intervention***

By humanitarianism, I refer to the application of the principles of humanity, impartiality, neutrality and universality (as outlined by the International Red Cross as ‘humanitarian principles’) to international humanitarian law of armed conflict,

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<sup>121</sup> For a comprehensive summary of the major points of debate between Neorealists and Critical Theory on questions of perceptions, beliefs and threats, see Krause and Williams, 1997.

<sup>122</sup> N.B.: Leon Gordenker and Thomas Weiss take an essentially constructivist approach to security and threat perceptions in acknowledging that there exist “newer ways in which peace could be threatened” and that “‘security’ means many things to many people.” Weiss, 1993: 213).

humanitarian assistance and human rights.<sup>123</sup> By definition, it is “a moral principle that holds between strangers, those who share nothing more than their humanity.” (Gibney, March 1999:178) One could say that humanitarianism takes the concept of ‘imagined community’ to the level of all humankind. To a certain extent, however, humanitarianism also represents a compromise between the demands of a sovereign state’s citizens and individuals in need, regardless of their citizenship status. Humanitarian intervention in the classic sense refers to the threat or use of force for the sole purpose of preventing serious human rights violations and protecting a person’s or group’s right to life. Such force can be coercive or non-coercive. It can but does not have to involve forcible military actions and must be authorized by the UN to be considered legitimate. International norms contestation is particularly relevant to considerations of international responses to refugee crises. One could argue that the international refugee regime inherently is one of intervention in that it administers humanitarian relief within and across national borders.

Military force is applied increasingly in “non-traditional” situations, often involving not other states’ armies but rather individuals. Traditional reasons of territorial self-defense figure far less prominently. Moreover, many of today’s interventions either are contrary to or divorced from the interveners’ traditional national interests. At the same time, the rise in frequency points to a change in perceptions of the relative role of warfare or uses of force. Contrary to the

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<sup>123</sup> For a detailed discussion of humanitarian intervention and related principles, see for example, Ramsbotham and Woodhouse, 1996 or Oudraat, 2000

Clausewitzian notion that war is simply an extension of politics, use of force appears to be gaining in favor *not* as the response of last resort, but rather as a substitute or *impetus* for a political process. Refugees and internally displaced populations are an unfortunate by-product - both resulting from and leading to- uses of force, which have forced the general public and not just a handful of military planners to consider the ramifications of using force to solve international or even transnational problems. Post-Cold War interventions in Somalia, Haiti, Northern Iraq, and most recently Bosnia, have produced a mixed record of successes and failures in international humanitarian action.

*The Humanitarian and Moral Imperative*

Prevalent justifications for intervention, even military action suggest that a new norm is emerging and ready to replace of the fundamental principle of non-intervention which has governed inter-state relations for most of modernity. It cannot be denied that the spill-over effect of civil war, communal conflicts and human rights abuses that uproot entire communities engages the national security of states. The flight of nearly 2 million Kurds into Northern Iraq along the Borders of Turkey and Iran following the Gulf War in 1991 is now considered a watershed event in establishing a right to interfere. However, these crises have elicited more than a defensive response from the international community. Rather there is a genuine moral or humanitarian imperative to relieve human suffering. Ernst Haas has described the process as one in which “the humanitarian imperative takes precedence over non-interference and sovereignty.” (Ernst Haas in Weiss, 1993:81). This is all

the more so in regions at risk of destabilization (Myron Weiner's "bad neighborhoods") and wider regional wars.

Under these circumstances, states are entitled to a 'right of international intervention' as a legitimate extension of customary law, as retaliation for illegal behavior by one state towards another. (Roberts, 1999) Indeed it has been argued repeatedly that UN Security Council Resolution 688 regarding Iraq is the most explicit and precedent-setting link of enforcement actions with the prevention of a refugee crisis. Intervention as an international response to population crises, both "soft" and "hard,"<sup>124</sup> has not only become increasingly justifiable but has been already taking place for some time. India's intervention in Bangladesh (or East Pakistan at the time) in 1971 and Vietnam's intervention in Cambodia in 1978 are but two early examples. Indeed whereas Chapter VII enforcement powers were called upon only twice in the first 45 years of the United Nation's existence, they have been invoked much more frequently since then, i.e.: Somalia (UN Security Council Resolution 751), in Haiti, in Rwanda (Operation Turquoise), in Liberia (by ECOWAS), and repeatedly in Iraq.

And yet we must concur with Haas' observation that "we are a long way from a consensus on the primacy of the a right to intervene on behalf of refugees..." (Ernst Haas: 81) Although ostensibly motivated by humanitarian principles, military interventions in Iraq, Haiti and Bosnia have taken place under Chapter VII authority

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<sup>124</sup> Soft interventions typically refer to a range of preventive activities short of military action. Hard intervention is synonymous with military or armed intervention. Cf.. Dowty and Loescher and UNHCR, among others.

in response to the more traditional ‘threats to peace and security.’<sup>125</sup> In the case of the 1995/1996 Kurdish crisis in Iraq, for instance, Turkey intervened not for humanitarian reasons but to neutralize a potential threat to Turkish security. Then Turkish Foreign Minister Tansu Ciller responded to international queries that “we are not ready to cancel the security zone because we fear the influx of refugees and the PKK has stationed themselves right next to our borders.”<sup>126</sup> Similar fears have been expressed by Americans fearing Haitian refugees and Germans worried about an influx from the former Yugoslavia. To frame the problem differently, “can [or should] the moral imperative to protect human rights and life be separated from the political context in which these rights are to be exercised?” (Phillips and Cady, 1996:24)

The moral imperative clearly is an important precondition for humanitarian action of any kind – with the use of force or unarmed- however is not without problems.<sup>127</sup> Moreover, while it is difficult to reject the altruistic intentions of the

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<sup>125</sup> Peacekeeping and peace-enforcement actually is not officially mentioned in the United Nations Charter. Instead these activities evolved through customary and international law, and proactive readings of relevant Chapters in the Charter. Thus Chapter VI provides for the peaceful, non-military, resolution of disputes among members. Chapter VII (Art. 39) addresses threats to international peace and security and designates the UN Security Council as the principle actor to determine appropriate responses. While these may involve the deployment of military forces, Chapter VII prohibits the use of armed force to resolve threats to peace and security under this Chapter. Only Chapter VIII references ‘enforcement’ directly in giving the UN authority to delegate such activities to regional organizations.

<sup>126</sup> Tansu Ciller as quoted by Patrick Worsnip (Worsnip, September 23, 1996) See also Bronson, 1996: 227.

<sup>127</sup> For an excellent overview of the moral dilemmas associate with the humanitarian intervention, see the contributions by scholars and practitioners to the volume edited by Jonathan Moore. (Moore, 1998)



humanitarian imperative, it can lead to unintended consequences. For instance, organizations may not in fact have sufficient capacity to pursue the humanitarian imperative, leading to what Väyrynen has called the “moral imperative-credibility gap.” (Väyrynen, April 1999; cf. Kuperman, 2001) Others have questioned the feasibility of pursuing the humanitarian imperative indiscriminately regardless of conditions on the ground. Medecins sans Frontiere (MSF) research director, Fiona Terry, for instance, has been a fervent critic of maintaining refugee camps and other initiatives that could in fact prolong a conflict or humanitarian crisis. (Terry, 2002)

#### *Definition of Humanitarian Intervention*

The term “intervention” tends to be used very loosely in much of the policy and scholarly debates on the subject. Military interventions are only one form of international intervention. They in fact constitute only a small segment of interventionary strategies or ‘ladder of options’ available to the international community (Little, 1975; Milner, May 2000) There is a sizeable literature on international intervention but little consensus on definitions or scope. Scholars from James Rosenau to Stanley Hoffman, from Herbert Tillema to Frederick Pearson have set out to explain various aspects of intervention. While numerous strategies could be considered coercive, military interventions generally involve a direct, more or less continuous presence of national or multinational military forces. (Levite et. al., 1992) Although Levite and others have advocated a threshold of ‘massive’ deployments of troops for international interventions, the number and types of troops involved generally varies considerably from case to case. Melvin Small and David Singer for

example define as internationalized conflicts any deployment over 1000 troops.

Many U.N. peacekeeping missions field a far fewer numbers of troops, since they usually are not intended for combat.

I build on Richard Haass' and Adam Robert's definitions of military humanitarian operations as ones that involve the deployment of forces to save lives and to provide life-supporting supplies and services<sup>128</sup>. (Haass, 1994: 62; Roberts, July 1993, Roberts, 1999) He further distinguishes between consensual or imposed humanitarian interventions that determine the level and degree of armed forces deployed. According to this definition, consensual humanitarian operations take place in a "permissive environment" and military personnel serves mostly a logistics function. Imposed humanitarian interventions, however may be carried out in a hostile context and armed force is needed to protect not only the local populations but also those civilians providing assistance. To Haas' definition I would add another characteristic, that of international or UN mandates. (Mayall, 1996) In other words, military interventions in humanitarian crises must be sanctioned by the international community and must involve some form of deployment on the ground. I use the term humanitarian "intervention" and "action" throughout, but recognize that humanitarian action is not identical with an armed intervention. Rather it refers to coercive strategies to protect civilians.( International Commission on Intervention

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<sup>128</sup> Adam Roberts defines humanitarian intervention as "coercive action by or more states involving the use of armed force in another state without the consent of its authorities, and with the purpose of preventing wide-spread suffering or death among its inhabitants." (Roberts, 1999:4)

and State Sovereignty (ICISS), December 2001, p. 15) Limiting the scope in this way, allows for more precise analysis of the dynamics that lead up to humanitarian military operations.

Another contentious issue to be flagged here is the use of the term humanitarian in the intervention context. Two schools of thought exist on this point. The “success grammar” school argues that humanitarian outcomes determine the true humanitarian nature of an intervention. (cf. Seybolt, 2001; Teson, 1997) In contrast the “motives” school focuses on the intent of the intervention; whether altruistic or mixed, i.e. combined altruistic and ‘national’ or strategic interests, or purely national interest based.<sup>129</sup> Complex humanitarian emergencies tend to involve both types of military force. The mixed results of Bosnia to date and the reluctance of the international community, and domestic public opinion, to support enforcement actions financially and politically, suggest that the consensus in favor of intervention is not yet sufficiently rooted in the international refugee regime. Even UNSCR 688 explicitly reaffirms ‘the commitment ... to the sovereignty, territorial integrity and political independence of Iraq.’<sup>130</sup> The exchange between Michael Mandelbaum and Richard Haass on the relative policy merits and challenges associated with military intervention reflects the continuing ambivalence. (cf. Mandelbaum, Summer 1994;

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<sup>129</sup> A good summary of these issues can be found in Coady, July 2002. For a review of ‘wider’ peacekeeping or humanitarian action, see in particular, Daniel and Hayes, 1995; Mayall, 1996; Roberts, 1996; Roberts, Autumn 1999; and Williams, 1998. One of the most comprehensive overviews of peacekeeping in general can be found in Durch, 1993.

<sup>130</sup> UN Security Council Resolution 688 (April 5, 1991) as quoted in the UNHCR report, p. 38. For an account of Bosnia, see Susan Woodward. *Balkan Tragedy: Chaos and Dissolution after the Cold War*. Washington, D.C.: Brookings Institution. 1995.

Haass, Fall 1994. It points to a fundamental ambivalence or ‘faultline’ between sovereign and community values (Glennon, January 1995) among states and their constituencies regarding the legitimacy and efficacy of the use of force. It cuts across political lines, and has created some curious alliances among “hawks” and “doves” arguing for or against the use of military force or coercion. It also suggests an inadequate understanding of the operational and political dimensions of modern warfare.

*From Peacekeeping to Peace-Enforcement and –Building*

On a scale of multilateral interventions ranging from peacekeeping to peace enforcement, military responses to CHEs tend to occupy a middle ground. (Roberts, 1996) They clearly have a broader mandate than traditional peacekeeping operations and have dominated the UN peacekeeping agenda since 1989.<sup>131</sup> In principle, humanitarian actions in CHEs stop short of peace *enforcement*, i.e. to “restore or maintain peace” through coercion. (Boutros-Ghali, Agenda for Peace, 1991:sect.42ff). Defacto, however, CHEs may necessitate coercive action in order to create the conditions for humanitarian relief. “...humanitarian action, in principle and by definition, is a response to basic human needs for protection and assistance.” (Minear, 1997:2; Väyrynen, 1998) When combatants are mixed in with unarmed civilian populations, as has been the case in numerous recent CHEs, e.g. in the

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<sup>131</sup> 11 out of 13 UN Peacekeeping Operations prior to 1988 were traditional, i.e. monitoring cease-fires, etc. The exceptions were the 1960-1964 ONUC mission in the Congo and the UNSF in West New Guinea/Indonesia, 1962-1963. By contrast, between 1988 and 1993, 15 out of 20 peacekeeping operations qualified as “wider” peacekeeping operations. (See Whitman and Bartholomew, 1995; cf. Daniel, Hayes, and Oudraat, 1998).

African Great Lakes and the Balkans, it not only is difficult but indeed counter-productive to exclude peace-enforcement activities from CHEs. However, it also seriously compromises the neutrality of UNHCR and other humanitarian actors relying on military action to deliver both relief and protection to war-affected populations. The debate is further complicated by events such as the recent humanitarian action in Kosovo, which blurred the lines between peacekeeping, humanitarian assistance and peace enforcement to an unprecedented degree. (James, 1995; Roberts, Autumn 1999; ) Humanitarian action by military forces covers a wide spectrum of activities. (Roberts, 1999; Paul, 1999; Ebersole, 1995) They range from monitoring/observer functions such as in Macedonia and more recently in Burundi to full-scale war operations in Kosovo; although they frequently fall short of actual military intervention in combat. Jan Eliasson has referred to this progression as a “ladder of action.” (Otunnu, et.al, 1998:205ff); the humanitarian community tends to speak in terms of “ladder of options” (Milner, 2000). The provision of logistic support tends to be the least controversial -and generally most effective- function performed by military forces. Under this rubric fall actions to secure access to populations in need; the delivery of humanitarian relief during armed conflicts, including supplies, maintenance of essential services and reconstruction of damaged buildings and roads. Military forces also provide evacuation support and training of civilian personnel working under conditions of armed conflicts.

Much more controversial but also the least effectively implemented mandate of humanitarian action is that of physical protection. This entails the use of UN

peacekeeping forces to protect relief workers from attacks by belligerents and the creation of humanitarian corridors. It also includes the establishment of safe zones for civilian refugees and internally displaced populations. More recently, the humanitarian organizations have advocated disarmament of combatants among displaced populations as well as de-mining areas of conflict as a necessary prerequisite for the protection of civilians.<sup>132</sup> At the same time, military forces provide the more traditional peacekeeping functions. Examples include information and threat assessments drawing on military intelligence. They also fulfill liaison and legal support functions such as the enforcement of international humanitarian law and rules of engagement, the facilitation of contacts among adversaries on issues such as the resettlement of refugees, and in general to fill gaps in expertise of non-military, humanitarian relief organizations. The newest and as yet least developed area of activity is the concept of trusteeship as applied in Bosnia and more recently in Kosovo. Here, armed forces assist in the provision of temporary governance structures, communications, and command and control functions in failed states.

Humanitarian interventions involving the use of military force typically are peacekeeping or peace-support options. Chapter VIII governs armed peace enforcement and military sanctions authorized by the UN Security Council. At the same time however, the Charter itself, prohibits the threat or use of force against

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<sup>132</sup> For a discussion of the problem of civilian protection in CHEs see Harris and Dombrowski. There is limited consensus among humanitarian relief organizations regarding the use of military force for physical protection. Organization such as the UNHCR have advocated a more pro-active use, whereas some NGOs such as the International Committee of the Red Cross, is more cautious and prefers greater distance between humanitarian and military operations. (Cf. Ogata, 1998).

another sovereign state (Art. 2(4)) or the interference in a state's domestic jurisdiction. Thus the UN Charter itself embodies a fundamental tension that pervades the entire issue of humanitarian intervention: that between sovereignty and human rights.

On the one hand, classic humanitarian intervention relies on basic humanitarian principles and international humanitarian laws to protect the most basic of human rights – the right to life and access to means of survival. On the other hand, humanitarian intervention in the current contexts of complex emergencies by necessity has become more closely tied to political-military means and interests. Without them, the international community cannot respond effectively, but with them it also cannot easily uphold fundamental humanitarian principles of neutrality and impartiality. In this regard the interventions of the latter part of the 1990s differ from earlier humanitarian interventions before, during and immediately after the Cold War. Earlier humanitarian interventions focused on the delivery of humanitarian assistance. In this context military force was applied primarily to protect that delivery and assist with logistic support.<sup>133</sup> More recently though, the international community has shifted to a form of humanitarian *enforcement* of conditions suitable to implementing humanitarian assistance, that involves not only the safeguarding of previously negotiated humanitarian access but in fact imposing humanitarian access even in the face of continued armed hostilities. Many of the

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<sup>133</sup> Cf. Humanitarian Studies Unit, 2001. I am grateful to Christian Manahl of the European Representative's Delegation to Nairobi for reminding me of the differences between earlier and current humanitarian interventions.

elements of humanitarian “enforcement” were evident but poorly executed in the international responses to the crises in the Great Lakes region during the 1994-1998 period. The intervention in Kosovo, on the other hand, constitutes a first explicit application of humanitarian enforcement.

### ***Humanitarian Action and The use of Force***

“Half-hearted and ineffectual intervention and the deliberate confusion of humanitarianism and politics kill.”( Shawcross, 2000 :144) William Shawcross’ comment echoes much of debate over humanitarian intervention during the past decade. Seven years after the Rwandan Genocide of 1994, the international community and the United Nations in particular continues to struggle with the perceived and real failures of humanitarianism.

Interventions directed towards refugees are on the rise but by no means clear-cut or definitive. They may be defensive, opportunistic, or coercive in mission and frequently provoked by the presence or fear of refugee flows. (Brown, 1996; Posen, Summer 1996). The international community thus has had to contend with competing or shifting paradigms of protection norms as it seeks to uphold both traditional principles of sovereignty and non-interference at the behest of its member states while also broadening the scope of protection for non-state actors and individuals. The role of military action in humanitarian interventions derives much of its impetus from the link between forced migration and security concerns. The physical security of refugees and other war-affected people is not a new concern to UNHCR and other humanitarian organizations. Gil Loescher reminds us elsewhere



in this volume that already during the 1970s and 1980s, refugee camps in Angola and elsewhere faced militarization. But awareness of the problem has increased significantly in recent years as has the recognition that physical security is a necessary precondition for humanitarian relief.

Thus, interventions in response to humanitarian emergencies are difficult to control, can lead to unintended consequences such as regional instability and protracted conflicts, and indeed translate into a security dilemma of sorts.

“[I]nternational efforts to compel people to behave are likely to cause more harm than good.”<sup>134</sup> Indeed, international interventions involving the extensive use of force are prone to produce protracted conflicts with difficult situations for war-affected populations. (Zolberg, Suhrke, and Aguayo, 1989) The increased focus on forcibly displaced populations in contemporary applications of military force and security calculations reflects the degree to which refugee regimes and international security interests appear to have converged around the idea of ‘humanitarian intervention.’ (Bellamy, 1997; Duffield, 1997; Hartigan, 1987; Stockton, 1996) For example UN Security Council Resolution 1265 recognized the increasing role of peacekeeping forces for the protection of humanitarian relief and forcibly displaced civilians in armed conflict. (UN/IRIN, 1999).

As Gil Loescher has argued, “military forces rarely, if ever, have a purely humanitarian agenda”(1994:1). Humanitarian actions in CHEs in general -albeit by

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<sup>134</sup> Charles William Maynes. “Humanitarian Intervention: Its Possibilities and Limits” (?) p. 238. See also Adam Roberts. “Humanitarian war: military intervention and human rights.” *International Affairs*. Vol. 69, No. 3 (1993). pp. 429-449.

no means always- are non-forcible and focused on the conditions on the ground within a conflict area.<sup>135</sup> Richard Haass, for example, has suggested the following definition: “[h]umanitarian operations involve the deployment of force to save lives without necessarily altering the political context.” (Haass, 1994b:62) In reality, however, it is difficult to argue that the deployment of military forces of any kind into an ongoing conflict situation will not affect the political context.

Humanitarian actions in CHEs aim to protect and save human life, implying a need to create a stable environment. That could be as ‘neutral’ as the provision of emergency food aid or shelter or the deployment of border guards, or as invasive as disarming combatants. Both are humanitarian “actions” but with very different implications for the local and regional political context, as well as for the degree of sovereignty preserved. Moreover, neutrality of relief depends on an equitable distribution of aid and resources, which is difficult to achieve as the post-genocide intervention in Rwanda can attest.<sup>136</sup>

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<sup>135</sup> Fernando Teson offers a definition of traditional humanitarian intervention as “proportionate transboundary help, including forcible help, provided by governments to individuals in another state who are being denied basic human rights and who themselves would be rationally willing to revolt against their oppressive government,”...therefore there exists “a right of humanitarian intervention”. (Teson, 1997:5). The broader concept of humanitarian action in CHEs is summarized and contrasted with the classic form in Woodhouse and Ramsbotham, December 1999.

<sup>136</sup> Here, UNHCR’s protection mandate favored refugee camps outside Rwanda but which were populated by members of the former Hutu government of Rwanda that had perpetrated the genocide. (Dallaire, 1998:83) Others even argue that neutrality is in itself a political position for NGOs operating in CHEs. (Bryans, Jones, and Stein, 1999:12)

### *Rescue vs. Relief*

Interventions in refugee-producing situations based on threats to peace and security fundamentally change the considerations and conditions for intervention. In other words, in contrast to pure rescue missions, such interventions are aimed no longer just at the immediate relief of victims but also at ameliorating conditions causing the threat. CHEs tend to motivate either a perceived need for rescue of population whose human rights have been violated within their own country, or an imperative to protect people and the integrity of nation-states from the ravages of war. At least five assumptions underlie humanitarian actions (Williams, 1998, Natsios, 1997; Roberts, 1996). First, they are assumed to be legally and multi-nationally sanctioned/authorized. Second, they presume a clear hierarchy of relations between civilian and military organizations charged with carrying out the mission. In general, military organizations are deemed subordinate to civilian groups and decision-makers. Third, ideally the use of military force is a measure of last resort but may need to be deployed earlier rather than sooner to affect peaceful solutions. Fourth, as a consequence, humanitarian actions are always crisis-driven. Indeed, by definition, humanitarian emergencies suggest the absence of long-term developmental and conflict management strategies and are typically short-lived in duration. Fifth, this also means that military interventions in CHEs are far less politically sensitive than many traditional peacekeeping *or* peace-enforcement operations, which carry with them the prospect of long-term engagement in a given country or region.

*The Ethics of Humanitarian Intervention and Non-Intervention*

Ethically justified humanitarian interventions derive their force from the moral authority against standing by idly while gross human rights violations take place. The notion of a collective responsibility towards its individual members—particularly in the absence of a functioning state—gradually has entered into the culture and identity of the international community. (e.g., Solarz and O'Hanlon, 1997; Harff, Spring 1995; Hoffmann, Winter 1995-1996; Cusimano, 2000) The moral obligations or priorities that may necessitate war and military interventions resonate loudly in decisions to intervene in CHEs (Väyrynen, 1998; Walzer, 1992)

A corollary to this argument is that the legitimacy and sovereignty of states ultimately derives from the rights of individuals. To the degree that states violate human rights, they lose their sovereign rights, including the right to non-intervention. (Walzer, 1995; Slater and Nardin, February 1986; Teson, 1997). The international regime protecting refugees and more recently internally displaced populations no doubt has contributed significantly to an increasingly prevalent norm of protecting the individual from belligerent state or non-state actors. (Loescher, Winter 1994). However, this ethical stance is somewhat problematic particularly in the context of CHEs, when individual rights are not always readily discernable from larger group survival strategies. (Daniel, Hayes, and Oudraat, 1998)

As noted earlier, traditional principles of sovereignty and non-intervention continue to operate, even if they no longer hold absolute primacy, in a process best described as a “groping toward arrangements”, according to Thomas Weiss. Indeed, the principle of non-intervention, both as a negotiated process and a set of

conventions embodied in international and customary law, has continued to be especially important to nations in sub-Saharan Africa and other formerly colonized regions. It is only recently, that African states and regional organizations, for example, have recognized that humanitarian intervention can serve an important collective security function as intrastate conflicts spill over to neighboring countries. (cf. Fung, 1995; Onuf, Spring 1971; Deng and others, 1996) Indeed, this may represent what Maryann Cusimano has termed “the new security dilemma” for the international community. (Cusimano, 2000:32) Accordingly, “[w]e are moving in fits and starts from a controlling paradigm in which state sovereignty served as an all-purpose rationalization for narrowly defined *raison d’état* toward a world in which states and armed opposition groups, as well as other less traditional actors, are challenging conventional notions of territorial sovereignty and insisting upon greater accountability.” (Weiss, Winter 1994:109-110) Instead what is slowly emerging is what Father Bryan Hehir and Stanley Hoffmann respectively have referred to as an “ethic of intervention” which may ultimately evolve into a new norm. (Hehir, 1998; Hoffmann, Winter 1995-1996).

As we have seen from the French experience with Operation Turquoise in Rwanda in 1994 as well as in other humanitarian emergencies, such an ‘ethic’ or ‘right’ of intervention –while morally justifiable- is problematic on a number of grounds. Intended mostly to contain or prevent refugee flows and stabilize states, military humanitarian interventions tend to be “complicated affairs full of ambiguities and uncertainties” due at least in part to their conflict with the principles

of sovereignty and a series of political, moral and operational dilemmas created by them. (Kier, Spring 1995:99; Campbell, 1996)

Ethically justified humanitarian interventions derive their force from the moral authority against standing by idly while gross human rights violations take place. Patrick Regan points out that while the decision not to intervene in complex humanitarian emergencies such as in Rwanda initially was determined by the low probability of success of an intervention to stop the killing, the combined magnitude of the killing and impending refugee crisis “meant that ethical issues surfaced within the global community.” (Regan, 2000:62) Then U.S. Secretary of Defense, William Perry, invoked the concept of “ethical uses of force” when he discussed the conditions under which the U.S. would be prepared to convene, including not only moral concerns but also the capability to respond effectively. (Perry, April 18, 1995)

There clearly also exist some profound ethical reasons against humanitarian action. Even if one accepts the idea of a “right to intervene,” whose right is it? The international community opens itself up to accusations of double standards when it chooses to intervene selectively. (Braekman, 2000; Whitman, 1996, Roberts, 1999) How does one justify action in Kosovo but inaction in Sierra Leone? Humanitarian actions also clearly undermine the right to self-determination, which the international community assumes to have been forfeited by human rights violations. A related “slippery slope” problem is when humanitarian interventions turn into invasions or blur the lines between relief and political-military objectives, as in Kosovo. The assumption underlying UNHCR’s and military actions in CHEs is that they serve a

humanitarian intent, not always readily distinguishable from foreign policy goals. (Slater et. al., 1986). Thus, it did not help that the multinational force (UNAMIR) followed on the heels of the French “Operation Turquoise”, with highly suspect motives. (Darnton, 1994; McGreal et. al., 1994; Prunier, 1997)

### ***From Relief to Rights: The Role of Human Rights***

Numerous experts have pointed out the fallacy of artificially separating human rights from humanitarian assistance, claiming that it not only is detrimental to the UN’s potential impact in a crisis but also “demoralizing for civilian populations” who witness abuses in humanitarian aid. (Prendergast, 1997:142)<sup>137</sup> Although human rights and humanitarian assistance originate in different international conventions and laws, and address different human needs (dignity vs. survival), the experience of the last decade of humanitarian emergencies has reinforced the importance of maintaining some synergy between the two. Hence, humanitarian organizations have sought to develop ‘rights-based approaches to humanitarian relief. By the same token, human rights organizations and movements have begun to concern themselves not only with peace-time violations of human rights by sovereign authorities against their own citizenry but in fact with the pursuit of human rights even under conditions of war. Thus, we are witnessing a gradual convergence of international human rights law, international humanitarian law (IHL) and refugee law. The legal challenge is one of reconciling differences in human rights and

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<sup>137</sup> Mary Anderson and Peter Uvin have made this argument even more fervently. (Anderson, 1999; Uvin, 1998)

humanitarian law as a “compromise between military and humanitarian requirements”( Greenwood, 1999:32) Differences such as universality and neutrality which are fundamental principles of human rights law but applied more selectively in humanitarian law create difficulties for UN humanitarian action on the ground. For example, “[a]lthough there is a growing trend in the international community toward recognizing a right to provide humanitarian assistance and protection without consent, many States continue to contest that right.” (Ruddick, April 1997:481) In the case of Rwanda, UN Resolution 929 which authorized the French to launch “Operation Turquoise” in 1994 on the grounds of humanitarian assistance, was a rare exception but also problematic for the UN and indeed for the receiving government of the newly installed Rwandan Patriotic Front.

### ***The Human Security Paradigm***

Neorealist conceptions of security now share the stage with the increasingly popular concept of “human security,” opening up the possibility that forcibly displaced populations should be ‘secured’ just as national borders and territory might be defended. It is this aspect of protection of people that distinguishes humanitarian interventions from other forms of foreign military interventions.

*Human security*, while not new, is a fuzzy concept.<sup>138</sup> The term first entered the official discourse of the United Nations as part of the United Nations

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<sup>138</sup> For an overview of the evolution of the human security concept, its analytic weaknesses, and its evolution as a new policy paradigm, see Paris, Fall 2001. Paris notes that the concept is left purposefully vague for advocacy and political coalition members to be able to reach consensus on coffee. Recent examples of empirical measures of human security include the measure included in the Center for International Development and Conflict



Development Program's *Human Development Report* of 1994.<sup>139</sup> The concept as such predates these works. For example, scholars of social conflicts such as Johann Galtung, Edward Azar, and others had already cited the importance of making human dignity and rights the central referent of development in the mid-1980's and early 1990s. (e.g., Azar, 1990) Rather it is the explicit linkage with the high politics of security that is new. An element of human security that is particularly relevant to the discussion of norms is that human security is derived from a conceptualization of the individual as part of a collective or larger community. Thus, "human security is indivisible....pursued for the majority of humankind as part of a collective... entails more than physical survival." Accordingly, human *insecurity* should be understood "as a direct result of existing structure of power that determine who enjoys the entitlement to security and who does not." (Thomas and Wilkin, 1999: 3-4).

At stake is the object of security, and hence protection. In contrast to neoliberal and realist state-centric interpretations of security, critical security studies makes the individual and not the sovereign state the appropriate object of security. Krause and Williams, for example, argue that "security is synonymous with citizenship.... [and] a condition that individuals enjoy." (Krause and Williams, p.

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Management's ((CIDCM) *Peace and Conflict Report 2003*. Human security as utilized here is a composite measure of information on armed conflicts and rebellion, inter-communal fighting, refugees, IDPs, state repression, terrorism, and in very few cases genocide. (Gurr and Marshall, 2003:9)

<sup>139</sup> For a good overview of the evolution of the concept of human security see, among others, Thomas and Wilkin, 1999:3-11,ff.

43ff) Sovereign states thus can enhance or undermine their citizens' security.

(Buzan, 1983)

The concept has evolved considerably since its “debut” at the 1994 World Summit in Copenhagen, thanks in part to extensive efforts by various humanitarian agencies and actors to refine the term through practice and evaluation. By the end of the decade, human security has come to be defined as “the security of people –their physical safety, their economic and social well-being, respect for their dignity and worth as human beings, and the protection of their human rights and fundamental freedoms.” (International Commission on Intervention and State Sovereignty (ICISS), December 2001:15) Even with a generally accepted definition, we are far from consensus on the implications of human security for the practice of humanitarian assistance and intervention, especially in emergency situations. Practitioners and scholars of humanitarian and development assistance as well as critical studies of security and international relations continue to debate not only the implications of linking security and humanitarian activities but also how to actually implement a human-security or rights-based approach.<sup>140</sup> A significant project

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<sup>140</sup> Two recent works in particular proved to have a seminal influence on our understanding of human security both in general terms and more specifically in the context of the African Great Lakes and the Rwandan crisis of 1994. Anderson, 1999 is a study of humanitarian assistance in conflict areas compiled under the auspices of the Local Capacities for Project (Collaborative for Development, Inc.) Anderson encouraged many non-governmental, UN and donor organizations to review and revise the way in which they integrate principles of humanitarianism into the design and delivery of programs. Similarly, Peter Uvin's critical assessment of development assistance in Rwanda advocated a more principled as well as politically astute perspective on the real impact of development. (Uvin, 1998) Both works point to the need for a more integrated, 'human' approach to development assistance particularly under conditions of structural violence and conflict.

initiated by humanitarian organizations world-wide is the “Sphere Project”. Funded primarily by the European Union, this project has produced the first comprehensive “code of conduct” for humanitarian assistance that takes into accounts the rights of recipients of such aid. (The Sphere Project, 2000)

### *Human Security and International Protection*

The Secretary General’s 1999 challenge to the international community provoked a heated debate around these issues. It also spurred on two parallel trends that first emerged at the end of the Cold War: a more expansive definition of security centered on the well-being of peoples rather than nation-states, and efforts to identify appropriate means of protection for civilians in armed conflict and at risk.

### *International Protection Norms*

Closely related to the human security concept has been an increased emphasis on international protection. The term encompasses a myriad of actors, activities, and subjects, leading to considerably confusion over what is to be protected and by whom. International protection involves both a legal (formal and customary) framework that has expanded steadily since the second half of the twentieth century as well as physical, political, and social-economic dimensions. Due to the vast variety of circumstances and conflicts that may warrant some form of protection, it is difficult to identify a single concept of protection. This fact has complicated effective implementation of any kind of international protection doctrine on the ground. Only recently have definitions of “international protection” begun to converge around a common definition centered on “all activities aimed at ensuring full respect for the

right of the individual in accordance with the letter and the spirit of the relevant bodies of law, ...conduct[ed] in an impartial manner.”( International Committee of the Red Cross, May 2001:19)

The international community must navigate through a maze of often-contradictory values in formulating and implementing appropriate decisions for the protection of human life and the international system. Rising expectations under conditions of limited capacities and declining legitimacy pose particular problems for the United Nations as a humanitarian actor

Protection norms refer to those principles and values that identify and guide the object and means of protection deemed appropriate to preserve the rights and lives of individuals or the state(s) deemed at risk.<sup>141</sup> For the purposes of this study, humanitarian protection addresses the economic and social “baskets” as well as the basic right to life, whereas human rights protection refers to the more narrowly focused civil and political rights. For a discussion of the different rights ‘baskets’, see for example Shue, 1996.

This study considers three specific protection norms: (1) norms guarding and upholding the principles and elements that constitute sovereign authorities (usually states); (2) norms guiding the delivery of humanitarian relief and assistance to civilians at risk of death and displacement; and (3) norms embodied in the human rights regime that protect the rights of individuals and groups. These norms are

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<sup>141</sup> The International Committee of the Red Cross defines protection as “preserving victims of conflict who are in the hands of an adverse authority from the dangers, sufferings and abuses of power to which they may be exposed, defending them and giving them support.” (quoted in Cohen and Deng, 1998: 257).

socially constructed and as such represent ideal types. For purposes of conducting a study involving process-tracing and analysis of contested norms, I have drawn these distinctions somewhat sharper than they would be in reality, where there exists considerable overlap among the characteristics.

Although the term ‘protection’ is used extensively by the humanitarian and human rights community, there is in fact no clear definition and scope for protection. (United Nations High Commissioner for Refugees Press Release, May 28, 1996:ix) It thus tends to be defined in terms of “protection activities” to address legal, physical and psychological protection and protection against natural events.

Traditionally, international protection has referred to legal functions and specifically targeted to refugees under the 1951 Geneva Convention; the formulation and enforcement of legal rights and obligations of individual citizens threatened by their own state authorities.<sup>142</sup> In fact, the concept of protection is central to the definition of forcibly displaced populations. According to the U.S. Committee on Refugees, therefore, “[d]enied rights due to them as citizens, refugees become a uniquely human rights concern, as they are forced to seek protection from outside their homeland.” (USCR, 2002) Displacement indeed is at the heart of much of what

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<sup>142</sup> Only three international agencies have an explicit protection mandate – the UN High Commission for Refugees (UNHCR), the International Committee of the Red Cross – the official ‘custodian’ of international humanitarian law- and the Office of the High Commissioner for Human Rights (OHCHR). (United Nations High Commissioner for Refugees Press Release, May 28, 1996:ix). In addition, the United Nations International Children's Emergency Fund (UNICEF) has assumed a key role in the protection of children and women, and the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) has taken up concerns for the protection of civilians in armed conflict in general and civilian humanitarian workers specifically.

might be called a protection regime. Focused initially on refugees, the regime now is being extended to internally displaced peoples as well and is generally defined “in terms of protection against displacement, during displacement and during return and reintegration.”( Cohen and Deng, 1998:258) Sovereignty protection norms are implicit in the UN Charter both in the non-intervention principle and the right to self-defense for states confronting threats to their peace and security. (In the case of CHEs how threats to peace and security are defined has proven crucial in determining which protection norm prevails.)

International protection is largely an issue of setting standards and codes of conduct not only for governments but also for non-state actors, both armed and unarmed. But as the following brief overview of the existing protection regime shows, codes of conduct are only as effective as their enforcement and implementation in a wide range of situations. It is a “complex and multilayered process, involving a diversity of entities and approaches.” (Oshima, March 30, 2001) By definition therefore, translating protection norms into operational realities is likely to be fraught with unintended consequences and considerable variation across humanitarian actors and circumstances in which they operate.

The humanitarian intervention debate and concomitant operational, legal and political dilemmas grows in large part out of a confusion over the meaning and implementation of fundamental principles of impartiality, neutrality and human rights embodied in competing protection norms. Since the end of the Cold War, the international community has had to contend with competing or shifting paradigms of

protection norms. Protection issues have assumed a prominent role at the United Nations that would have been unimaginable a decade ago, as it seeks to uphold both traditional principles of sovereignty and non-interference at the behest of its member states, while also broadening the scope of protection for non-state actors and individuals in order to guarantee *human* security. Consequently, in an era of normative transition, when multiple norms are concurrently in force, the international community may try to accommodate humanitarian, human rights, *and* sovereignty principles, either sequentially or simultaneously during a humanitarian crisis. Somalia, Kosovo, Rwanda and the crises in Zaire/Democratic Republic of Congo are examples of CHEs in which military interventions appeared guided by confused or shifting mandates of international protection (Natsios, 1997).

The international community continues to struggle with the challenges of humanitarian intervention and the protection of civilians in armed conflicts. (Brahimi Report, September 2000; UNHCR, 2000) Since the end of the Cold War, protection has taken on both more political and operational meanings, as innocent civilians increasingly find themselves at the frontlines of armed violence, displaced not only across borders because of state persecution but also internally displaced by generalized violence, famine, disease and lack of shelter. They now require protection not only from predatory states but also from armed non-state actors or rogue authorities. Protection of the rights and of individuals and groups, for example, in this context involves more direct action geared to gaining access to populations at

risk, investigating and redressing (as opposed to only monitoring) abuses of either human rights or humanitarian needs.<sup>143</sup>

With regard to our earlier definition of constitutive and regulative dimensions of norms, protection norms are particularly critical –as well as most controversial– regarding the constitutive aspect. Of course enforcement of protection norms, or sanctions for their violations, are significant for the diffusion and longevity of the norms. However, it is their inherent function as ‘gatekeepers’ or identity creators that has to be addressed first and is at the heart of the problems associated with international responses to complex humanitarian emergencies. Deciding who deserves to be protected is a normative and highly contested process as the following chapters will demonstrate.

#### *Sovereignty Protection Norm*

In spite of the challenges noted above, the protection of sovereignty and all it entails remains a central norm for international relations. Even though it has taken on a variety of meanings and is significantly limited in the degree of power associated with it, sovereignty not only serves an important protective shield for nation-states but can even be seen as the ‘grundnorm’ or meta norm, serving as the basis for any intervention responses on the part of the international community.<sup>144</sup> As

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<sup>143</sup> W. Ofuatye-Kodjoe distinguishes between indirect and direct protection. The former involves actions “designed to influence states to promote and protect human rights” and constitute the bulk of United Nations protection activity. The latter “involves taking action within states in order to protect the human rights of individuals or groups through preventive and corrective action.” (Ofuatye-Kodjoe, June 1995:319).

<sup>144</sup> Richard Falk elaborates on this aspect of sovereignty, “Governmental legitimacy that validates the exercise of responsible sovereignty involves adherence to minimum



David Campbell has pointed out, “[t]he norm of territorial and cultural alignment, inherent in an international relations construction of the world as comprising of sovereign states in an anarchic realm, remains the norm against which the possibility of international action is considered. (Campbell, 1996:174) In other words, ironic as it may seem, one could not even begin to think about human rights or humanitarian protection without the existence of the sovereignty protection norm. As long as international society continues to consists of states as the dominant actors, the shared rules and practices associated with sovereignty becomes a necessary precondition and indeed an entitlement for the pursuit of common goals and interests on behalf of humankind. (Brown, 2002: 83; 87)

If we accept the idea of sovereignty as a variable, then protection of sovereignty also varies in accordance with prevailing international norms. (Barkin and Cronin, Winter 1994:108) Protection of sovereignty entails both legal protection of the principles of non-intervention and self-determination and physical protection of governments in power or territorial borders against external or internal aggression. Thus, the international community tends to support military interventions whenever sovereign states appear to be threatened or the goal is the restoration of sovereign power, but also are less likely to step in when there is no such outright threat to central authority. Consequently, the international community willingly sanctioned the humanitarian intervention in Haiti, viewed through the lens of restoration of

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humanitarian norms and a capacity to act effectively to protect citizens fro acute threats to their security and well-being that derive from adverse conditions w/in a country. as w/ other fundamental norms and principles, sovereignty evolves in relation to practice and to changes in community expectations." (Falk, 1998:14)

democracy, but struggled with the interventions in Bosnia. By the same token, France in intervening in Rwanda during the 1994 genocide, appeared to do so more out of concern for the maintenance of one of its allied governments, the Habyarama regime, rather than the plight of thousands of displaced and threatened civilians. Finally, there also is a political dimension to the sovereignty protection norm. The growing cottage industry of electoral monitoring in countries undergoing democratization is but one example. Rosenau, 1997 Economic sanctions and conditional foreign aid are other forms of political protection of sovereignty norms, designed to respond to violations of the mutual recognition and domestic rule-of-law provisions of sovereignty.

Even if one considers the legitimacy and sovereignty of states to derive ultimately from the rights of individuals, one can witness the protection of sovereignty is an important factor. To the degree that states violate human rights, they lose their sovereign rights, including the right to non-intervention. (Walzer, 1995; Slater and Nardin, February 1986; Teson, 1997; Evans and Sahnoun, April-June 2001; Wheeler, 2000). As noted above, one component of sovereignty as responsibility is that the primary responsibility for protection of citizens rests with governments, not with the international community as a whole. Humanitarian intervention therefore becomes justified by the very failure of states to carry out their obligations to protect their citizens –or the populations hosted by a state. Teson, 1997; Krasner, 2001) Thus, sovereignty protection norms do not preclude interventions, although one might question whether in the case of failed or collapsed

states, sovereignty norms still provide a yardstick by which to measure appropriate interventions.( Dowty and Loescher, Summer 1996:60) Certainly “respect for sovereignty has not been an important inhibitor of reaction to the various crises in Africa where humanitarian emergencies have existed, except as a prudential reminder....” (Falk, 1998:25)

In sum, each new crisis leads to a reevaluation and potential reconstitution of the norms of sovereignty. Accordingly, interventions in Haiti and Iraq (1991) reflected a prevailing norm of national sovereignty (both for the refugee-sending and receiving countries) whereas international responses to Bosnia seem to be far more driven by concerns over state sovereignty.<sup>145</sup> At the same time, the mixed human rights record of those states most capable of (and presumably most interested in) promoting human rights norms has further contributed to shoring up the sovereignty protection norm vis-à-vis human rights norms. “For these and other reasons the competing Westphalian norm of state sovereignty, and its corollary of non-interference, still maintains a hold on many states.” (Foot, 2000:58)

#### *Human Rights Protection Norm*

Protecting human rights by definition impedes on a sovereign states’ rights depending on how strict sovereignty and non-intervention rules are interpreted.<sup>146</sup> It

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<sup>145</sup> See, for instance, Kurt Mills’ research on state responses to threats to sovereignty. He makes the point that “states use a variety of policies and tactics to stop particular groups of people from entering...” They attempt to ‘push out’ their borders (US policy toward Haitian refugees) or increase efforts to prevent admittance to refugees. (Mills, February 21-25, 1995:5).

<sup>146</sup> Alan James and others have addressed this issue by pointing out that sovereignty is neither absolute nor unitary as a concept. Alan James, for example argues that there are in

places the individual at the center of protection rather than the state. More recently, the human rights protection norm has become much more closely identified with the idea of responsibility and obligations – rather than purely on rights. This shift suggests an increased convergence between human rights and sovereignty and a distinct evolution in the human rights norm which may ultimately strengthen this norm. Human rights protection as norm currently focuses primarily on legal civil and political rights (in contrast to humanitarian protection which tends to extend more to economic and social rights). Initially focused primarily on gaining access to the United Nations legal agenda, human rights norms now are addressing the implementation of already

#### *Humanitarian Protection Norm*

Until recently international humanitarian relief organizations had few, if any response mechanisms. Limiting itself largely to food and other material assistance, the UNHCR for example was able to maintain a posture of neutrality but increasingly unable to protect the lives of the forcibly displaced as well as humanitarian workers. Failures to protect adequately displaced populations in the Balkans and Africa, have forced UNHCR to take a more pro-active stance.

(Hyndman, 2000; Ogata, 1998:216.) It created a new Emergency Preparedness and

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fact at least 3 kinds of sovereignty: jurisdictional, political and international, that are not equally affected by peacekeeping or peace enforcement. Thus a state would experience no loss of international sovereignty provided the intervention was a legitimate collective action or authorized by the UN. (James, 1995:278ff). Others have argued that sovereignty should be seen in terms of rights and obligations of the state, thus opening up the possibility for a 'right of intervention' B a concept popularized by the French in recent years. (Cf. Camilleri and Falk, 1992; Lyons and Mastanduno, 1995, Ryan, 1997)

Response Section (EPRS) within UNHCR in 1992 (Ruiz, 2000: 157), and frequently has assumed the role of lead agency in coordinating international responses to such emergencies with other agencies and the military. Ironically, in the very process of creating ‘humanitarian space’, UNHCR may have “endangered the perceived impartiality and neutrality of humanitarian organisations [sic] ....” (Cunliffe and Pugh, 2000:193). Under such circumstances it is not clear whether UNHCR can maintain its independent, non-political character under such circumstances. (Ibid: 176). That is the question facing UNHCR today as it grapples with the protection-neutrality dilemma posed by increasing military involvement in CHEs.

The *Guiding Principles on Humanitarian Assistance*, adopted by the General Assembly in 1991, state that the primary responsibility for the protection of civilians rests with Governments.<sup>147</sup> Article 3 of the Geneva Conventions of 1949 and customary law also holds armed groups responsible for the protection of civilian populations under their control. And yet, the growing number of collapsed or failing states makes it difficult to hold anyone accountable solely on formal legal grounds. Obstacles range from inadequate knowledge about international human rights and humanitarian law among non-state armed groups to obstructed humanitarian access to vulnerable populations. Weak enforcement of international criminal law, unclear policies on engagement with armed groups, and on the servicing the needs of internally displaced peoples that fall outside of the scope of the 1951 Refugee

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<sup>147</sup> General Assembly Resolution (A/res/46/182) was adopted at the 78th Plenary Meeting during the 46th session of the UNGA on December 19, 1991. It built on earlier resolutions related to humanitarian assistance passed in 1971 (UNGA Res. 2816) and in 1989 (44/236).

Convention, are factors detrimental to the implementation of humanitarian protection norms. Consequently, the risks to civilians have escalated tremendously, even without going to the extreme of the 1994 Rwandan Genocide which cost anywhere from one-half million to a million civilian lives, is the civilian casualty rate out of control. Recent estimates produced by the International Rescue Committee, for example, state that since August 1998 nearly 2 million people have died in the 22-month civil war in the eastern Democratic Republic of Congo alone.<sup>148</sup> In addition, the number of people ‘of concern’ to the UN High Commissioner for Refugees steadily increased over the course of the last decade, from 14.9 million in 1991 to a high of 27.4 million (1995) and as of 2001 to 21.8 million. This figures includes not only 12 million refugees but also another 6.4 million IDPs.( United Nations High Commissioner for Refugees, 2001. The United Nations recently stepped up efforts to create a “culture of protection” through a series of UN Security Council resolutions protecting the forcibly displaced, humanitarian workers, children, and women in armed conflicts.<sup>149</sup> The Guiding Principles on Internally Displaced Peoples (1999) contributed substantially to safeguarding this highly vulnerable population both physically and legally, and to bridging the gap between the existing refugee rights regime and the rights and responsibilities of sovereignty and citizenship. And yet, the continuing violations of human rights as well as the volatility of states suggests that

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<sup>148</sup> IRC, Mortality Study. June 8, 2000.

<sup>149</sup> The UN Security Council has considered and/or passed a number of resolutions in recent years concerned with the protection of civilians, internally displaced peoples, refugees, children and women in armed conflicts cf. UNSC resolutions 1261 (1999), 1265 (1999), 1296 (2000), 1314 (2000), 1379 (2001).

international protection norms are far from entrenched in the international community. Civilians and civilian infrastructure continues to be attacked by armed non-state actors and national militaries alike. The line between civilians and combatants is often so blurred – the most egregious case evident in the refugee camps of Eastern Zaire after the Rwandan Genocide of 1994- that civilian casualties are no longer merely collateral damage. The recruitment of child soldiers at unprecedented rates and the use of innocent villagers as human shields, the raping of women all demonstrate that civilians have become part of the front line in the armed conflicts of today. Forced displacement of populations poses a problem not only from the perspective of fundamental rights of citizenship and well-being but also in terms of humanitarian access and safe passage for both the displaced and the humanitarian workers themselves. One conclusion is that the challenge of human security and international protection in complex humanitarian emergencies is not so much one of finding the appropriate legal framework, albeit important, but in how the existing normative framework is expanded, translated and implemented in policy and field operations.

### ***A Hierarchy of Protection?***

Although the international community has begun to assume its ‘responsibility to protect’ more seriously and vigorously, there appears to exist a hierarchy of protection that places women and children at the bottom of international protection priorities. Accordingly, those most vulnerable and in greatest need of protection –

displaced women and children, often are the last to receive adequate protection on the ground. For example, although the UN High Commissioner for Refugee and UNIFEM have formulated numerous guidelines on the protection of women in armed conflicts, their implementation and enforcement remains ad hoc and limited by budgetary constraints, poor training of aid workers and peacekeepers, and frequent lack of political will.<sup>150</sup> According to Wairimu Karago, then deputy director of the UNHCR's protection division, "we have a beautiful policy on [refugee] women. We have guidelines. We have everything...but all this is only as good as the implementation." (United Nations High Commissioner for Refugees, 1 June 1995)

### ***Conclusion***

There is no doubt that current complex humanitarian emergencies are calling into question the dominant norms governing international relations. For example, UN Security Council Resolution 688 on Iraq, raised for the first time explicitly the dilemma created by violating fundamental principles of non-intervention for the sake of upholding human rights conventions and protecting refugees. Conflicting norms at the nexus of refugees and security also were in evidence in the case of Haiti. Here the principle of non-intervention collided with those of democracy and human rights protection, according to the rhetoric, and that of territorial sovereignty, if one considers the degree to which incoming Haitian boat people were deemed a threat to U.S. national security. Or one could look at Bosnia, where the military mission of

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<sup>150</sup> cf. Rehn and Sirleaf, 2002; Refugees International, March 7, 2002, "UNHCR's Five Commitments to Refugee Women," March 20, 2002; and Ward, 2002



UN peacekeeping forces had to be fundamentally redefined to accommodate the resettlement of refugees or the pursuit of war criminals in the name of human rights. The interaction of human rights, sovereignty and humanitarian protection norms is evident in the following statement by UN Assistant Secretary General Jean-Marie Guehenno. “We have to accept the idea that globally accepted norms and regulations of behavior, are in a way, our first line of defense. Upholding them is as important as protecting our territorial borders, requiring a degree of international cooperation and even integration that civilly [*sic*] constrains state sovereignty.” (Guéhenno, January 2000:2)

Knowing that norms matter is necessary but not sufficient to explain policy changes. One must also take into account the specific mechanisms by which norms compete and either succeed or fail to influence outcomes. Ultimately such knowledge will lead not only to more effective but hopefully also more values-responsive policymaking, particularly in situation which involve the rights and lives of individuals. Given the multidimensional nature of the norms-formation process, and the assumption that, in addition to norms, other factors shape interests (most notably exogenous capabilities), the link between norms, interests and outcomes is neither determinate nor unidirectional. It therefore has been argued that, “changes in norms create only permissive conditions for changes in international political behavior.” (United Nations High Commissioner for Refugees, 1 June 1995:185) That is, norms are the instrument or vehicle, which enable actors to choose among competing interests in order to achieve a particular goal. As new norms emerge

through competition, decisions taken at the point of contention may appear to contradict or deviate from the prevailing interests and the previously known normative framework. Once the norm is firmly established, outcomes, interests, and norms are likely to appear once again in equilibrium.

## Chapter 5

### THE RWANDAN CRISIS OF 1993-1996: A TEST FOR INTERNATIONAL HUMANITARIAN PROTECTION NORMS

*“...at the Department of Defense...we are looking at options to deal with an enormous magnitude of crisis. No one predicted that we would be looking at a flow sometimes of 14,000 people an hour. No one could imagine these horrible pictures, much less the needs, ...which are shifting by the minute...”* (Molly Williamson, Deputy Assistant Secretary for the Middle East and Africa, Department of Defense testifying before the U.S. Senate Committee on Foreign Relations, July 26, 1994.)

*“... I must remind you that the countries which make up the international community and which, on several occasions, expressed their indignation and concern at the tragedy which had struck the people of Rwanda, did absolutely nothing to help us. We were completely abandoned and handed over to our killers. ... Who can look a survivor in the eyes today and explain that despite the presence of 2,500 peacekeepers and 1,500 Belgian and French parachutists, it was impossible to save any of them? ... I am pointing the finger at all those countries which spend vast amounts of money maintaining professional armies which they only deploy when there is oil to protect ... and who won't move to save people like us.”* (Sibomana, 199760-61)

Father André Sibomana, a Rwandan Catholic priest and human rights activist, paints a striking picture of the humanitarian imperative and its tragic failure

in the case of Rwanda. And yet, the story of international responses to the genocide and accompanying humanitarian emergency in Rwanda is much more complex than that. Much has been made of the international community's failure to respond to the genocide in Rwanda in 1994. The criticism is not quite accurate because the Rwandan case represents not a failure to respond but rather a confusion of responses.<sup>151</sup> No doubt, insufficient or poorly timed action was part of the problem, but more significant –and in many ways much more destructive to the people at risk in this crisis- was the international community's lack of coherence and agreement on what course of action to take. Sibomana points to one key explanation for the international response to the crisis – confusion over the appropriate object and means of protection.

In the case of Rwanda, the international community vacillated between two extreme normative positions. On the one hand, it was compelled to do something on humanitarian and –for some of the UN member states- on political-historic grounds. On the other hand, a number of practical factors as well as legal and political perspectives on the humanitarian crisis argued against any kind of intervention.

The UN operation in Rwanda (UNAMIR I and II) had a direct impact on future responses to humanitarian crises caused by the first and second civil wars in the DRC. Given the significant regional impact not only of the Rwandan genocide but also of the two subsequent civil wars in the DRC/Zaire, broader implications for the region as a whole should be discernable from this analysis. The goal is to see

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<sup>151</sup> Bruce Jones argues from the same viewpoint in contrast to common wisdom. (Jones, 2001)

how the international community has developed an appropriate normative framework for protection as well as negotiated competing bureaucratic and political interests. Can we identify patterns of perception or persuasion, coalition- and consensus-building that can account for the state of humanitarianism within the international community today?

In this chapter, I trace at least some of the paths by which international norms of protection (both of borders and peoples) have affected the United Nations' decision to intervene in humanitarian crises in the African Great Lakes region.

The following case study of international responses to the Rwandan humanitarian crisis between 1993 and 1996, investigates the nature and consequences of competing norms of protection in the context of complex humanitarian emergencies.

The historical antecedents lie both in the Cold War and post-Cold War period with the United Nations Operation in the Congo (UNOC), 1960-1964 on the one hand and the UN Operation in Somalia (UNOSOM), 1992-1993. Both have been extensively described and analyzed elsewhere.( Boulden, 2001) Suffice it to say here, that both operations cast a long shadow over the international community's decisions regarding intervention and protection of civilians in the Rwandan genocide in 1994.

Not only did the mandate for UN operations change over time as it had in 1960-1964, beginning with a basic non-coercive military mission to monitor implementation of the Arusha peace accord of 1993 (UN Observer Mission Uganda-

Rwanda, UNOMUR), and to assist in the delivery of humanitarian relief (UN Assistance Mission for Rwanda, UNAMIR I), both approved by Resolution 872 which the Security Council adopted on October 5, 1993, and ending with a peacekeeping operation for humanitarian reasons (to protect displaced persons, refugees and civilians at risk and to support relief efforts in Rwanda) authorized under UN Security Council Resolution 918 on May 17, 1994. Another similarity was that UNOC troops, when finally authorized to use force (in December 1961), just like the UNAMIR troops in Rwanda, “were forced simultaneously to protect civilians in danger and to protect themselves at a time of reduced strength.”(Boulden, 2001:34)

Both operations had in common a significant gap between mandated resources and operational realities on the ground as well as between mandated mission and local perceptions regarding the impartiality of UN troops. In other words, in both cases, UN missions did not have adequate troop strength when it was most needed, nor were they able to convince their “host” government of their impartiality and humanitarian objectives. While UNOC was perceived to be working towards a pro-Western, anti-Communist government in the Congo, UNAMIR forces had difficulties convincing Rwandan Tutsis that they were not simply at the behest of their former colonial taskmasters, and Hutu government supporters, i.e. the French and Belgians. The massacres at ETO, the technical school in Kigali in May 1994, when UN troops were withdrawn to evacuate Belgians from another town, just as the *Interahamwe* (Hutu extremist forces) were approaching the

compound, resulting in the slaughter of virtually all of those who had taken refuge at the school, only reinforced this view. (cf. United Nations, 15 December 1999; Human Rights Watch, March 1999 ) Finally, UNOC is important for the present discussion in another way. Although it restored order to the Congo, the very nature of peace support operations such as this contributed little to long term peace building.

### **A Brief Chronology**

In keeping with common practice, this case covers three different albeit overlapping phases of the Rwandan CHE<sup>152</sup>. The first phase covers the civil war that began in 1990 and continued to early 1994.<sup>153</sup> A second phase covers the genocide period, officially from April through July 1994. However, as many analysts and genocide experts have pointed out the evidence available indicates that plans for the genocide were already underway in 1993 and perhaps even earlier. (Human Rights Watch, March 1999)The third phase includes the humanitarian crisis that reached its high point in mid-1994 and lasted to early 1996 for Rwandans. Here too, experts have pointed out that the humanitarian crisis really began in 1990 when the fighting

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<sup>152</sup> It mentions four phases, because in fact the CHE extends through 1999 up until today. However, for this particular test case, a narrower focus and time frame seemed appropriate.

<sup>153</sup> In principle, the civil war ended with the signing of a powersharing and cease-fire agreement in August 1993; however negotiations on the implementation of the Arusha Accords continued until April 1994 and none of the parties to the agreement appear to have recognized an official peace. As a consequence, I extend the period beyond the initial signing. Observers of post-genocide Rwanda might argue that the civil war continues even today.

and persecution of individuals displaced large numbers of Rwandans. At the same time, so-called “old case-load” refugees, i.e. Rwandans that had gone into exile following earlier massacres in 1959 and 1973, had begun to return to Rwanda often without viable resettlement options. As noted elsewhere, technically the Great Lakes CHE extends through today. The fourth phase begins with the end of the Rwandan tragedy and the beginning of a new humanitarian tragedy following the collapse of the Mobutu regime and civil war in neighboring Zaire/DRC. However, this pilot study focuses only on the first three phases. A detailed history and chronology of each crisis is beyond the scope of this chapter and has been offered in great detail by others. (cf. Kuperman, 2001; Joint Evaluation Follow-Up Monitoring and Facilitation Network (JEFF), 12 June 1997; Barnett, 2002; Melvern, 2000; and Newbury and Newbury, 1995, among others. ) However, a brief summary of key events will serve as a reminder of the context in which humanitarian action did or did not take place.

### ***Phase One: Civil War (1990-April 1994)***

International intervention in Rwanda in fact preceded the terrible 100 days from April-June 1994. Phase one has its origins the Rwandan civil war which formally began with the invasion of Rwandan by rebel Tutsi forces from Uganda, the Rwandan Patriotic Front (RPF) in October 1990.<sup>154</sup> The invasion, instigated in part

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<sup>154</sup> Tutsis are an ethnic minority in Rwanda, constituting approximately 15% of the population, that had been elevated to near monarchical status by the Belgians. (cf.. Prunier, 1997, Newbury, 1998) Following a rebellion against the colonial powers by the Hutu



by the refusal of Juvenal Habyarimana's Hutu regime to allow for a voluntary return of Rwandan refugees, led to fierce fighting in which French and Zairian troops assist the Rwandan government. A cease-fire was signed on March 29, 1991. From 1991-1993, the Rwandan army trained and armed civilian militias known as Interahamwe ("those who stand together") at the behest of Hutu extremists. Throughout this period the Habyarimana regime stalled efforts for power-sharing and the establishment of a multi-party system, despite increased international pressure (most notably by the IMF). Thousands of Tutsis are killed or displaced by violence especially in the Northwest where the RPF had made the greatest inroads. By early 1993, the RPF had launched a new offensive, bringing it almost to the 'gates' of the capital, Kigali. Again French forces come to the assistance of the embattled regime.

By August 1993, months of negotiations brokered by Tanzania and backed by the U.S. among others, the Habyarimana regime, most opposition parties and the RPF sign a power-sharing agreement, the Arusha Accords (named after the Tanzanian town which hosted the talks).<sup>155</sup> The accord includes provisions that allow for the return of refugees and that call for a transition governing coalition of the RPF and Hutu regime. The United Nations Security Council agreed first to the deployment of a small observer force (UNOMUR) on the Ugandan side of the

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majority that resulted in widespread massacres of Tutsis, 150,000 Tutsis fled to neighboring Burundi, Uganda and Congo (Zaire). In Uganda, Rwandan exiles (including moderate Hutus) helped bring current president, Yoweri Museveni, to power. Trained as professional soldiers, the exiles formed the RPF in response to increased isolation and repression in Uganda.

<sup>155</sup> For a more detailed discussion of the negotiations see Cohen, 2000 and Scherrer, 2002.

Uganda-Rwanda border (UNSC Resolution 846) to monitor military assistance into Rwanda.<sup>156</sup> By October, this mission was upgraded to 2,500 UN troops (UNAMIR) in Kigali to oversee implementation of the accord, monitor the cease-fire and assist with mine clearance.<sup>157</sup> UNAMIR's mandate was to maintain security while a transitional government was set up, elections took place and a new government installed no later than the end of 1995.<sup>158</sup> The Habyarimana regime continued to refuse to make any significant progress on power-sharing. To the contrary, militia training was intensified and an extremist Hutu radio station, Radio Milles Collines, began broadcasting anti-Tutsi exhortations. General Romeo Dallaire, Commander of UNAMIR, arrived in Kigali in November 1993 to assume command of UNAMIR amidst an already deteriorating, increasingly violent and volatile political situation in Rwanda.<sup>159</sup> In the face of continuing delays in the fulfillment of the terms laid out in the Arusha Accords, UNAMIR's mandate was extended repeatedly with a higher troop commitment as well. The stronger force was never actually deployed. By April 5<sup>th</sup>, 1994 when the UN Security Council extended UNAMIR's mandate once more (Resolution 909), the international community began to threaten withdrawal unless

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<sup>156</sup> UN Security Council Resolution 846 was signed on June 22, 1993.

<sup>157</sup> UNSC Resolution 872, October 5, 1993. UNAMIR was reviewed and its mandate extended for another six months on December 20th, (S/RES/891 (1993)) and again on April 5th through July 29, 1994 (S/RES/909).

<sup>158</sup> For a detailed chronology see: United Nations Department of Public Information, 1996.

<sup>159</sup> Dallaire was a senior Canadian military officer but did not have any extensive combat experience. He also had no prior knowledge of Rwanda.

substantial progress was made to end the civil war as agreed at Arusha.( Browne, July 26, 1994)

UNAMIR's mandate was extended repeatedly and phase I replaced with phase II at a higher troop commitment, in the face of continuing delays in the fulfillment of the terms laid out in the Arusha Accords. Despite numerous appeals to the UN on the part of African states and the UNAMIR commandant himself for a sustained and indeed increased international peacekeeping force, the Security Council voted instead to reduce UNAMIR's strength. (UNSC Res. 912, April 1994). In lieu of military force, the UN established the UN Rwanda Emergency Office (UNREO) in Nairobi to coordinate emergency humanitarian assistance and the work of the Department of Humanitarian Affairs, the World Food Program (WFP), the UN Development Program (UNDP), the UN High Commissioner for Refugees (UNHCR) and others. Unfortunately, the coordination mechanisms proved to be largely unworkable as multiple agencies assumed overlapping "lead" roles in responding to the unfolding humanitarian and political crisis.

### ***Phase Two: Genocide (April – July 1994)***

Following the crash of President Habyarimana's airplane on April 6, 1994 and the eruption of wide-spread violence throughout the country, UN humanitarian personnel began to withdraw. A major catalyst was the murder of ten Belgian peacekeepers on April 7, 1994 by members of the Rwandan Presidential Guard. In the course of subsequent evaluations, it became clear that this had been premeditated in order to compel the withdrawal of the most significant, best trained and equipped,

contingents of UNAMIR; (cf. Belgian Senate, December 6, 1997) It had the desired effect; the Belgian government –with political backing from the United States- withdrew its entire contingent. (Human Rights Watch, March 1999; cf. Power, 2002) As the slaughter continued virtually unabated with UNAMIR forces reduced to the role of powerless onlookers, UN Secretary General Boutros Boutros-Ghali presented the Security Council with three different options. His preferred option was the immediate and massive reinforcement of UNAMIR (recognizing that this would require up to 5000 troops and a shift to a Chapter VII – peace enforcement-mandate). The other two alternatives included downsizing the UNAMIR force to act solely as intermediary on behalf of a cease-fire; or complete withdrawal of UNAMIR. Despite numerous appeals to the UN on the part of African states and the UNAMIR commandant, Romeo Dallaire, himself for a sustained and indeed increased international armed presence and strengthened mandate, the Security Council voted instead to reduce UNAMIR's strength.<sup>160</sup>

Civilian casualties and the forced displacement of peoples grew at an alarming rate. Aside of the slaughter of nearly 10% of Rwanda's population or between 500,000 and one million victims, which the international community

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<sup>160</sup> UN Security Council Resolution 912 (21 April 1994); S/RES/912, reduced UNAMIR to 270 and further limited the mandate to protection of foreign nationals and monitoring. The most famous appeal was contained in Romeo Dallaire's telegram of January 11, 1994 in which he provided detailed information regarding arms caches and plans for extermination of Tutsis transmitted by an informant. Unfortunately, the UN chose to downplay the significance of the information it contained, providing a variety of bureaucratic but unconvincing excuses (Human Rights Watch, March 1999, Barnett, 2002#482}) The information had also been transmitted to the key Western diplomats stationed in Kigali for transmittal to their respective governments. (Melvern, 2000; cf JEEAR, Adelman, and Suhrke, March 1996)

refused to acknowledge as genocide until it was too late, the violence produced massive displacement of peoples. On April 29, 1994 alone, as many as 170,000 Rwandan refugees crossed the border into Tanzania, setting records for most rapid exodus.( Waters, 2001)<sup>161</sup> In the absence of increased UN presence, the French government, acting on domestic pressure, established a so-called humanitarian safe zone near the border with Eastern Zaire – the infamous Operation Turquoise—that ultimately contributed to the next series of humanitarian crises in the region. By mid-July over the course of two weeks only, 1.5 million Rwandan refugees crossed into Zaire.<sup>162</sup> Eventually nearly one-half million Rwandans had also fled to Tanzania. In the aftermath of the genocide and the take-over of the government by RPF forces, the humanitarian community returned to Rwanda to prepare for the return of refugees and to assist the internally displaced. Human security in all its dimensions remained a tremendous problem in light of the destroyed sanitation infrastructure, lack of means to maintain law and order, and continued absence of the promised UNAMIR reinforcements. Nevertheless, by December 1994, the country was overrun not only

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<sup>161</sup> This figure has been subject of some controversy and confusion. The initial and most commonly cited estimate was that 250,000 had crossed from Rwanda into Ngara, Tanzania. However, a census conducted in Rwanda in July revised this figure downward. It has been suggested by some that refugee flow figures were routinely inflated for political and budgetary purposes. For more information on this particular point, see the third report of the Joint Evaluation of Emergency Assistance to Rwanda (JEEAR) on Humanitarian Aid. (JEEAR and others, March 1996:105-106)

<sup>162</sup> See Jeff Dumtra's congressional testimony and statement on behalf of Roger Winter. (Subcommittee on African Affairs of the Committee on Foreign Relations , 1994:59).

with masses of returning refugees but also as many as 250 non-governmental organizations seeking to deliver humanitarian assistance.<sup>163</sup>

In lieu of military force, the UN established the UN Rwanda Emergency Office (UNREO) in Nairobi to coordinate emergency humanitarian assistance and the work of the Department of Humanitarian Affairs, the World Food Program (WFP), the UN Development Program (UNDP), the UN High Commissioner for Refugees (UNHCR) and others. (Khan, 2000, JEEAR and others, March 1996, Unfortunately, the coordination mechanisms proved to be largely unworkable as multiple agencies assumed overlapping “lead” roles in responding to the unfolding humanitarian and political crisis. (Sommers, 2000; Seybolt, February 1997)

By mid-May the reality of genocide was undeniable, even for those who had resisted the label most, the U.S. Government. (Power, 2002) The Security Council realized that it had made a grave error and sought to reverse its earlier decision with Resolution 918 (S/RES/918 (17 May 1994). This resolution expanded UNAMIR to 5,500 troops, but only authorized the Secretary-General to deploy one infantry battalion of 800. Kier, Spring 1995 By mid-July, reinforcements were still outstanding as the international community turned a deaf ear to the Secretary-General’s plea for troop pledges. At the same time, many of these same countries did

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<sup>163</sup> Ibid.:122-123; interview with Jaharal de Meritens, former UN-OCHA protection officer and coordinator in Goma, Zaire and Kigali, Rwanda (October 2001).

send available national troops deployed in Burundi and elsewhere in the region, in order to protect and evacuate their own nationals.<sup>164</sup>

In the absence of increased UN presence, the French government, acting on domestic pressure, established a so-called humanitarian safe zone near the border with Eastern Zaire – the infamous Operation Turquoise—that probably did save lives but also ultimately contributed to the spread of the humanitarian crises into the region.<sup>165</sup> By mid-July, Goma, Zaire became the most internationally visible refugee camp, receiving more than one million –mostly Hutu- refugees in the span of only four days. (United Nations High Commissioner for Refugees Press Release, May 30, 1997) In the absence of effective international intervention, it was the Rwandan Patriotic Front that succeeded in halting the genocide. (Prunier, 1997)

### ***Phase Three: Humanitarian Crisis (May 1994-Mid 1996)***

Civilian casualties and the forced displacement of peoples grew at an alarming rate. Aside of the slaughter of nearly 10% of Rwanda's population, which

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<sup>164</sup> Dallaire has expressed great frustration over the fact that these troops were literally under his nose but completely off-limits to him for the purpose of ending the slaughter or confiscating arms. He continues to believe that UNAMIR could have ended the genocide even with these contingents. (Dallaire, 14 November 1994)

<sup>165</sup> Operation Turquoise has been highly criticized on several grounds. Although it was authorized by the UN Security Council on 22 June 1994 as a multinational force under Chapter VII (S/RES/929), having the French, who had after all supported and armed the Habyarimana regime, intervene as an ostensibly 'neutral' force, violated many of the international rules governing peacekeeping operations. Moreover, it has since become clear that thanks to the French "safe zone", a large –if not majority- of the old regime was able to cross into Zaire fully armed and with its organizational infrastructure virtually in tact. This caused problems not only for the international community, most notably the UNHCR and humanitarian organizations now confronted with highly insecure refugee camps, but also accelerated the spill-over of the Rwandan crisis into Zaire. (cf. Kuperman, 2001)

the international community refused to acknowledge as genocide until it was too late, the violence produced massive displacement of peoples both in and out of Rwanda. Out of a total population of nearly 8 million in the early 1990s, around 2 million were internally displaced in 1994 and another 2 million fled to Zaire and Tanzania. (Minear and Kent, 1998:63ff) On April 29, 1994 alone, 170,000 Rwandan refugees crossed the border into Tanzania, setting records for most rapid exodus.<sup>166</sup> By early 1997, approximately 200,000 Rwandans still remained clustered in camps on the border between Rwanda and the Democratic Republic of Congo (D.R.C., formerly Zaire). (United Nations High Commissioner for Refugees, 2000:20) ) Coincidental with the end of the genocide and the take-over of the government by RPF forces, the humanitarian community returned to Rwanda to prepare for the return of refugees and to assist the internally displaced.<sup>167</sup> Human security in all its dimensions remained a tremendous problem in light of the destroyed sanitation infrastructure, lack of means to maintain law and order, and continued absence of the promised UNAMIR reinforcements. Nevertheless, by December 1994, the country was

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<sup>166</sup> The common number of refugee influx into the Ngara/Karagwe districts, Tanzania, cited is 250,000. In fact, original estimates were even higher, 300,000, and later were reduced to the figure cited here. (JEEAR and others, March 1996; Waters, 2001) This is but one indication how difficult it was for the international community to assess the correct levels of crisis and threat.

<sup>167</sup> Internal displacement was aggravated by the return of around 750,000 'old case load' refugees in addition to those actually displaced by the genocide (United Nations High Commissioner for Refugees Press Release, May 28, 1996).



overrun not only with masses of returning refugees but also as many as 250 non-governmental organizations seeking to deliver humanitarian assistance.<sup>168</sup>

The first year after the Genocide in Rwanda was marked by an overabundance of problems to address but a virtual absence of coordination. Of particular concern were the refugee camps both in and outside of Rwanda that were harboring large numbers of militant Hutus and former Rwandan government and military officials. Despite the appearance of so many humanitarian actors on the ground, the UN humanitarian community appeared overwhelmed and unable to address the Rwandan security concerns. Zaire, fearing spill-over destabilization within its own borders, had initiated a policy of forced repatriation of refugees from Goma to Rwanda. As one journalist observed: “the majority of the UNHCR’s officials in eastern Zaire between 1994 and 1996 found the complexities of conflicting Zairian ethnicities went beyond their comprehension.” At the same time, he remarked, “the whole of the international humanitarian community dealing with Rwanda seemed to be on their way to, from, or in the process of attending or reporting one, great endless meeting.”( Jennings, 2000:274,120) In hindsight it was a clear recipe for disaster and after repeated appeals to the UN, Rwandan officials took matters into their own hands. Not only were numerous NGOs, primarily human rights organizations, expelled from Rwanda but Rwandan government had made it clear that if the international community could not protect its population and borders

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<sup>168</sup> Cf. United Nations Department of Public Information, 1996:122-123; also interview with Jaharal de Meritens, former UN-OCHA protection officer and coordinator in Goma, Zaire and Kigali, Rwanda (October 2001).

from threats to peace and security emanating from the refugees camps, it would have to act on its own.

The UN had in the mean time established an international tribunal to oversee the prosecution of genocide suspects (the “genocidaires”) and also recommended dispatching up to 5,500 UN peacekeepers to cope with the influx of refugees returning to Rwanda. At the same time, it ignored desperate calls for military assistance by UN High Commissioner for Refugees, Sadako Ogata, whose agency had to find a way of separating armed combatants from legitimate refugees. Instead, Goma and other camps became increasingly militarized and served as operational bases for former Rwandan soldiers and Interahamwe to terrorize not only the local populations but also conduct the first of many years worth of incursions into Rwanda. As the international community debated the issue of camp security extensively, fully aware of the violation of international humanitarian laws as well as the refugee regime, but chose not to act further, UNHCR was forced to resort to contracting with Zairian Presidential Guards and trainers from the Netherlands to provide security in the camps. (Iogna-Prat, April 1997; United Nations High Commissioner for Refugees Press Release, May 28, 1996)

In April 1995, the first of several subsequent humanitarian tragedies took place as the Rwandan government sought to shut down all refugee camps within its borders resulting in a massacre of thousands of refugees in the Kibeho camp. In December 1995, the Security Council extended the mandate of UNAMIR once more (UNAMIR II) but also reduced troops further. In the mean time, Rwandan authorities

and the international community remained gravely concerned with the presence of large numbers of armed militias and individuals in eastern Zaire, and the Zairian government's determination to repatriate Rwandan refugees, by force if necessary (in violation of the long-established principle of 'non-refoulement').

***Phase Four: Regional Spill-Over of CHE (1996 and beyond)***

By 1996, the Rwandan Patriotic Army had joined forces with Ugandan and rebel forces in eastern Zaire in pursuit of ex-FAR and Interahamwe (the former Rwandan army and extremist militia respectively) members. Refugees became pawns in an all-out civil war on both sides of the border. Once again, the international community seemed powerless and its own humanitarian personnel increasingly at risk of attacks. Several humanitarian NGOs, notably Medecins Sans Frontieres and the International Rescue Committee opted to pull out of the camps around Goma, arguing that they were simply feeding bases of military operations. Most UN and numerous other NGOs followed suit leaving only a small contingent of UNHCR personnel to manage an unmanageable situation. (Doctors Without Borders/Medecins Sans Frontieres, July 1995)

In the case of the Rwanda/DRC Great Lakes Crisis of 1996 norms of sovereignty protection collided directly with those of refugee protection resulting in unintended consequences. In part this was due to the merging of combatants and civilians among the refugee populations; increasingly a phenomenon of the "new wars" and an expansion of the definition of refugees. In addition, both the military

and the humanitarian assistance communities had to confront a contradictory set of goals and outcomes. For example, the very same Rwandan forces which attacked refugee camps and trained Zairian (now DRC) rebels in 1996, using the combat training they had received through the U.S. Department of Defense's military-to-military training and education program, under the auspices of efforts to promote human rights and the democratization of Rwanda following the 1994 massacres.

During this same time period, U.S policy toward the region increasingly emphasized human rights and civil society building over traditional national security interests. Indeed one can argue that the very choice of Rwanda as a military partner is a reflection of the underlying normative framework, which placed Rwanda into the sphere of U.S. interests out of "a mix of history, personal relationships, shared geopolitical objectives, and -not the least, some would say-guilt." (Duke, July 14, 1998:A1ff) following the 1990 civil war. Rwanda may also have been a showcase for the importance of political culture in the process of normative change and formation. Roy Licklider, for example, has suggested that the degree of norm institutionalization is a function of the level of development. ( Roy Licklider cited in Cimbala and Waldman, 1992:268) Thus the dividing line between norms governing the defense and security processes associated with sovereignty, and others of ethnic identity and human rights, or humanitarian needs, for example, may be more blurred in (newly) emerging societies.

Similarly, the humanitarian community had to grapple with conflicting norms of protection of, and against, refugees in their support of refugee camps which by

their very existence constituted a security threat not only to the host country but in fact to the displaced populations themselves.( Mandel, Spring 1996:94-96) The camps at Goma and elsewhere, intended to shelter refugees not only made the delivery of humanitarian assistance much more difficult but also undermined the sovereignty of Zaire.

Rwandan authorities and the international community remained gravely concerned with the presence of large numbers of armed militias and individuals in eastern Zaire. Once again, the international community seemed powerless and its own humanitarian personnel increasingly at risk of attacks.

In the wake of the collapse of the Zairian government, and the take-over by Laurent Kabila backed by a coalition of forces of Ugandans and Rwandans (the ADFL), civilians remained at risk. Unable to maintain security in the refugee camps, the UNHCR pleaded repeatedly for international military assistance to disarm and demobilize armed refugees. When none was forthcoming, UNHCR cobbled together a force of Zairian palace guards, supported by Dutch and Belgian military advisors. This proved to be a poor choice of partners in light of the allegiance of Zairian (and Belgian) forces with the former Hutu authorities of Rwanda. This arrangement proved inadequate, not the least because the Zairians had other political interests which ran counter to the UNHCR's protection mandate. (Burns et. al, 1998; Halvorsen, 1999:307ff)

By November 1996, the Rwandan authorities moved to shut down one of the largest camps, Mugunga, and forcibly repatriate around 600,000 refugees. Many

never made it back to Rwanda, being forced to serve as a human shield for rebel forces and fleeing Interahamwe and ex-Far instead. (cf. United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 2000; International Crisis Group, 16 March 2001; Democratic Republic of the Congo: What Kabila Is Hiding, October 1997). Over 100,000 refugees found their way to a new refugee settlement, Tingi-Tingi, in Orientale Province of Zaire/DRC but many were unaccounted for in the surrounding forests. Tingi-Tingi's existence was largely denied by UN Security council member states and the potential threats to the population ignored, despite repeated field reports of the dismal conditions and continuing military incursions on the part of rebel forces, RPA, ex-Far and Interahamwe forces, and a growing number of armed groups throughout Zaire/DRC.<sup>169</sup>

Repeated incursions into Rwanda in 1998 by militant Hutu rebels emanated from the Democratic Republic of Congo. The collapse of the military alliance with Kabila and the eruption of the second civil war in August 1998 compounded the threats to refugees as well as the citizens of both countries. The second war quickly escalated as outside forces from neighboring countries joined in the fray to fill the emerging power vacuum in DRC and prevent the country from disintegrating. Tingi-Tingi and other refugee camps in the eastern provinces once again were targeted by force. The UN Security Council considered numerous options including a new peacekeeping contingent to be deployed to the Democratic Republic of Congo. Canada in particular advocated the deployment of troops and readied a contingent of

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<sup>169</sup> Interview with US diplomat, March 2001.

its own as part of a reconnaissance mission to Rwanda and Eastern DRC. But at the last minute, in response to pressure by the US according to some sources, UNSC member states voted against an UN force leaving it to the local authorities to take care of threats to peace and security. Even after the Lusaka Accords bringing the civil war to an end in 1999, the newly authorized UN peacekeeping mission (MONUC) was slow in coming, fully deploying only in 2001.

### **Theoretical Framework: Three Tales Of One Crisis**

Recall that collective international ‘protection’ responses are the basic unit of analysis for the dissertation. This has important implications for the level of analysis. In contrast to many analyses of CHEs that focus on the state in which it originated (e.g. Raimo Väyrynen), given the nature of complex humanitarian emergencies and our definition of international community, a process approach to CHEs calls for multi-dimensional levels of analysis. In fact, the Rwandan case is best told as three separate but interconnected stories taking place at the systemic/international relations level, the societal or group level, and at the decision-making or institutional level.

Table 2: Phases of CHEs in the African Great Lakes

<b>Phase I : Pre-Crisis/Early Warning Phase (1990-94)</b>	<b>Phase II: Height of CHE (1994)</b>	<b>Phase III: De-Escalation/ Post- Conflict Transition (1994-1996)</b>	<b>Phase IV: Renewed Crisis /System Shock in the Region (1996-1999)</b>
HS3: Convergence of Humanitarian Norms with National Interest	HS2: Human Security/ Security Redefined  HS4: Use of Force Predicated on Prior Success/Failure	HS1: Erosion of Sovereignty/ Non-Intervention Principle  HS5: Convergence of International Humanitarian (IHL) and Human Rights Law  HS6: International Organizations are more than the Sum of their Members (IO Autonomy)	HS3: Convergence of Humanitarian Norms with National Interest  HS1: Erosion of Sovereignty/ Non-Intervention Principle  HS4: Use of Force Predicated on Prior Success/Failure
HG1: Norms Entrepreneurs/Leadership as Prerequisite for Norm Mobilization  HG4: Outcome Depends on Framing as State or Humanitarian Protection Frame	HG2: Importance of Transnational Advocacy Networks  HG4: Outcome Depends on Framing as State or Humanitarian Protection Frame  HG5: Nature of Pop.Displacement w/in & outside of Borders determines intern'l response	HG1: Norms Entrepreneurs/Leadership as Prerequisite for Norm Mobilization  HG3: Mobilization Opportunity Structures are Key	HG5: Nature of Population Displacement w/in & outside of Borders determines intern'l response  HG4: Outcome Depends on Framing as State or Humanitarian Protection Frame
HD1: Institutional Capacity & support is critical (capabilities-credibility gap)  HD4: Coordination Mechanisms are critical  HD 5: Timely Venue Access and Shift contribute to Norm's salience	HD2: High Norms Salience is essential (Role of Media)  HD4: Coordination Mechanisms are critical  HD6: Image Change (Norm Perception) is critical	HD1: Institutional Capacity & support is critical (capabilities-credibility gap)  HD2: High Norms Salience is essential (Role of Media)  HD3: Threat/Risk Perception  HD4: Coordination Mechanisms are critical  HD6: Image Change (Norm Perception) is critical	HD6: Image Change (Norm Perception) is critical  HD2: High Norms Salience is essential (Role of Media)



In order to identify how international protection norms change over time (the idea of normative learning), it is necessary to identify which of the hypotheses presented above are operational at each phase and analytic level of the Rwandan crisis. The systemic or international relations approach to considering the impact of humanitarian protection norms on intervention decisions in Rwanda allows one to focus on the fundamental organizing principles of the international system. Primarily perpetuated by the United Nations and influenced significantly by inter-state relations among member states, formal international norms compel action most directly at this level. There are however several different aspects that may impact the relationship between international protection norms, both in support of sovereignty and humanitarian/human rights concerns, and national interests. Three major trends at the systemic level appear to have a significant impact on international responses. They include the emergence of a new human security regime, a redefinition (albeit haphazard) of international security to include not only traditional military threats but also those emanating from the forced displacement of civilians, and finally an increasing convergence of humanitarian and human rights law in situations of armed conflict. Less clear is the status of sovereignty and non-intervention principles. In the Rwandan case, the argument that sovereignty has been eroded by international and transnational forces is less convincing as the following chronology will show. This also applies to the relative autonomy of international organizations vis-à-vis their member states. (Barnett and Finnemore, 1999) Finally, although the focus here is on

normative motivations rather than outcomes, the Rwandan case does confirm that prior success or failure of interventions has at least some influence on subsequent decisions to intervene for humanitarian purposes. Virtually every participant in the process interviewed by this author confirmed the fact that Rwanda suffered greatly from bad timing as it arrived on the heels of the Somalia debacle, and coincided with other operations deemed more strategic in the Balkans and Haiti.

The Rwandan story also is one of social mobilization and social movements. For one, complex humanitarian emergencies are in fact manifestations of mobilization both in terms of violence and forced displacement. Similarly, the way in which the problems and concerns are framed by key actors and institutions has had a significant effect on how international protection norms were operationalized in the Rwandan case. In this context the competition between norms can be viewed as a competition between a “state protection” and a “people protection” frame. The role of norms entrepreneurs, whether individual political leaders or non-governmental organizations such as Human Rights Watch for example, has been critical in creating particular protection frames over the course of the crisis. One assumption driving this case study is that the relative success of specific norms entrepreneurs to spread their particular normative frame determined which international protection norm prevailed at any given point during the crisis. Their ability to do so depends significantly on finding effective mobilization opportunity structures (Tarrow, 1994), i.e. identifying and exploiting the conditions both in the field and internationally to insert protection norms. As mentioned earlier, one

challenge of translating domestic agenda-setting mechanisms to the international level is the relative paucity of access points to the international agenda.

One of the questions raised by a normative approach to international responses to CHEs is the role of transnational advocacy networks (TANs). It has been shown that TANs are very effective at promoting human rights norms domestically within individual states. TANs appear to be able to link successfully with domestic groups to apply pressure and eventually convince states to adopt improved human rights practices.( Keck and Sikkink, 1998; Risse, Ropp, and Sikkink, 1999, Risse, Ropp, and Sikkink, 1999) The Rwandan case, however, suggests that their effectiveness is far more limited at the international level. Despite significant advocacy efforts on the part of Amnesty International, Human Rights Watch and various coalitions of humanitarian organizations, most member states –in particular the U.S.- remained unmoved by their calls for action in Rwanda. TANs do not seem to have the same persuasive powers to convince states that themselves may have accepted human rights norms to exert those same norms in the context of intra-state conflicts. They also seem less effective in situations where human rights abuses emanate from sources other than state repression. One possible explanation may lie in the level of maturity that individual networks have achieved and that as these relatively new international actors gain in experience and institutional cohesion they will be more successful in promoting humanitarian and human rights norms vis-à-vis states and state-dominated institutions such as the UN Security Council.

I initially had posed two related questions: how do international protection norms compete with one another and how do they change over time – if at all. This question leads to the next level of analysis of norms competition within the international community: the loci of actual decisionmaking power at national and international levels. Several hypotheses focus on the ability of international protection norms to penetrate organizational constraints as well as individual or national perceptions of threats and risks.<sup>170</sup> How norms have been defined and interpreted by politicians, military personnel and humanitarian workers in the field has had an impact on the position of particular norms on the political agenda.

Whereas formal and customary laws underpinning international protection norms are generated, expanded, and even abrogated at the systemic level, the most immediate operationalization of protection norms occurs at the decision-making level. Two central variables affect the translation of norms into policy outcomes. They are the relative capacity and support available for particular norms within specific organizations and legal institutions, and coordination mechanisms across institutions. In the Rwandan case, both factors contributed greatly to what is frequently referred to as a capabilities-credibility gap (Nafziger, Stewart, and Väyrynen, 2000) Furthermore, a key element of access is salience generally generated by the media. In the Rwandan case, the role of the media proved to be one of the complicating factors. For one, one must take into account the lack of a

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<sup>170</sup> Risk here refers to the perceived rather than actual physical and political risk of undertaking particular military or foreign policy steps to manage the humanitarian crisis. In this context, the formation of judgments and choices of risks by an individual are critical to understanding intervention outcomes in particular. (Vertzberger, 1998)

coherent media perspective across the entire spectrum of the international community. Consequently, different media reports promoted different norms by virtue of the tone and intensity of coverage of the Rwandan crisis.

One of the puzzles of the Rwandan case is that despite intense coverage of the genocide –with bodies floating down rivers and piled up in schools- the policy-making elites in the United Nations and within key member states such as the U.S. could not be mobilized. Here again, the framing process helps to explain the relative salience of humanitarian protection norms. Whereas media coverage combined with NGO advocacy and pleas for assistance by key Rwandan economic and political partners finally pressured the government of France to intervene (with Operation Turquoise), the same combination of factors did not achieve the same level of salience in the U.S. Indeed, members of the Clinton Administration directly involved with the crisis have admitted that they did not sense much public pressure to act or that inaction would be accompanied by any significant political costs. (Power, 2002; author interviews) Drawing on the agenda-setting literature mentioned earlier, it becomes clear that the images projected by different protection norms together with the venues in which they were able to take hold, influenced not only the interaction among norms but also their relative influence on the political agenda. Finally, this level also allows to address how particular actors and institutions contend with complexity and engage in ‘normative learning.’

### **Case-Analysis**

### ***The Systemic Level***

One of the intriguing issues that arises in considering the Rwandan case from a systemic perspective is the state of human rights under emergency conditions and situations of armed conflict. A story of a reintegration camp for ex-Far and Interahamwe fighters in Mudende, Rwanda near the Congolese border best illustrates the dilemma of humanitarian intervention. The purpose of the camp is to “reeducate” demobilized combatants and prepare them to return to civil society in Rwanda. Many of them had spent the last seven years in the refugee camps and forests of eastern Zaire/DRC, often recruited as mere children. Human rights education constituted a significant part of the program. When I asked a prisoner about the content and meaning of these lessons, he explained (in halting French) that they were learning that it was bad to kill and that they all must work to protect human life. To the question of how he could then justify his actions of the last few years, he replied; “mais Madame, il n’y ont pas des droits de l’homme dans la guerre!” (But Madam, there are no human rights in war!)<sup>171</sup> This little anecdote epitomizes the challenge of humanitarian interventions in an environment where international humanitarian law and human rights convention are, or at least perceived to be, disconnected from the realities on the ground.

The legal challenge was one of reconciling differences in human rights and humanitarian law as a “compromise between military and humanitarian requirements” (Greenwood, 1999:32 ) Differences such as universality and neutrality

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<sup>171</sup> Author’s interview at Mudende Camp, October 2001.

which are fundamental principles of human rights law but applied more selectively in humanitarian law create difficulties for UN humanitarian action on the ground. For example, “[a]lthough there is a growing trend in the international community toward recognizing a right to provide humanitarian assistance and protection without consent, many States continue to contest that right.” (Ruddick, April 1997:481; cf. Levitt, Fall/Winter 2001) On the one hand, humanitarian intervention in the classic sense relied on basic humanitarian principles and international humanitarian laws to protect the most basic of human rights – the right to life and access to means of survival. On the other hand, humanitarian intervention in the current contexts of complex emergencies by necessity has become more closely tied to political-military means and interests. Without them, the international community cannot respond effectively, but with them it also cannot easily uphold fundamental humanitarian principles of neutrality and impartiality. In this regard the interventions of the latter part of the 1990s differ from earlier humanitarian interventions before, during and immediately after the Cold War. More recently, the international community has shifted to a form of humanitarian enforcement of conditions suitable to implementing humanitarian assistance, that involved not only the safeguarding of previously negotiated humanitarian access but in fact imposing humanitarian access even in the face of continued armed hostilities. Many of the elements of humanitarian “enforcement” were evident but poorly executed in the international responses to the crises in Rwanda.

At the heart of international responses to the Rwandan crisis lies the humanitarian intervention paradox. Only by elevating humanitarian interests to the level of UN Security Council concern is the international community likely to rally the capacity and resources to respond efficiently and effectively. And yet in the process of linking political interests to humanitarian needs, the universality of human rights is severely compromised as they become subject of individual member states' interests. The fact that humanitarian assistance became linked to, and often misused as a form of strategic asset also explains for example why the international community did not hesitate to intervene in Kosovo but was reluctant to do so in the Great Lakes. In the case of the U.S. and other members of the Security Council, a convergence of humanitarian protection norms and national interest was needed to effect any kind of engagement in complex humanitarian emergencies. Thus Senator Simon in conducting congressional hearings on the Central African crisis of 1994, invoked that "[w]e need to recognize that Africa DOES matter to our national security. The greatest threat to our security now is instability."( Senator Paul Simon, U.S. Senate Subcommittee on African Affairs of the Committee on Foreign Relations , 1994:3 )

The 'securitization' of humanitarian assistance was a double-edged sword as many humanitarian organizations have pointed out. Forced to rely on military protection for their own safety UN personnel had to make difficult choices about where to go and whom to help. For example, neutrality of relief depends on an equitable distribution of aid and resources which is difficult to achieve as the post-



genocide intervention in Rwanda can attest. Here, UNHCR's protection mandate favored refugee camps outside Rwanda but which were populated by members of the former Hutu government of Rwanda which had perpetrated the genocide. (Dallaire, 1998:83) Others even argue that neutrality is in itself a political position for NGOs operating in CHEs. (Bryans, Jones, and Stein, 1999:12)

The ICRC, as the "last bastion of neutrality" refused to operate anywhere where it would require military escorts.<sup>172</sup> It also meant that local actors are more likely to associate humanitarian organizations with certain member states' political and strategic interests. This contributed to confusion over 'mixed signals', since the agenda of humanitarian organizations and member states appeared to diverge considerably. Operation Turquoise was perhaps an extreme example of the misuse of humanitarian instruments for the sake of geo-political interests and allegiances. That is not to say, however, that no international military presence is always preferable to a poorly managed one. There is no doubt in the minds of local observers and international military experts, that even a modest but timely deployment of additional troops in Rwanda in 1994 could have made a huge difference in stopping or at least mitigating the humanitarian crisis that ensued. The mere fact of increased visibility would have had meant that the former Habyarimana regime for example could not have proceeded at either the speed or depth of operations in arming itself and extremist militias.<sup>173</sup> Similarly, civil-military interactions have had an

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<sup>172</sup> Interviews at UNHCR, Geneva

<sup>173</sup> Interviews and various published reports

unintended positive impact on the implementation of international humanitarian law in armed conflicts. Thus, the human rights training programs conducted by ICRC in Rwanda have been welcomed by the military leadership because “it has produced better soldiers.”<sup>174</sup> Although not designed as a military training tool, in the end both civilian humanitarian actors and military operations benefited from the training program, for as one NGO representative pointed out, “better soldiers are more disciplined and hence less likely to commit human rights abuses or crimes”.<sup>175</sup>

At the most abstract level, humanitarian interventions force the international community to confront the universality of human rights as dictated by international law with the parochiality of member states that leads to differential applications of humanitarian protection norms, thereby violating the principle of indivisibility of human rights. The international response to the Rwandan genocide shows that some people will always have greater access to human rights protection than others – even in the face of gross human rights violations- based on their relationships to member states and international power structures. It therefore is not surprising that for members of the governing elites of Rwanda, the international rhetoric on human rights has questionable legitimacy. Motivated in no small part by mistrust of the international community’s ability and willingness to enforce human rights norms, the Rwandan authorities shut down for a time operations of the UN High Commissioner for Human Rights (UNHCHR) in the aftermath of the Genocide and strongly

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<sup>174</sup> Interview with General James Kabarabe, Kigali, October 2001.

<sup>175</sup> ICRC interview, October 2001

rejected the international community's legitimate protests to that action. Although cognizant of human rights violations by its own rank and file military officers, the Rwandan Patriotic Army and the RPF have continued to deflect international efforts to impose sanctions by reminding them of the absence of human rights enforcement in 1994. According to some observers among Rwandan human rights organizations, the international community unintentionally provided the Rwandan government with a cloak of immunity with regard to human rights violations in eastern DRC and Rwanda that will be difficult to unravel.

### ***Societal/Group Level***

Although generally laudable as a mobilizing force, the Security Council's new humanitarian role has been a mixed blessing on several fronts. By framing humanitarian action in terms of Chapter VII requirements, an inherent bias toward coercion and peacekeeping and away from traditional relief seems to have emerged. Ironically, for Rwanda it also has meant a disproportionate emphasis on relief for refugees -as the most visible external 'threat to peace and security' in the region- over assistance to internally displaced peoples or ending the genocide itself. (Klinghoffer, 1998) A related but less obvious problem is that of false expectations. Regardless of how carefully mandates have been crafted in the UN Secretariat and the Security Council, once uniformed forces arrive in a complex emergency, they almost automatically generate an -often false- expectation of protection on the part of the civilian population. During the Rwandan genocide, there were numerous

incidences where individuals at risk left the safety of their place of refuge to find peacekeepers under the mistaken assumption that the military would protect them more effectively.<sup>176</sup> Similarly, when asked about the role of MONUC peacekeepers in DRC today, individuals will often point to the fact that they were not present when most needed –at the outbreak of the first war in 1996- where they could have had a far greater impact than any time after 1998. Just as was the case in Bosnia, confusion also exists over mandates for disarming and demobilization of armed combatants.

An interesting example of how particularly ‘frames’ shaped international policy responses is the case of the Operation Turquoise. Although the French did launch Operation Turquoise and sent troops into Rwanda in June, it had done so against the will of the international community, and with questionable motives. Prunier thus credits not the devastating loss of life but rather what is commonly referred to as the Fashoda syndrome, i.e. France’s fear of losing ground in its former colonies to an Anglo-Saxon coalition mobilizing rebel forces based in Uganda, for France’s intervention.( Prunier, 1997:105) In the end, the genocide was stopped not by Western intervention but because of a “brilliant, short campaign conducted by the Rwandan Patriotic Front (RFP),” (Evans, 1997:71) Tutsi exiles from Uganda and Tanzania, determined to regain control of Rwanda. The resulting flood of refugees became mere “political shuttlecocks” between the RFP, the French and the collapsing government of Rwanda.( Prunier, 1999:184; cf. Evans, 1997)

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<sup>176</sup> See reports by African Rights and Human Rights Watch; e.g. : DeWaal and Omaar, April 1995; Omaar and DeWaal, May 1994; Human Rights Watch, May 1994; Human Rights Watch/Africa and Federation Internationale des Ligues des Droits de l'Homme, May 11, 1995.

The international presence, notably the UN operation UNAMIR, had been largely ineffective during this crisis. Not only did the international community not understand that there were in fact two separate crises --the genocide and the civil war—that occurred simultaneously but relatively independently of one another; hence calls for a cease-fire did not in fact stop the killing. Mistaken interpretations of the ethnic conflict as the product of ancient hatreds rather than post-colonial inequities added to international reluctance to intervene. Even after the exodus, the relief community had been overwhelmed and unprepared to respond adequately. The camps were plagued by health problems and food shortages. The latter in part were also a reflection of the disconnect between local realities and global understandings, complicated by the presence of armed combatants in the refugee camps, whom no one was prepared to disarm because it ran counter to the assumption that refugees by definition must be helpless victims. One exception was the case of the World Food Program, which recognized that one problem in the food distribution was that aid workers were negotiating food distribution exclusively with male leaders, resulting in “inappropriate” food distribution to refugee women, began to monitor the process more closely. (Buckley, October 29, 1996)

Furthermore, the debate over whether to apply a “back to basics” approach or a more integrated “meta-regime” human rights/human rights approach is not just an academic one, but had real implications for affected populations and humanitarian coordination in the Great Lakes. For example, in Rwanda and in the eastern DRC, delivery of humanitarian assistance was complicated by the inability of individuals

and organizations to transcend their at times contradictory perspectives, leading to competition and mistrust among and within humanitarian organizations as well as with the recipient populations and governments.

Here one must note the importance of individuals as potential norms entrepreneurs but also impediments to norms translation. The evidence shows that the UN Secretary General is central to the success or failure of humanitarian operations. The position not only serves as a counterbalance to the institutional weaknesses of the UN Security Council in the area of intrastate -especially ethnic- conflict but also as an advocate for general principles of humanitarian principles who theoretically at least stands above the fray of interagency or member states' national interests and biases. Several analysts have suggested that the delay in UNSG Boutros-Ghali's visit to Rwanda until 1995 contributed significantly to the perceived drop in legitimacy of UNAMIR operations by regional actors as well as to the bureaucratic delays in proclaiming the Rwandan crisis a genocide or the urgency of the refugee crisis in the Kivus in 1996.( Klinghoffer, 1998:139; cf. Ramcharan, 1993:36ff) Much has also been made of the communication gap between UNAMIR Commander Romeo Dallaire and his taskmasters in New York.( Kuperman, 2001:89ff)

The lack of viable interlocutors or local partners extends to the relationship with regional organizations. Since the UN had invested relatively little effort in regional confidence-building measures through regional organizations while at the same time struggling to command and control its own military operations in

Southwest Rwanda (witness the simultaneous deployment of UNAMIR and Operation Turquoise; as well as the withdrawal of Belgian troops at a time when they were most needed) for example, meant a loss of legitimacy and trust on the part of African observers.

Last but not least are implications of UN humanitarian action for war affected populations in the African Great Lakes region, another key segment in the translation of protection norms into real outcomes. Ultimately it is these populations that matter the most. It is they who are most in need of protection, albeit based on clear criteria. In Rwanda alone, over 50% of the population were either internally displaced or refugees as a result of the genocide.( Wright, 1996:53) And yet, progress on extending protection of life and livelihood to these populations was excruciatingly slow. Not only did the UN system struggle with the distinction between IDPs and refugees throughout the crisis period, but ongoing forced displacement had detrimental consequences for regional stability and long-term development. As mentioned before, refugee camps in eastern Zaire/DRC inadvertently harbored and indeed fostered many of the perpetrators of genocide and often simply reproduced Rwanda's old political structure. The lack of adequate aid to internally displaced peoples also contributed to the collapse of local infrastructures and economies. As one humanitarian aid worker recalled "[i]n an emergency, not only do people lose their food, property and loved ones, but traditional value systems are also destroyed, leaving communities exceptionally vulnerable to violence and exploitation." (Itto, Spring 2000:29)

### ***Institutional/Decisionmaking***

There were clear trade-offs between human rights principles and humanitarian action on the ground. These have been most noticeable in the dilemma facing humanitarian NGOs and UN agencies as they are forced to negotiate for humanitarian access with armed rebel groups and militias or seeking to stem the forced recruitment of child soldiers. They must grapple with the problem of legitimizing forces not yet recognized by international standards. As a consequence, UNICEF has taken a lead in inter-agency processes at the UN to develop guidelines for the engagement of non-state armed actors.<sup>177</sup> In some cases it also has forced humanitarian organizations to remain silent on human rights abuses in order to gain access to the most vulnerable populations.

UN humanitarian coordination in Rwanda involved a dizzying array of actors and agencies both from the political and operational arenas of the UN. Within the UN, they included the Secretary-General and his representatives on the ground, the UN Security Council and the UN General Assembly on the political side. In addition, units with primarily military peacekeeping objectives had to share the arena with humanitarian agencies, most notably the UN Development Program, the UN High Commission for Refugees, the World Food Program, the UN High Commission for Human Rights, and UNICEF among others. The recently established Department of

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<sup>177</sup> Author interviews with representatives of UNICEF in Nairobi, Kinshasa, Geneva and New York; and internal documents. Cf. UNOCHA.



Humanitarian Affairs (established in 1992) and its Emergency Relief Coordinator, that by 1996 had become the UN Office for the Coordination of Humanitarian Affairs (OCHA), as well as the Interagency Standing Committee (IASC) provided important but still nascent coordinating mechanisms both within headquarters and in the field. In addition, non-governmental organizations with observer status sought to mobilize support for their activities within the UN, liaison offices of various UN departments and agencies, and as participants in international conferences.

Inter-agency coordination has proven to be a particular albatross with regard to UN responses to humanitarian crises in the African Great Lakes. Thus in the case of Rwanda, the UN ended up not only having to respond to war on the ground but in fact serious battles for resources and turf within its own ranks. (Khan, 2000:85ff) Here the Secretary-General had sent not only a Special Representative but also a Humanitarian Coordinator in addition to the Resident Coordinator (typically the head of the UNDP mission in the field). UN's field operations in the Great Lakes have consistently suffered from inadequate demarcations of responsibilities and mandates, competition for scarce financial resources and attention at UN headquarters. It pitted the UN High Commissioner for Refugees against the UN Development Program, further exacerbating the disjuncture between short-term relief and long-term viability. Notwithstanding the general benefit -referred to earlier- of linking human rights and humanitarian initiatives more closely, another complicating factor has been the dilemma of protecting human rights in life-threatening situation, which imposed greater restrictions on achieving consensual humanitarian access to

victims.( Wright, 1996:56) Thus agencies such as the UNHCR “have increasingly downplayed their human rights roles rather than risk disrupting operations.” (Lautze, Jones, and Duffield, March 1998:38) The debate over whether to apply a “back to basics” approach or a more integrated “meta-regime” human rights/human rights approach is not just an academic one, but has had real implications for affected populations and humanitarian coordination in the Great Lakes. Both in Rwanda and in the eastern DRC, delivery of humanitarian assistance was complicated by the inability of individuals and organizations to transcend their at times contradictory perspectives, leading to competition and mistrust among and within humanitarian organizations as well as with the recipient populations and governments.

Inter-agency coordination in the region also suffered from the fact that the UN initially was spread too thinly across multiple emergencies at the same time (Bosnia, Somalia, and Haiti) and was only beginning to develop appropriate institutional coordinating mechanisms. The Integrated Operations Centre created in Rwanda in 1994/1995 illustrates these structural weaknesses. Intended to deal with the IDP problem in Rwanda, engage the newly installed RPF government and balance civil-military relations between UNAMIR’s peacekeeping mandates and the humanitarian relief objectives, it was “more of a concept and process than an ad hoc institution”... and ultimately failed in part because it was never able to reconcile the mandates of the humanitarian community and of the local government.( Kent, 1996:68,78ff ) Such weaknesses led to a greater dependence on NGOs such as the International Committee of the Red Cross (ICRC), military forces deployed to the

region, and the good graces of national governments, further diffusing if not counteracting the UN's long-term humanitarian impact. These weaknesses of the UN Security Council and other UN agencies were generally known and readily exploited by combatants.

Given how recent these changes occurred it should not be a surprise that there would be a disconnect between the emerging conceptual model for humanitarianism grounded in an interdependent world order and the institutional mechanisms needed to carry it out. Thus, one can attribute the delays imposed by the Security Council in requesting additional confirmation of field reports during and after the Rwandan genocide for example, and the seemingly haphazard decisions regarding when and how to adjust the mandates of UN missions in the region, to the fact that the Security Council did not have a functioning set of response mechanisms in place to meet the new world order's requirements.( Klinghoffer, 1998:131)<sup>178</sup> It took a regional conference sponsored by the OAU in 1995 to develop a coordinated and integrated approach to relief efforts (the Regional Conference on Assistance to Refugees and Displaced Populations in the Great Lakes); one of the rare occasions of OAU action (Cohen and Deng, 1998:288ff). The general consensus is, however, that the OAU was prepared to intervene and possibly prevent the genocide much earlier but that it was insufficiently backed up by the international community.( Attah-Poku, 1998:91) By 1995, only 50,000 Rwandans had returned to Rwanda. The rest remained in overcrowded, potentially explosive refugee camps on the border. The fact that US

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<sup>178</sup> Similarly, Ramcharan laments the Security Council's lack of standards for dealing with ethnic conflicts and minority problems in particular (Ramcharan, 1993:27).

military forces were training RFP forces by then (as part of the Department of Defense's IMET program), ostensibly to provide human rights and peacekeeping training, did not help matters and in fact contributed to the subsequent crisis in 1996.( Duke, July 14, 1998:A1, A10)<sup>179</sup> The 1994 crisis confirmed the view that “when countries outside of Africa have intervened in disputes, African interests have not always been served.”( Cohen and Deng, 1998:216 )

Humanitarian action in Rwanda suffered from a lack of consistency, and consequently, impact of in applications of a rights-based approach. Most international NGOS, foremost among them Oxfam Great Britain, CARE International, and Save the Children, only recently began to incorporate “do no harm” principles into their programming guidelines and training.<sup>180</sup> Similarly, international organizations must contend with local interpretations of human rights. There have been, for example, significant problems for capacity-building in complex humanitarian emergencies. A consistent complaint among local NGOs in the Great Lakes has been their marginalization during CHE's. Despite the fact that many of them had a long-standing presence and knowledge of the situation, they typically lacked the means made available to international NGOs to follow through with humanitarian actions of their own. Former Director of CARITAS in Belgium, Luc Heymanns, for example described the “war of the flags” in Goma following the 1994

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<sup>179</sup> Lynn Duke reports that “while the Green Berets trained the Rwandan Patriotic Army, that army was itself secretly training Zairian rebels...then crossed into Zaire and joined with the rebels to attack refugee camps.”

<sup>180</sup> Interviews and documents from Care International in Nairobi, Oxfam GB in Goma and Save the Children UK in London.

Genocide when each international NGO rushed to the camps to stake out its “territory” and demonstrate their ‘effectiveness’ to the millions watching CNN and other media outlets transmitting dramatic footage from the camps.<sup>181</sup> In the process their local partners and counterparts were forced to the sidelines.

Indeed the so-called CNN factor had a detrimental impact on the type of humanitarian assistance provided during complex humanitarian emergencies. As mentioned earlier, coverage of the Rwandan crisis produced different results in different corners of the international community. In the U.S., the general lack of response has been attributed to ‘compassion-fatigue’ on the one hand and an excessive degree of perceived casualty-avoidance on the other. (Moeller, 1999 ). At the same time, the media did effect not only an interventionist response by France but also humanitarian responses biased toward media-attractiveness as opposed to real protection concerns on the ground. As one UN worker in Goma complained, it was easier to charter a costly, but impressive looking, military transport plane to fly a handful of students from Kisangani to Bukavu to take their university entrance exams, than to provide them with a modest school building and teacher to administer their exams in their home community.<sup>182</sup> As a consequence of media attention, local communities were less likely to acquire long-term but boring infrastructure and assistance and contributes not only to widening the relief-development gap but also local inabilities to prevent future humanitarian emergencies.

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<sup>181</sup> Interview, November 2001

<sup>182</sup> Off-the-record interview

International donor preferences to funnel financial and material resources through international NGOs only exasperated the situation. It had a perverse effect on local capacities that subverted many of the objectives of a human security protection framework. For example, in eastern DRC, the absence of adequate roads and river access ways has greatly complicated the delivery of humanitarian assistance to those areas in greatest need. Goma, a relatively urban and well-developed city, was overrun with humanitarian workers with little or nothing to do while villagers in the Northern Kivus suffered from an almost complete absence of aid.<sup>183</sup> Moreover, local hiring practices by international NGOs often served to reify existing social/ethnic fissures. For example, UNHCR did not hire local Tutsis to work the camps in and around Goma in 1994-1995 in part to protect them from possible exposure to Hutu militias but, as a consequence, prevented them from building the experience and credentials necessary to be hired for positions with humanitarian organizations in subsequent emergencies in the region. Moreover, the problematic global-local nexus of humanitarian interventions appears to have fostered rather than quelled the politicization of humanitarian assistance as government authorities vie with local NGOs for scarce resources. As has been observed repeatedly in UN evaluations and elsewhere, humanitarian assistance frequently was used as a substitute for ‘real’ political action.

A brief review of each of these areas of concerns shows that there are both positive and negative aspects to the UNHCR-military partnership. Beginning with

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<sup>183</sup> Interviews with UNDP and OCHA

the question of leadership, civilian and military humanitarian actors often found themselves at odds over issues such as who should best make decisions and liaise with armed groups and the local leadership. As a result, local partners and forces in Rwanda were confused about whom to talk to and whose authority represents the final commitment in negotiations, for example. Relief efforts in Rwanda for example suffered from inter-agency disputes among UNHCR, UNAMIR Peacekeeping Forces and various other UN agencies and NGOs, as well as significant short-falls in necessary resources. The U.S., the United Kingdom, France, Canada and Germany among others have established and trained separate units specifically for peacekeeping, peace-enforcement and humanitarian operations. They also –together with Russia and the Ukraine- “remain the only countries with the long-range military airlift capabilities required to deliver bulk humanitarian aid.” (National Intelligence Council, August 2001) A key change has been the shift in emphasis on rapid response capabilities. For instance, the EU had planned a rapid reaction force of 60,000 troops for such missions, and the US created the African Crisis Response Initiative in particular in order to train a series of Africa-based rapid deployment and interoperable battalions according to a common standard. (National Intelligence Council, August 2001; Biermann, 1999)

Military forces are best suited to move quickly large quantities of materiel and personnel. UNHCR took advantage of this capacity by devising so-called ‘service packages’ that allow governments to provide expertise and equipment as needed, often in the form of military logistics support. The military also recognized

that providing logistic support to UNHCR is perhaps its most important function in CHEs, particularly in the early, usually most intensive phase of an emergency. (Connaughton, 1998; Nadler, 1999) After failures in Haiti and Somalia, where troops “were bewildered by the overlap between combat missions and peacekeeping, the Army established a peacekeeping institute and focused on training individual soldiers for missions other than war. (Nagl, et. al, 2000) Through each successive crisis the militaries of many troop-contributing states modified their training programs to give greater priority to logistics over combat. They also have been instrumental in mitigating serious logistic logjams from Rwanda to Kosovo.

Unfortunately, funds requested rarely are in line with the desired results. Concerns over the legitimacy of international military humanitarian interventions has made many a receiving country, e.g. Rwanda, at best wary and at worst outright resistant to international forces even when deployed to support UNHCR’s mission of protecting war-affected civilians. There were also differences in organizational structure and style, that have been amply documented elsewhere. (e.g., Lange, Summer 1998; Pirotte, Husson, and Grunewald, 1999; Weiss, 1999) The flexible, flat and more ad hoc approach to management that characterizes most NGOs and civilian humanitarian operations tends to conflict with the more hierarchical contingency planning approaches of the military that require longer lead-times. As Adam Roberts and others have pointed out, “protecting humanitarian action, and those it is designed to assist, generally requires a different mandate and force configuration from those



used in peacekeeping operations. In short, it involves something more akin to war.”  
(Roberts, 2001 :39)

### Conclusion

As mentioned at the outset, innumerable evaluations have led to an emerging human security and protection normative framework. And yet it is not clear that the lessons are really learned or applied consistently. Several problems accompany humanitarian operations in this regard. First, humanitarian interventions tend to attract a particular type of persona that I refer to as “humanitarian cowboys.” These are individuals who tend to move from crisis to crisis, are highly mobile and flexible but also less likely to accept strict regulation and oversight. The very nature of complex humanitarian emergencies typically leads to high turn-over in personnel. Most humanitarian workers tend to be redeployed as frequently as every three to six months. Consequently, there exists little institutional memory or experience for longer-term capacity or confidence-building. It also means that there exists a steady learning curve as there is insufficient time to prepare for the next mission. Learning takes place on the ground and frequently on the run.

That is not to say that the many evaluation reports produced by outside consultants, internal lessons learned units, scholars and journalists only gather dust. They do have an impact on the shaping of ideas and values that underlie current policy and operations among the leadership. However, they do not serve the immediate information and information exchange needs of complex humanitarian emergencies. One barrier to a consistent transmission of knowledge and information,

is that such exercises do not necessarily build careers. Humanitarian workers are apt to want to 'invent' their own solutions, to leave their mark on an operation, as a way to build a professional reputation. Again one must be cautious in over-generalizing, but there are sufficient cases of "career-building" on the back of humanitarian tragedies to warrant a concern. Lessons are being learned, even if implemented haphazardously and often in spite of the "here and now" climate that dominates international responses to humanitarian emergencies. The responses to Afghanistan, for example, already show a more integrated and timely response than prior efforts. Whether or not a true "culture of protection" will emerge from the lessons derived from the complex humanitarian emergencies in the African Great Lakes region during the 1990s remains to be seen. Humanitarian protection norms however have had a visible impact on the way in which international responses to CHEs are conducted on the ground. Although it is clear that humanitarian norms require substantial support from within the political establishment and are only as effective as the degree to which they converge with other national interests, state dominance also compromises humanitarian protection. State intervention in human rights and humanitarian efforts is wrought with moral and ethical ambiguities and is likely to distort the beneficiary impact for the populations most in need.(cf. O'Rawe, 1999; Cumper, 1999, among others.)

Most recently, the international community has sought to consolidate protection norms in a code of conduct or guiding principles for humanitarian intervention centered around the 'responsibility to protect'. This principle entails

three specific responsibilities in internal armed conflicts: to prevent, react and rebuild. (International Commission on Intervention and State Sovereignty (ICISS), December 2001) As a consequence, the long-term trend seems to be toward convergence of the three types of norms identified here as sovereignty becomes defined in terms of responsibilities and obligations, and the humanitarian community has begun to incorporate a rights-based approach that views the delivery of humanitarian relief and protection of human rights as “twin pillars of humanitarian action.” (Kenny, 2000:v)

The Great Lakes region of Eastern-Central Africa suffers from chronic insecurity, inadequate funding and human resources needed to promote long-term reconciliation and the basis for lasting peace settlements. The United Nations Office for the Coordination of Humanitarian Assistance (UN OCHA) recently published a report on “Affected Populations in The Great Lakes Region” which summarized the situation as follows: “...web-like military confrontations led to an incessant in-and-out movement of populations fleeing zones of combat, seeking safe haven or attempting to return to their areas/countries of origin.” Nearly 70% of more than 3.9 million war-affected people are internally displaced, while the remainder includes over a million refugees (26.5% of the total) and another twenty thousand unaccompanied and/or abducted children. Rwanda is host to 18.5% of the region’s internally displaced, 27% of the refugees and nearly 10% of the children.<sup>184</sup> These figures illustrate the complexity and costs of civil war in the region.

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<sup>184</sup> Results reported United Nations Information Service, August 30, 1999.

Even if one rejects the notion of “ancient tribal hatreds” as the source of conflict in Rwanda and other countries surrounding the African Great lakes, one cannot deny the need to bring all parties to the negotiating - or rather reconciliation-table. This is particularly essential for Rwanda. Here large, if not all, segments of the population carry some guilt and blood on their hands. This is also a case where massive violence cut across society not only in a vertical, top-down manner by the political and military elites, but in fact pits civilians against civilians. Whether Hutu or Tutsi in ethnic identity, all Rwandans share responsibility for peace-building just as they shared in the violence to some extent. However, it would be naive to expect Tutsis to simply forgive their Hutu executioners, or Hutus not to approach their new -Tutsi- leaders with significant fear and distrust.

The result is that despite international and national efforts at promoting human rights and humanitarian protection norms while at the same time shoring up a young sovereign power, Rwandan society remains polarized and unable to move beyond armed conflict - even when not fought on Rwandan soil but rather by proxy against Ugandan backed forces in the Democratic Republic of Congo. Indeed, some experts have suggested that the war in the DRC is not so much the result of internal issues in that country as much as the manifestation of spill-over of animosities carried across borders by displaced genocidaires (perpetrators of genocide) and their victims in Rwanda.(e.g. Prendergast and Smock, Sept. 15, 1999:5) The problems only are exacerbated by the slow progress of disarmament (as mandated by the Lusaka accords) and the repeated failures or short-comings of the United Nations (first in

preventing genocide and later in peacekeeping in the DRC) and regional actors to contain conflict and de-escalate it throughout the region. The situation in Rwanda is particularly precarious with thousands of citizens still awaiting trial and prosecution, often in sub-human living conditions, and the steady influx of refugees and internally-displaced peoples into weakened communities. The risk of spoilers to the peace agreements in the region looms large.<sup>185</sup>

Therefore, as Prendergast and Smock have recommended, a “multifaceted approach of luring refugees and combatants back to Rwanda or -in the case of those accused of genocide- to face justice” would be a significant strategy for ending regional conflicts as a whole.( Prendergast and Smock, September 15, 1999:6) However, as the haphazard record of the Balkans has so amply demonstrated, peace and social justice clearly cannot be superimposed on a society but must be the grown through co-existence and broad-based stakeholdership.

More importantly, the Rwandan case shows that while there is considerable currency for the promotion of human rights and protection of civilians in armed conflict, implementation of these international protection norms tends to falter because of an unwillingness on the part of the international community to commit the resources and political will to truly trumping the prevailing norms of sovereignty.

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<sup>185</sup> See Azar, 1990 as well as Gurr, 2000 for a discussion of the problem of “spoilers” or individuals bent on derailing peace settlements because they derive legitimacy from the perpetuation rather than termination of conflicts. On this last point, see also Deutsch, 1998.

## Chapter 6

### Conclusion: Competing International Norms, Regional Dimensions And Agenda Setting

#### Overview

This dissertation set out to develop a theoretical framework and model of norms competition and the resulting policy impact on international relations. For purposes of analysis the model focused on normative contestation in complex emergencies (CHEs) requiring some form of humanitarian intervention. Among the most contested norms currently are those associated with the international protection of humanitarian principles, human rights, and of sovereignty. Together, these socially constructed norms of acceptable behavior and legitimate actors determine not only the nature of possible international responses to CHEs but also who is seemed a 'legitimate' target and provider of protection respectively.

Variations in legitimation and justifications applied to particular intervention or non-intervention responses are indicative of the underlying competition as well as growing convergence among these three ideal types of norms. Thus, the notion of emerging norms refers not so much to a specific attribute but rather the process of interaction among norms. Just as in reality the distinction between sovereignty, human rights, and humanitarianism is becoming much more fluid, so too is the concept of emergence not static. An emerging norm thus is an *evolving* norm that may have already existed for some time but now is growing in relevance, authority, and access to the international political arena.

At the most general level, the purpose of this study is to gain greater insights into the process of norms competition and normative influence over time. Specifically I asked about the impact of competing international protection norms on responses to CHEs. In order to narrow the scope further, I disaggregated the topic into two sub-questions. 1) Under what conditions is a military intervention to protect forcibly displaced populations likely? 2) What accounts for existing patterns of interaction between human rights norms, humanitarian and sovereignty principles on the international political agenda? Specifically, my interest lay in determining whether or not humanitarian interventions, i.e. the use of coercive force, would be more or less likely to occur in support of humanitarian protection norms writ large. Against this contextual backdrop, social constructivists have made two claims, which this thesis explored in greater detail: first is that values and principles matter in international relations. The second claim or popular wisdom is that humanitarianism, and human rights are gaining in policy strength and hence humanitarian interventions are more legitimate and likely than in the past.

To date, however, the process by which norms ‘matter’ and interact with one another in international relations is poorly understood. For one it is not at all clear what it means for norms to ‘matter’. To ‘matter’ in international relations means to evolve and have a policy impact. It thus refers to an evolutionary process that allows norms to rise in prominence in international discourse, legal conventions, political action, military, and NGO operations. A norm’s evolution typically can be followed by tracing a particular chain of events and responses on the part of various

constituencies within the ‘international community’; examining changes in the justifications. Therefore, although it is impossible to “see” a norm directly, we can study it through proxies such as the form of justifications applied to a given action by the United Nations, a member state, or non-governmental organization.

The primary aim of the dissertation was to develop the necessary analytic tools to answer these questions. I offered a single case-study of the Rwandan complex humanitarian emergency from 1993-1996, a period of intense normative activity and debate on the relative merits and challenges of humanitarian intervention, to test and apply the model for international normative agenda-setting. As the previous chapter sought to demonstrate, the Rwandan case is critical to our understanding of normative competition, but also demonstrates the pitfalls of translating norms into policy. A detailed rationale for the case selection has been offered in earlier chapters. However, the case does not only have theoretical meaning and interest. Instead, it demonstrates vividly that the evolution of norms is a function of shocks to the international system. Although a significant variety of states had responded, I focused on the United States.

After all, since Jimmy Carter was President, the United States had initiated a global conversation regarding the relevance and centrality of human rights for international relations. Other states followed suit, and in some instances have overtaken the Americans. Globalization was deemed to undermine the authority of states more and more. A significant component of globalization is that populations are more mobile (voluntarily or forced), diasporas more interconnected, and



information more readily available over greater distances to larger audiences. Consequently, given the success of transnational advocacy networks in the area of human rights, one might have accepted that domestic success to translate into greater prominence and compliance with a human rights norm.

The Rwandan case, embedded in the larger international context of the preceding crisis and intervention in Somalia, concurrent complex emergencies in Bosnia and subsequent interventions in Kosovo, runs counted to many of these expectations. The Rwandan genocide and accompanying humanitarian crises, cannot be explained by transnational advocacy networks (TANS) or realists. If TANS had controlled the agenda for the international community writ large, one would have expected the international community to have rallied around the cry of “never again”, and to intervene immediately. By contrast, if the latter coalition of scholars and practitioners has won the debate, one would have expected the international community consistently to turn its back on the region for geo-strategic and economic reasons.

Instead, international responses to the Rwandan complex humanitarian emergency reflected a set of international protection norms that -although clearly present and evolving- were still weak at the time of the crisis. There is no doubt that a humanitarian protection or intervention norm has evolved over the course of the past decade. The rapid increase in the number of peace-support and –enforcement missions fielded, changes in rhetoric in the UN Security Council with ever more frequent references to the linkage between humanitarian needs and international

threats to peace and security, all attest to that. However, as Rwanda showed so brutally, protection norms are insufficiently coherent nor universally accepted to be considered truly 'global' norms as yet. This weakness ultimately contributed to a terrible distortion in problem definition and subsequent international actions resulting in a series of failed diplomatic and military interventions in Rwanda, as well as a sudden rush to intervene for humanitarian purposes but only after nearly one million Rwandans had lost their lives, many thousands had been displaced from their homes, and at significantly higher human, financial and political costs for the region and the U.S. Talentino, 1999; Barnett and Finnemore, 1999; Finnemore and Sikkink, Autumn 1998.

My findings from the African Great Lakes emergencies reinforce the relevance of international protection norms for international relations with some important caveats. In the case of Rwanda (and by extension) the former Zaire/Democratic Republic of Congo, the relationship between state interests and humanitarian protection norms were mutually reinforcing. This study suggests that state interests and institutional structures, derived from identity-forming norms and principled frameworks, in turn mediate among competing norms. The relationship thus is more akin to a feedback loop than a causal one. Moreover, norms do not exist in a vacuum. Instead, they manifest themselves in legal, ethical, cultural, and political domains throughout society and the international system that influence how norms are interpreted and accepted. The findings furthermore suggest that norms do not evolve through a process of steady linear diffusion but one characterized by so-

called ‘punctuated equilibria’, i.e. plateaus of norms adherence and acceptance punctuated by disturbances to the plateau through external shocks, i.e. complex humanitarian emergencies, or through the entry of new actors or new coalitions of actors that shift the emphasis from one prevailing norm to another. The relationship between sovereignty and humanitarianism appears to be one of long-term stability marked by sudden shocks to the system during which new points of equilibrium or balance between these two principles are established.

Several factors proved particularly critical to this process: the role of norms entrepreneurs, institutional capacity and culture (the normative venue and image), problem definition and perception, norm salience, and political leadership and will. Each of these factors will be addressed more fully below.

### **Summary of Study**

The thesis encompassed a two-step design. The first step was to develop an approach or ‘model’ to help us think through the process of norms contestation. I operationalized the normative contestation process, and demonstrated how norms that exist to varying degrees of strength can in fact rise to the top of the international political agenda.

The model suggested that the constitutive aspects of norms (agency, values and ethics, identity and culture, and institutions) shape the problem definition, which in turn leads to a normative development process involving the factors mentioned earlier. Events such as complex humanitarian emergencies are still on the whole rare but growing in number and accessibility. They serve a critical function in the

normative agenda-setting process as ‘focusing’ events around which norms are reframed in terms of their overall tone, image and venue for policy decisions and implementation.

The model for dynamic norms competition and international agenda-setting is designed to provide a set of analytic instruments applicable to any situation of contested norms. Here it was applied to the Rwandan humanitarian emergency. The purpose of the case-study was to test the viability of the model. More importantly, though, the case study offers one explanation – norms competition- for one of the most critical events to affect (or shock) the evolution and diffusion of international protection norms; i.e. the Rwandan genocide of 1994 and accompanying crises of displacement and disease. Already in the short time frame from 1993 to 1996 some shifts in normative dynamics were evident.

However, there are several reasons why human rights and humanitarian protection norms have not been able to maintain their status of ascendancy more consistently. Firstly, as “challenger” norms, humanitarian protection norms have the burden of upsetting or taking advantage of openings in the existing normative equilibrium around sovereignty. This requires a significantly more coherent and much more salient framing strategy. The trouble already begins with the initial problem definition. Public policy students have shown in the past that problem definition is a delicate balancing act between making an issue seem serious and important enough but ‘solvable’ or creating an image of a problem that is beyond one’s control or ability to fix. The evidence from the Great Lakes complex

humanitarian emergency, and it could argued any CHE by definition, suggests that the CHEs tend to be too complex and hence considered unsolvable. We see this not only in the high degree of risk- and casualty avoidance on the part of policy makers and senior military officials, but also their readiness to throw humanitarian aid but not force at the problems.

Clearly the pressure to “do something” in response to gross violations of human rights and extreme suffering by women and children, especially, has been successful in mobilizing some response, but not sufficiently strong to actually generate a military intervention result. The costs are simply too high from the perspective of those individuals and institutions with the capacity to do respond. Even though it has been shown that the costs of preventive action and early but judicious use of coercive means tend to be far lower than a haphazard, poorly defined and vacillating response as we have seen not only in the African Great Lakes but also in Afghanistan, the price of political will to act remains too high for most.

A second reason why humanitarian and human rights norms are less likely to generate a military response on the part of the international community is that they themselves are locked in a still uneasy, often contentious partnership. Although virtually every humanitarian provider has at least publicly expressed a commitment to a “rights-based” approach to humanitarian crises, these efforts have not matured enough to be anything more than an “add-on” for most organizations. The debates over the code of conduct (The Sphere Project) are but one example of the contentiousness.( The Sphere Project, 2000) This means that valuable resources and

political assets have to be diverted away from presenting a “consolidated front” to those wanting to promote sovereign power over humanitarian ethics. Scholars and practitioners have noted the growing convergence between human rights law and international humanitarian law, but this tends to be more noticeable in the legal protection field. When it comes to protection of “human” security in all its entirety, there still is far less agreement between these two camps.

A third explanation for the difficulties of humanitarian and human rights protection norms lies in the lack of mobilization of the public, and –more importantly- elites. Despite the success of transnational advocacy networks in promoting human rights adherence in non-democratic countries. They have been far less successful in promoting human rights either with regard to their own domestic rights and needs, but also in situations of crisis. IN part this is due to the nature of human rights organizations and related NGOs. These organizations tend to either suffer from quite significant ‘democratic deficits’, operating relatively divorced from any constituency base, or they are so tied into a constituency that it take too long to mobilize anyone.

What remains then, is that once citizens lose their rights or access to sovereign protection, they seem to almost automatically also lose their human rights and ability to have their humanitarian needs met. Their identity is tied more closely to sovereign boundaries than to human dignity and rights, it seems. Thus when that link is broken, they no longer “qualify” as members of the international community. The issue of success speaks to another factor that is important for the degree of

influence human rights and humanitarian normative prominence. All the evidence endorses the hypothesis put forward by some scholars that prior success in an intervention determines the likelihood that future interventions of the same type will take place.

The evidence also shows that norms entrepreneurs are essential for the success of any given protection norm. However, they are successful, only when they can generate or exhibit sufficient political will to act. Moreover, it appears to be very important to have convincing and credible institutional capacity. Poorly timed, coordinated, or executed humanitarian actions not only undermine the potential effect of human rights or humanitarianism. They also are much more likely to aggravate humanitarian crises if not thought through sufficiently.

Regarding the role of states and political will, this study reinforces that “power of norms” (Risse) contributes to the perception and understanding that those leaders will have of themselves and others, but is unlikely to produce an immediately noticeable “power shift” as predicted by some, in favor of human dignity and the right to life. Not only does the international community as a collective appear to be far too ambivalent about the need of human rights to shift much real power away from states. I do not necessarily advocate a state-centric approach to norms and international relations. But this study only confirms that states continue to be more influential than human rights or humanitarian protection norms.

Finally, the model presented seems to be quite useful to explain change through the lens of competing norms. While it has not yet yielded necessarily

generalizable results, since to date it has only been ‘fielded’ in a specific region of sub-saharan Africa, it does offer analysts and students of international relations a viable option for “knowing a norm when you see one.”

My work contradicts claims regarding the decline of sovereignty in the face of ascending humanitarian and human rights protection norms. The role of member states in influencing outcomes at the United Nations, the apparent weakness of transnational networks at the international –as opposed to domestic- political level, and the handling of forcibly displaced peoples in particular suggest that boundaries and sovereign authority remain as central to international relations as ever. Human rights and humanitarianism fulfill “framework” functions – they establish the general parameters for, but not the means by which, political behavior takes place. Thus while there is indeed a newly defined norm associated with a universal ‘culture of protection’ in armed conflicts, it still is in the early stages of formation, characterized by more competition and uncertainty than consensus or cooperation. Protection norms, while held by most members of the international community, are neither consistently understood, nor consistently applied. So far they are partially accepted, universally understood and shared (albeit considerable confusion in interpretation and translation), but do not yet qualify as ‘universal’ norms. My model predicts that with each new “shock” to the system, whether it is the events that followed the September 11<sup>th</sup> attacks, the humanitarian crisis in Afghanistan or the most recent engagement in Iraq, the equilibrium among the three protection norms will readjust, new and potentially wider coalitions will form in support of each protection norm.



Humanitarian interventions thus become dependent on cost calculations of intervention vs. non-intervention. To be successful, humanitarian interventions ultimately must serve as an umbrella under which the three norms are not only closely linked, but indeed converge. Until such a time, the likelihood that humanitarian crises would provoke a military response remains very small, even as humanitarian intervention gains in legitimacy as a tool of international relations.

### **Norms Competition and Punctuated Equilibria Revisited – Creating a Culture of Protection**

The case of the Rwandan complex humanitarian emergency demonstrated how different protection norms influence decisions regarding humanitarian intervention. As the following analysis shows, the nature of norms monopolies, the role of norms entrepreneurs and their interactions, as well as the choice and nature of venues and normative images contributed to the evolution of a culture of protection within the international community.

#### ***Norms Monopolies***

According to Baumgartner and Jones, ‘policy’ monopolies consisting of a select group of actors and institutions sustain a given policy over the long term. When the monopoly is weakened or becomes more open, opportunities for policy shifts arise. This pattern clearly holds with regard to international protection norms. The non-intervention/sovereignty norm maintained its stronghold over the majority of the international community for much of the modern era in large part because international law had created a monopolistic foundation that did not permit

deviations from the norm. The United Nations Charter only reinforced the perceived taboos against intervention. However, with the changing nature of armed conflicts – i.e.. from inter- to intra-state- and the rise of non-state actors with some influence in global governance, the tight hold began to be weakened. The UN Security Council further opened the door by linking security and humanitarian concerns with greater frequency. Once weakened, it created opportunity structures for other international norms, notably human rights and humanitarian principles, to gradually gain in prominence on the international political agenda.

Both human rights and humanitarianism could be viewed as monopolies in their own right. Each consisted of a coalition of advocates –primarily through the rapidly growing international human rights movement and humanitarian organizations respectfully, and a handful of political leader(West, 2001) Each one also was undergirded by its own set of international conventions and institutions. However, these institutions tended to be less formalized or without sufficient ‘teeth’ to enforce the underlying norms. The organizational culture of many of the key actors did not encourage the kind of hierarchical and formalized structure that accompanied Westphalian sovereignty. Consequently, these monopolies encompassed what we would refer to as ‘emerging’ norms. At the same time, humanitarians and human rights activists found themselves on opposing sides with regard to the principles of impartiality and independence, with the humanitarian side – represented primarily by the International Red Cross- anxious to preserve these core elements of humanitarianism while the human rights constituency – although

also very conscious of the need for independence and impartiality was more concerned with truth seeking and justice, even if it entailed supporting a given side in a conflict.

The process of contention among the three different monopolies had differing impacts on each of the norms. While it initially seemed to weaken the sovereignty norm, human rights and humanitarianism actually benefited from more recent developments in Rwanda. More recently, all three norms –or rather their respective advocacy coalitions- responded to external shocks to the system by readjusting to a less confrontational relationship between the protection of borders and the borders of territory.

### ***Norms Entrepreneurs***

When military forces are deployed for humanitarian protection purposes and to create ‘safe havens’, the question remains, “safe for whom” in the words of Giscard D’Estaing (Campbell, November 1996:141) Humanitarian action requires a broad base of stakeholders, and a consistent set of ethical and legal criteria under which military humanitarian engagement takes place. Such criteria should not be applied blindly. Rather, they should set a standard by which the specific conditions on the ground can be assessed and addressed. The danger is that humanitarian protection norms can be subverted by power politics. (Jentleson, October 2000 ) UN humanitarian coordination in Rwanda and later in Zaire/DRC has involved a dizzying array of actors and agencies both from the political and operational arenas of the UN. Within the UN, they included the Secretary-General and his

representatives on the ground, the UN Security Council and the UN General Assembly on the political side. In addition, units with primarily military peacekeeping objectives had to share the arena with humanitarian agencies, most notably the UN Development Program, the UN High Commission for Refugees, the World Food Program, the UN High Commission for Human Rights, and UNICEF among others. The recently established Department of Humanitarian Affairs (established in 1992) and its Emergency Relief Coordinator, that by 1996 had become the UN Office for the Coordination of Humanitarian Affairs (OCHA), as well as the Interagency Standing Committee (IASC) provided important but still nascent coordinating mechanisms both within headquarters and in the field. In addition, non-governmental organizations with observer status sought to mobilize support for their activities within the UN, liaison offices of various UN departments and agencies, and as participants in international conferences.

*Military 'norms' entrepreneurs*

A cursory review of the operational, political-legal and ethical concerns that accompany the increased militarization of humanitarian interventions demonstrates the impact of military forces on UNHCR's protection mandate. Under certain conditions, military intervention will be a prerequisite for long-term resolution of the root causes of complex humanitarian emergencies. But we also may have opened up a Pandora's box by asking the military to respond to humanitarian emergencies traditionally handled largely by civilian relief organizations. As this study has shown, introducing military forces into CHEs can have unintended consequences for

humanitarian organizations and the course of resolution of CHEs. The military is instrumental in determining not only whether or not the international community intervenes at all, but also whether it does so, on behalf of the norm of sovereignty or of individual human rights of the war-affected. Traditionally, the military has only focused on the norm of Westphalian sovereignty, protecting or abrogating it for national strategic interests. As interstate conflicts diminish, however, the military faces a severe mismatch between its strategy and organizational capabilities and the missions it was likely to perform

Humanitarian military interventions frequently suffer from a range of technical weaknesses that undermine the missions' effectiveness. In the Great Lakes regions for example, peacekeeping missions have had to grapple with international forces composed of troops selected not for their skill and expertise but rather simply on the basis of which member state happened to have some available forces and was willing to contribute them. Given the payment incentive structure, that has meant that peacekeepers overwhelmingly represent developing countries with insufficient resources to equip and train their troops prior to deployment. Language barriers alone can be formidable. Indeed, the lack of knowledge about the host country and/or language makes it difficult if not impossible for peacekeepers to communicate with local armed elements and the population. Perverse consequences are that international forces by necessity have to rely on local –in the case of Eastern DRC, Rwandan- forces to provide them with transport, access and translation to monitor

potential human rights and other violations.<sup>186</sup> It is easy to see, why the military authorities controlling that region have little confidence and also little reason to cease controversial behavior in the face of such a weak international presence.

That is not to say, however, that no international military presence is always preferable to a poorly managed one. There is no doubt in the minds of local observers and international military experts, that even a modest but timely deployment of additional troops in Rwanda in 1994 and later in Zaire in 1996 could have made a huge difference in stopping or at least mitigating the humanitarian crisis that ensued. The mere fact of increased visibility would have had meant that the former Habyarimana regime for example could not have proceeded at either the speed or depth of operations in arming itself and extremist militias.<sup>187</sup> Similarly, civil-military interactions have had an unintended positive impact on the implementation of international humanitarian law in armed conflicts. Thus, the human rights training programs conducted by ICRC in Rwanda have been welcomed by the military leadership because “it has produced better soldiers.”<sup>188</sup> Although not designed as a military training tool, in the end both civilian humanitarian actors and military operations benefited from the training program, for as one NGO

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<sup>186</sup> Interviews in Goma, Kigali and Kinshasa, March and October 2001.

<sup>187</sup> Interviews and various published reports

<sup>188</sup> Interview with General James Kabarabe, Kigali, October 2001.

representative pointed out, “better soldiers are more disciplined and hence less likely to commit human rights abuses or crimes”.<sup>189</sup>

As the mandate of military forces in CHEs has steadily been broadened, the international community increasingly risks violating traditional humanitarian mandates of impartiality and neutrality, and opens itself up to charges of humanitarian “militarism”. (Ebersole, 1995) In the same vein, UNHCR’s effort to protect civilians in armed conflict can have unintended moral effects; for example when the act of protecting refugees or IDPs through camps or safe havens may run directly counter to international efforts to stem the tide of ethnic cleansing. (Kofi Anan in Moore, 1998) For example, how are choices made about the particular individuals to be “selected” either for protection under UNHCR’s auspices or for separation as combatants by security forces. Similarly, faced with limited resources and personnel, UNHCR and multinational forces have given priority to self-defense over that of their target constituencies.

While it obviously is not possible to protect all individuals all of the time, the international community faces a considerable ethical dilemma in this regard. A related dilemma is that of denial of aid or action. For example, UNAMIR Commander Romeo Dallaire has claimed that UNHCR explicitly barred UNAMIR forces from assisting returning refugees in Rwanda in order to stem the flow of refugees south. (Dallaire, 1998:75) While presumably well-intentioned, this denial of assistance only made conditions worse. It is not surprising therefore that although the

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<sup>189</sup> ICRC interview, October 2001

military is increasingly willing to take an active role in responding to CHEs and UNHCR more readily recognizes the importance and need for military engagement, the partnership remains an uneasy one.

The very chaotic nature of CHEs, often in remote, inaccessible terrain and which blur the lines between civilian and combatant populations, has led to an uneasy partnership between civilian humanitarian workers and bilateral, multinational and even private security forces. The most straightforward argument is that simply no other actor in the international community has the capabilities and resources to respond to humanitarian emergencies as do military forces. Faced with an inherently predatory operational environment in which not only the forcibly displaced but also those sent to protect them are targets of violence, UNHCR has been hopelessly overwhelmed in terms of its ability to plan, deploy personnel and adequate resources. (Byrns, et.al. 1999; Hannay, 1999; Slim, 1998)<sup>190</sup>

A military presence in Bosnia and Kosovo, and to a lesser degree in Haiti and Rwanda provided UNHCR and other humanitarian organization operating in the middle of armed conflict with much needed “surge protection” (Minear, Baarda, and Sommers, 2000), logistic and organizational support, and information gathering. In the area of physical protection, military engagement has been needed –albeit rarely effectively delivered- to separate out and disarm combatants among the forcibly displaced. Ginifer, Summer 1998; Sadako Ogata cited in Biermann and Vadset,

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<sup>190</sup> Soren Jessen-Petersen, at the time Director of the UNHCR Office in New York, defended UNHCR’s performance in the Bosnian crisis by pointing out that the agency had to operate with only 2% of the personnel and a fraction of the resources available to the military mission there. (November 13, 1996)



1999:188-189). The U.N. Secretary General recently identified arms control as an “essential prerequisite for a successful peace-building process.... requiring “multidimensional approach involving demobilization”, law enforcement and measures to restrict arms flows.(UNSG Report, 1999). The importance of these functions for the management of displaced populations is underlined by recent examples of protection failures in the African Great Lakes. For example, had the international community deployed multinational forces to disarm armed individuals deemed threatening to the government of Rwanda, rather than allowing Rwandan military troops to raid and empty out the camp by force, the December 1994 massacre at the Kibeho refugee camp in Rwanda might have been avoided(Furley and May, 1998)

Moreover, as mentioned earlier, humanitarian relief workers themselves are increasingly at risk and rely on military forces for their protection. UNHCR High Commissioner Sadako Ogata at one time even advocated a rapid deployment force to be added to the range of humanitarian relief organizations responding to CHEs. Although this proposal has not received much favorable discussion, the U.N. has recognized the importance of ensuring the safety of humanitarian workers and civilians in armed conflicts.<sup>191</sup> Since often international military or police forces have been in short supply or delayed, UNHCR and analysts of the crises in Rwanda and Kosovo have recommended the use of private security forces to protect civilian

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<sup>191</sup> Measures taken by the UN include the Convention on the Safety of UN Workers (1994) and UN Security Council Resolution 1265 which condemned the targeting of civilian and reiterated the need to protect humanitarian workers (1999). See IRIN Reports, 1999)

workers and populations, but with serious reservations. (Bryans, Jones, and Stein, 1999) In general, however, only military forces have the necessary size, responsiveness and speed to be able to act quickly in complex emergencies. (Natsios, 1997:108) Others have also pointed out that the military offers more experience and is better organized than most other –non-governmental- partners to the UNHCR (Pirrotte, Husson, and Grunewald, 1999; Williams, 1998) The fact that many of these crises are accompanied or precipitated by failing states also has meant that military forces have had to assume the state’s public security functions. (Bellamy, 1997)

Military humanitarian protection has operational ramifications that extend beyond the immediate protection needs of the war-affected and humanitarian workers. Reviews conducted by both the UN as well as non-governmental experts suggest that an early and convincing use of force might have stopped or at least slowed down mass killings in Rwanda and Bosnia.<sup>192</sup> Some have argued that armed intervention to set up safe havens for refugees and IDPs in some instances may be the only option to save human life. (Ogata,1999b). In humanitarian emergencies, the international community often will not have a choice between diplomacy and use of force to end conflicts rapidly, and may need to resort to military force in order to bring about a diplomatically brokered resolution.(O’Hanlon, 1997)

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<sup>192</sup> See for example, Amnesty International USA, May 1993 and Amnesty International USA, 1995; the United Nations, 15 December 1999; the United Nations High Commissioner for Refugees, February 2000, the International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events, July 7, 2000, and most recently the United Nations, 21 August 2000.

On the other hand, the military's ability to exercise this protection function is burdened by the legacy of past failures, whether in Vietnam or in Somalia. Excessive casualty avoidance, artificially imposed exit strategies and too narrowly construed mandates have hamstrung numerous humanitarian military actions. In Bosnia and Kosovo, for example, armed forces were forced to leave too soon to ensure the safety of the displaced populations left behind. As a consequence, as one critic of the Kosovo operation has pointed out, "neither were people brought to safety, nor safety brought to the people..." (Hayden, 1997). The Safe Areas policy vividly demonstrates the protection-neutrality dilemma confronting both UNPROFOR and UNHCR in CHES. The United Nation's impartiality guideline made it impossible to contemplate a credible defense of the safe areas since this could have required a direct military engagement with the Serbs to be credible. (Väyrynen, 2000a:26). UNHCR- military relations in particular have experienced both successes and failures. In Cambodia and El Salvador for example, civil-military relations were marked by a synergy not only with local needs but also integrated strategies by all international actors involved in refugee resettlement and peace building without compromising the ostensibly humanitarian mission. (Regan, 2000) In Kosovo by contrast, NATO's humanitarian engagement "inserted competing priorities" and "blurred the line between military and humanitarian missions" to the point where UNHCR's mission was largely side-lined by bilateral military and political objectives.(UNHCR, 2000:ix; Minear, et.al. 2000:40, Duffield, 1997) In part this was due to UNHCR's own reluctance to participate in joint contingency planning efforts

with NATO thereby effectively denying it access to important information regarding population displacement and leaving it unprepared to respond effectively to the sudden massive appearance of refugees and IDPs. Not only in the African Great Lakes crises, as discussed in Chapter Five, but also in Bosnia in 1993/1994, and in Kosovo in 1999, humanitarian organizations as well as military forces viewed their cooperation with caution and ambivalence. For the UNHCR, the deteriorating security situation and its growing inability to adequately protect war-affected populations as well as its own relief workers has made the collaboration a “necessary evil” of sorts. For the military, the changing nature of conflict and war has forced it to recognize that it must be prepared to engage in missions other than war and that the traditional war-fighting posture may become a relic of the past. Both sides have had to confront a host of challenges along operational, legal and political, and ethical dimensions.

These multi-dimensional problems have slowed down the delivery of aid to refugees and displaced persons in Kosovo. Frequent breakdowns in communications between humanitarian agencies and military operatives, and ill-defined lines of command only complicate matters further. The military’s hierarchical organization and contingency planning is not readily compatible with civilian, especially non-governmental, humanitarian organizations’ flatter, more diverse and decentralized structure and relief mandate. (Williams, 1998; Natsios, 1997; Collins et. al., 1997)

Both parties, however, have been working to minimize such problems in the future, establishing civil-military operations centers (CMOC) in Bosnia for example

A big challenge for UNHCR has been gaining physical and legal access to forcibly displaced populations. Here too the military – under the auspices of international peacekeeping forces- has contributed significantly to UNHCR’s mission. That the military can provide the vehicles and reconnaissance necessary to track displaced populations in remote locations and difficult terrain such as the jungles of Eastern DRC or the Balkan mountains is common knowledge. Information gathering and sharing presented humanitarian agencies with another critical area requiring a civil-military interface. Much of the criticism of UNHCR’s responses to the refugee crises in DRC/Eastern Zaire and Kosovo respectively has noted the importance of identifying the exact number of refugees to trigger a military intervention. In the DRC case, the international community ultimately failed to respond because exact numbers of forcibly displaced (estimated to be around 700,000) could not be verified sufficiently to determine the potential impact of a military intervention. (e.g., Lippman, November 24, 1996; various news reports from November 1996). The problem of “counting” refugees has haunted UNHCR for a long time. However, the experiences of the last decade of humanitarian actions have bolstered a case for using the military’s intelligence gathering capabilities to monitor populations at risk, and to identify critical infrastructure and villages.(Hayes et.al., 1997; Nadler,1999; USIP, 2000) As mentioned earlier, information sharing also played a central role, good and bad, in the relationship between UNHCR and NATO during the Kosovo emergency. On the positive side, UNHCR was able to rely significantly on KFOR forces deployed in Macedonia to monitor the situation,

allowing for adequate planning and last-minute adjustments of strategies. By contrast in Albania, NATO dominated the contingency planning process and left UNHCR with only two options – to link up with a political-military institution which was in fact a party to the conflict or to distance itself but lack sufficient intelligence and resources to address the subsequent refugee flows. (Minear et. al, 2000)

#### *Non-state Actors as Norms Entrepreneurs*

Non-state actors (NSAs) have had a tremendous influence in setting the intervention agenda for the Great Lakes region. I will address three categories of NSAs here: armed non-state actors (ANSAs), forcibly displaced populations, i.e. refugees and internally displaced people (IDPS), and the media.

Armed non-states actors refer to the myriad of rebel groups and militias active in the Great Lakes complex emergencies. United Nations Office for the Coordination of Humanitarian Affairs (OCHA), October 2000) Indeed, CHEs are complex not only because of their nature as multi-dimensional conflicts or because of the variety of international actors involved in responding to them, but also because of the multitude of armed groups that emerged prior and during the CHE. The Interahamwe militia were at the very core of the Rwandan genocide, while the Mai-Mai militia and rebel groups such as the Allied Democratic Forces(ADF and ALIA) and the Congolese Rassemble pour la Democratie Congolais (RCD) had dominated the conflict in the Kivus in the Eastern Part of the Democratic Republic of Congo. These ANSAs not only terrorize the local populations but in many ways have managed to dictate the international agenda regarding CHEs.

ANSAs posed a particular dilemma for international humanitarian agencies. Because they controlled territory and access to civilian populations in need they represented the de facto local/regional authority. Hence, international organizations were forced to negotiate access to refugees and other at-risk populations with ANSAs if they wished to pursue their humanitarian protection mandate. On the other hand, negotiating with any armed group, automatically accorded a certain degree of legitimacy to that group and potentially further destabilizing sovereign governments or delicate political alliances. Faced with this dilemma, international agencies, led by UNICEF and UNOCHA, began to develop guidelines for dealing with ANSAs. While far from universally accepted or inscribed in international law, these guidelines have contributed significantly to strengthening international protection norms. They do so by not automatically excluding a large swath of civilians simply by virtue of their ‘bad’ luck to reside in rebel-held territory. There also has been an effort to hold ANSAs to standards of international humanitarian war. Thus, UNOCHA for example, published small booklets in multiple indigenous languages summarizing the basic code of humanitarian conduct to distribute among armed groups in the Kivus region of the Eastern Congo. The idea was to inform them of basic tenets of international humanitarian laws of war and to hold ANSAs as accountable for atrocities against civilians as their governmental counterparts.<sup>193</sup>

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<sup>193</sup> This initiative was too young to judge its effectiveness, however, recent atrocities in Ituri province, another region of DRC recently erupted in ethnic violence, lead one to believe that either the program had little impact or simply was not far-reaching enough to reach all combatant factions.

Regarding the status and role of forcibly displaced people, UNHCR Sadako Ogata and others have frequently expressed the concern that military involvement in humanitarian operations could also... “expose refugees to a conflict, or even make them party to it, jeopardizing [sic] their security,” whether in Kosovo or in the Democratic Republic of Congo. (Africa News, 1998 and 1999) These conflicts are intensely political and complicate international responses to humanitarian emergencies, frequently producing unintended consequences. (Jett, 1999:142; Halvorsen Kate, 1999)<sup>194</sup> For example, the new Rwandan government felt seriously threatened by refugee camps established in eastern Zaire and Tanzania -- their size and proximity to the Rwandan border and their political and military character, in the wake of the Rwandan genocide of 1994. (Burns et. al., 1998; UNHCR, 1997& 2000) Together with increased arms flows accompanying the population movements, they destabilized the entire Great Lakes Region, leading to de facto power vacuums in Zaire/Democratic Republic of Congo and a bid by surrounding countries to assume control. Refugees and IDPs themselves may be a source of inter- and intra-state tension as they frequently become tools of foreign policy, warfare and military strategy.( Loescher, 1993)

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<sup>194</sup> Several categories of conflicts have contributed substantially to the increase of forcibly displaced populations. They include inter-state wars between independent states and fears of occupation; ethnic conflicts among linguistic, racial or religious communities either engaged in secessionist or autonomy struggles or persecuted by the state or dominant society (ethnic cleansing); non-ethnic civil conflicts around ideological or class differences, and authoritarian and/or revolutionary regime persecution of opponents (genocide or politicide). Dangerous environments produced by fighting (including the deployment of land mines), and “primitive logistics” where armed forces have little or no regular supply system, also cause mass displacement.( Weiner, Summer 1996;Posen, Summer 1996)



The very process of going into exile can politicize and radicalize. This is exacerbated when the forcibly displaced are armed. Contemporary conflicts have eradicated the hard distinctions between combatants and non-combatants. UNHCR recognized quickly that its inability to separate criminals and armed elements from refugees contributed to the outbreak of the civil war in Zaire in late 1996. (United Nations High Commissioner for Refugees, May 1998) Here was a clear instance where neutrality hindered UNHCR in fulfilling its protection mandate. Frequently too, the forcibly displaced are enlisted in the pursuit of national security.) Similar problems of destabilization through refugees camps are known not just in the Great Lakes but in the Balkans as well. In the case of the Kosovo crisis, for example, UNHCR and the international community –particularly NATO member states- sought to keep refugees in the region at all costs (mostly for political reasons), thereby placing neighboring countries such as Macedonia at even greater risk of destabilization. (European Report, 1999)

Refugees and IDPs may ‘compel’ a norm of military intervention, but not necessarily on behalf of their protection. Intended mostly to contain or prevent refugee flows, military humanitarian interventions are at the very nexus of the conflict between humanitarianism and sovereignty protection norms. In the course of trying to satisfy both norms, the use of force in humanitarian crises frequently causes numerous political, moral and operational dilemmas. For example, in the face of one of the largest flows of returning refugees, the “Mugunga Exodus” of 1996 from refugee camps in Eastern Zaire to Rwanda, the international community created

an intense debate over the need to intervene militarily to protect the people, but at the same time became virtually paralyzed. (Goldman and Wrong, 1996b)

Any humanitarian action has both positive and negative implications for war-affected populations in the African Great Lakes region. One cannot remind the reader too often of the fact that ultimately it is these populations that matter the most. It is they who are most in need of protection, albeit based on clear criteria. In Rwanda alone, over 50% of the population were either internally displaced or refugees as a result of the genocide.( Wright, 1996:53) And yet, progress on extending protection of life and livelihood to these populations has been far too slow. Not only has the UN system struggled with the distinction between IDPs and refugees throughout the crisis period, but ongoing forced displacement has had detrimental consequences for regional stability and long-term development. Refugee camps in eastern Zaire/DRC inadvertently harbored and indeed fostered many of the perpetrators of genocide and often simply reproduced Rwanda's old political structure. The lack of adequate aid to internally displaced peoples not only contributed to the collapse of local infrastructures and economies. As one humanitarian aid worker recalled from her experiences in the Sudan "[i]n an emergency, not only do people lose their food, property and loved ones, but traditional value systems are also destroyed, leaving communities exceptionally vulnerable to violence and exploitation." (Itto, Spring 2000:29)

All too often the protection requirements of refugees are undermined by a one-dimensional rather than multi-dimensional approach. The emphasis tends to be

on pure humanitarian protection, i.e., the delivery of emergency relief in the form of housing, medicine and food security. Included in that should be physical security as well as the monitoring of human rights, but as conditions of refugees and IDPs in the African Great Lakes during the 1990s attests, this was rarely achieved. Women and child refugees in particular have been at greatest risk of gender-based violence in refugee camps throughout the Great Lakes region. Humanitarian protection in the form of neutrality of relief in CHEs moreover depends on an equitable distribution of aid and resources that is difficult to achieve as the post-genocide intervention in Rwanda can attest. UNHCR's protection mandate favored refugee camps outside Rwanda but which were populated by members of the former Hutu government of Rwanda which had perpetrated the genocide. (Dallaire, 1998:83) Others even argue that neutrality is in itself a political position for NGOs operating in CHEs. (Bryans, Jones, and Stein, 1999:12) At the same time, while humanitarian protection needs and sovereignty protection needs (through asylum procedures) frequently are met for forcibly displaced persons, human rights protection has tended to be the step child of protection norm enforcement.

Refugee and IDP rights – while recognized as fundamental by UNHCR- have suffered from a lack of adequate enforcement mechanisms and the lack of a clear authority of responsibility in situations of failed states. Only after the Rwandan genocide, did the international community recognize the importance of incorporating human rights concerns into humanitarian assistance programs. I will return to this issue in the next section, however, it is important to note that both refugee and IDP

populations can be credited with contributing to the advancement of human rights protection norms.

Conditions in refugee and IDP camps, the misuse of forcibly displaced as human shields for armed forces (both rebel and regular forces), and the telling of their stories through a variety of published sources (e.g., DeWaal and Omaar, April 1995 sensitized the international community to the need for greater human rights protection. As a consequence, the UN High Commission for Human Rights began to deploy field officers in Rwanda in greater numbers and more training, for example. The untenable situation of IDPs was brought to the public's attention to an even greater extent than before by the massacre of hundreds of internally displaced in a camp at Kibeho, Rwanda, April 1995. Not only did this massacre at the hands of Rwandan soldiers lead to major human rights investigations but also added momentum to the IDP protection movement which had been lobbying the United Nations to adopt guidelines specifically to safeguard and respond to the needs of IDPs – a population that previously had been hidden from international concern by the veil of sovereignty.

The role of non-state actors is best characterized as one of clear trade-offs between human rights principles and humanitarian action on the ground. These have been most noticeable in the dilemma facing humanitarian NGOs and UN agencies as they are forced to negotiate for humanitarian access with armed rebel groups and militias or seeking to stem the forced recruitment of child soldiers. They must grapple with the problem of legitimizing forces not yet recognized by international

standards. As a consequence, UNICEF has taken a lead in inter-agency processes at the UN to develop guidelines for the engagement of non-state armed actors.<sup>195</sup> In some cases it also has forced humanitarian organizations to remain silent on human rights abuses in order to gain access to the most vulnerable populations. Thus the murder of ICRC workers in Bunia, DRC in 2001 at the hands of rebel forces has been interpreted as retribution for the recently published report of the UN Panel on the exploitation of natural and mineral resources in Eastern Congo which was very critical of local armed rebel groups. Some ICRC staff members believe that their colleagues death was a pay-back for acting as informants on human rights abuses witnessed once these forces had agree to provide humanitarian access.<sup>196</sup>

The third category of non-state actors of relevance to the advancement of humanitarian protection norms is the media. Much has been made of the so-called CNN factor, whereby the broadcasting of images of tragedy and destruction will compel international action often in the absence of any serious underlying policy to guide an intervention. There is no doubt that the media fulfills a key normative function without which many of the other norms entrepreneurs would not be able to conduct their own efforts. Human rights organizations, for instance, depend on media coverage to expose gross human rights violations. Donors are more likely to provide necessary resources to humanitarian assistance in response to targeted media

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<sup>195</sup> Author interviews with representatives of UNICEF in Nairobi, Kinshasa, Geneva and New York; and internal documents. Cf. UNOCHA.

<sup>196</sup> Off-the-record interview.

campaigns and policymakers tend to wait for public opinion –activated through the media- to exert political pressure before initiating significant action. The media thus constitutes a crucial link in the chain between CHEs and international responses. However as purveyors of information on war, death and other human tragedies, the media also has had a distorting, sometimes detrimental effect on international responses. Just as donors suffer from ‘donor fatigue’ after too many crises occurring in rapid succession, so too does the media succumb to ‘compassion fatigue.’ (Moeller, 1999)

Unfortunately, the Great Lakes CHE has been particularly vulnerable to bouts of compassion fatigue. With few exceptions, journalists began to pay attention only well after the genocide in Rwanda was launched and bodies started washing down the rivers – making for powerful visual imagery, but of little use in stopping the genocide or intervening in a constructive manner in the crises.<sup>197</sup> Indeed, in the case of the Great Lakes region, it appears that the CNN factor had the exact opposite effect. Rather than attracting support and action, the images of hacked bodies or reports of yet another massacre in a remote part of the Democratic Republic of Congo, seemed to only discourage international action. Journalists left as quickly as they had appeared, steeping the region once again into a media ‘black hole’. Thus

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<sup>197</sup> Very few journalists had more than a passing familiarity with the region at all prior to genocide. Michaela Wrong, Linda Melvern (both with the Financial Times at one time), and the Belgian journalist Collette Braekmann are among the more expert of the media. For particularly insightful accounts of the genocide and regional repercussions see Braekman, Winter 2000; Wrong, 2000; Melvern, 2000 Others had been stringers in Africa and bounced from crisis to crisis, e.g. Jennings, 2000.; Shawcross, 2000, but still managed to provide a relatively accurate portrait of events – albeit too late.

when the International Rescue Committee recently updated its estimates of war-related casualties in the DRC's Eastern region (the Kivus, bordering on Rwanda) from 2.5 million to more than 3.3 million dead since the outbreak of the second war of 1998 alone, this information barely registered in the pages of major national papers or international media outlets. Instead, the media had already long shifted its focus to the operations in Afghanistan, and now Iraq. I will return to this point about the role of framing and images below, but the record clearly shows that the media must tread a fine line between ignoring a crisis and focusing solely on the tragedies, since either extreme fosters inaction.

#### *Non-governmental Organizations and Transnational Advocacy Networks*

In many ways non-governmental organizations have been on the 'frontlines' of CHEs, serving as 'conscience triggers' in the words of Ana Husarska (Husarska, 2000) NGO norms entrepreneurs fall into three categories – each with its own agenda priorities and slight (sometimes more significant) differences in protection norms: human rights organizations, humanitarian relief organizations, and research institutions or think tanks.

First are the human rights organizations. The human rights movement has grown exponentially since the 1970s.<sup>198</sup> Initially focused on developing a legal framework for human rights norms, they since have taken on a greater role in

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<sup>198</sup> For a good review of the history of the human rights movement, see for example, Risse, Ropp, and Sikkink, 1999; Cumper, 1999; Roth, 2000; and Thomas, 2001.

advocacy on behalf of human rights and humanitarian protection in CHEs. For instance, according to Human Rights Watch (HRW) executive director, Kenneth Roth, human rights organizations "place their highest priority on trying to protect local HR activists who are on the front line... The human rights movement has helped to create a new kind of NGO: not simply ...amplifies the voices of its members ....but ....to collect and deploy information strategically.... " (Kenneth Roth, Roth, 2000:235) Nevertheless, despite the high regard and considerable access that human rights organizations such as HRW and Amnesty International enjoy, they have had limited success in galvanizing the international community – especially member states- into humanitarian action. Contrary to Amnesty International, HRW is a more elite rather than membership-reliant organization. While this means that staff members, such as Alison des Forges, have significantly higher chances of being heard by policy makers, it also suffers from a type of ‘democratic deficit.’ As a result, HRW did not have a significant constituent base that could be mobilized to pressure members of Congress or the U.S. Administration to act, for example. However, HRW, did provide invaluable information to the public and policymakers that has contributed significantly to the advancement of human rights norms in international relations. The impressive volume, *Leave None to Tell The Story*, co-authored by des Forges with some of the staff of HRW, served as the factual basis for many of the subsequent evaluations. By gaining the confidence of others that she and HRW would provide neutral and factual information of the highest quality, meant that human rights norms gained considerably in legitimacy. Constrained by a



lack of resources –financial and human- human rights organizations have limited capacity to influence the international normative agenda but are more likely to affect domestic policy change, as Risse, Keck, and Sikkink and others have shown. (e.g. Risse, 2000; Keck and Sikkink, 1998)

The second category of NGOs includes a myriad of grassroots, church based, quasi-governmental, philanthropic and even commercial contracting organizations that provide emergency relief to populations in complex humanitarian emergencies. These groups typically are among the first on the ground. At the forefront of the humanitarian crises in the Great Lakes were organizations such as Africare, the International Rescue Committee, Medecins Sans Frontieres, and Save the Children. They are joined by the International Committee of the Red Cross, the only international NGO with a convention mandate, to uphold the Geneva conventions. They have been responsible for saving thousands of lives and tend to be the primary providers of emergency assistance to refugees and IDPs. However, the experience of the Great Lakes refugee camps, where international aid proved to be feeding individuals accused of crimes of humanity, was a watershed event in the way humanitarian organizations pursue humanitarian action and protection. MSF wrote a poignant letter to the United Nations, declaring that it could no longer justify supporting refugee camps dominated by armed combatants, ultimately withdrawing from the camps. Other organizations followed suit.<sup>199</sup> These organizations have been

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<sup>199</sup> The exact reason for the pull-out of humanitarian organizations' pull-out from Goma and other refugee camps in Eastern DRC in 1995 has been subject of some controversy. Thus some have noted that groups like IRC left less out of an ethical concern

subject of much scrutiny in recent years (West, 2001; Edwards, 2000; Anderson, 2000; Waters, 2001).

Following accounts of humanitarian organizations actually fuelling or at the least sustaining conflicts, an effort was made to develop a rights-based approach. Humanitarian action suffered from a lack of consistency, and consequently, impact of in applications of a rights-based approach. Similarly, international organizations had to contend with local interpretations of human rights. The international presence in Zaire/DRC in 1996 and 1998 appeared to have only a marginal impact on the human rights situation on the ground. Instead, a steady rise in abuses of individuals' civil and political rights compounded the risks faced by civilian groups which were subject to continuing physical assaults by ANSAS. For example, in Goma local women remain under self-imposed curfews after dark out of fear of rape and assaults by refugees and armed forces in the area.<sup>200</sup> Human rights activists in Kinshasa for example have claimed that human rights conditions deteriorated even further after the departure of Mobutu and the arrival of Laurent Kabila and his allies.

Most international NGOS, foremost among them Oxfam Great Britain, CARE International, and Save the Children, only recently began to incorporate "do no harm" principles into their programming guidelines and training.<sup>201</sup> Together,

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than for financial reasons. (interviews with the author with NGO representatives and observers)

<sup>200</sup> Interview in Goma, October 2001

<sup>201</sup> Interviews and documents from Care International in Nairobi, Oxfam GB in Goma and Save the Children UK in London.

human rights and humanitarian organizations have since launched the Sphere project, an effort to develop a humanitarian code of conduct, linking human rights precepts with humanitarian principles. Funded primarily by the European Union (ECHO), a broad based international consortium launched a series of global consultations on how to integrate human rights and humanitarian needs. (The Sphere Project, 2000). Following the increasing co-presence of military and civilian actors in CHEs, humanitarian (and human rights NGOs) have begun to examine more closely the influence of their work on military humanitarian interventions and vice-versa, and to establish a more coherent normative framework for such an array of disparate actors. (International Council on Human Rights Policy, 2002 Non-state actors have been instrumental in advocating changes in the adherence to and legitimacy of human rights and humanitarian protection norms. However, the very diversity of the constituency, has meant that it is very difficult to establish a norm around clearly definable goals.

The final category of non-state actors of relevance are the think tanks and university-based research institutions that have provided analysis and evaluations to practitioners, allowed policy practitioners to step back from their day-to-day duties. Examples include the Humanitarianism and War Project, under the guidance of Larry Minear, formerly at Brown University, the Ralph Bunche Center and Thomas Weiss at the Graduate Center of the City of New York, the International Crisis Committee, and a growing number of 'human security' projects and centers around North America and in Europe. Ana Hursarska has noted that "ICG ... is very much a

tool of HR protection in the most effective way because it focuses on prevention." (Husarska, 2000). These institutions inform policy makers and help to inform longer term strategies for enhancing human security, preventing CHEs or least attempting to contain them.

*International Organizations – The United Nations*

Conflicting interests resonate through virtually every recent debate on the subject of humanitarian action among members of the United Nations Security Council or General Assembly. Developing countries in particular appear concerned with the extrapolating a right to intervention from the humanitarian imperative. (Doyle, 1991; cf. UNGA Debates, 1999) Given the relative recent state of banking changes, it should not be a surprise that there would be a disconnect between the emerging conceptual model for humanitarianism grounded in an interdependent world order and the institutional mechanisms needed to carry it out. Thus, one can attribute the delays imposed by the Security Council in requesting additional confirmation of field reports during and after the Rwandan genocide for example, and the seemingly haphazard decisions regarding when and how to adjust the mandates of UN missions in the region, to the fact that the Security Council did not have a functioning set of response mechanisms in place to meet the new world order's requirements. (Klinghoffer, 1998:131)<sup>202</sup>

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<sup>202</sup> Similarly, B.G. Ramcharan laments the Security Council's lack of standards for dealing with ethnic conflicts and minority problems in particular (Ramcharan, 1993:27).

Although generally laudable as a mobilizing force, the Security Council's new humanitarian role has been a mixed blessing on several fronts. Some have argued that elevating humanitarian crises to the level of Chapter VII "threats to peace and security" has unnecessarily politicized humanitarian assistance.

The United Nations is not a panacea to meet the international community's protection needs in humanitarian crises, but it does play a key, if not the central, role as 'official' representative of the 'international community'. It must deal with structural challenges, e.g. UN Security Council decision-making and implementation, or the relationship between the UN Security Council, the Secretariat, the UN General Assembly as well as the many agencies, commissions, committees and officers within the organization that carry some responsibility for humanitarian responses. This is not just a matter of information flows between relevant actors, but also a question of accountability and transparency of decision-making. Moreover, in spite of the UN's potential as unifying umbrella for all of the relevant humanitarian regimes, the reality is that the three areas of law and practice are not sufficiently well linked to provide what David Forsythe has called a 'meta-regime' that merges human rights, humanitarian action, and refugee affairs on the ground.( Forsythe, 2000:233) Closely related is the problem of vague or insufficient mandates that blur the lines between peacekeeping and peace-enforcement on the one hand, and between military and civilian objectives on the other. There is a need for consistent (and consistently applied) criteria for humanitarian intervention in order to avoid "the gap between forcible rhetoric and non-forcible deployment,

accentuated by unplanned accretions of mandates and ‘mission creep’.”( Ramsbotham and Woodhouse, 1996:219) To this, one might add the concern expressed by John Ruggie over the lack of a systematic doctrine for peace support operations.( Ruggie, 1997:1ff ) Operational and resource constraints, and excessive functional compartmentalization leading to duplication of efforts compound the difficulties facing the UN even further.

Lack of clarity in the division of labor and mission objectives generally has a detrimental effect on the outcome of humanitarian interventions. It also contributes to problems in meeting the UN’s larger objectives in the areas of conflict management and long-term development. Indeed, second only to the lack of political will, is the concern that military action and emergency relief are mere ‘band-aids’ or palliatives for longer-term development needs and sustainable peace-building.(e.g. Minear, 1995 ) Similarly the UN must grapple with the problems that ‘subsidiarity’ - -when it delegates responsibilities to regional organizations such as the Organization of African Unity OAU) or to representatives of civil society, international and national non-governmental organizations (NGOs), churches and even the private sector (consulting firms and private contractors for example)--brings with it.

A second explanation for the pattern of international responses described above focuses agenda setting and policy processes that contribute to rising expectations under conditions of limited capacities and declining legitimacy for the United Nations as a humanitarian actor. Early operational successes in peace-keeping and peace-support (or enforcement) operations together with the extant body of

customary and formal humanitarian and human rights laws, fueled aspirations for a revitalized United Nations. But lack of funding, personnel and coordination has severely handicapped the UN in meeting expectations. Above all, the lack of political will by member states appears to be both the biggest deterrent and most intractable impediment to the UN's ability to protect civilians in armed conflicts.

This brings us to the conclusion that UN humanitarian action in the African Great Lakes region in particular, but elsewhere as well, has been and is likely to continue to be hamstrung by a gap between legal possibilities and political constraints as well as a simultaneous blurring of lines between human rights, humanitarian law and political-military strategic concerns. As Michel Veuthey points out that humanitarian protection can be a *strategic* value, particularly in situations of armed conflict.( Veuthey, 1999:109) Nowhere is this more self-evident than in the African Great Lakes region international responses have tended to straddle precariously between genuine humanitarian principles and traditional geo-strategic power calculations, i.e. Suhrke and Adelman's concept of "humanitarian realism". (Adelman and Suhrke, 1999)

These weaknesses of the UN Security Council and other UN agencies are generally known and readily exploited by combatants. Again one must point to the situation in the eastern DRC since 1996 as a case in point, where the emergency has been compounded by systematic violations of human rights by all sides. {Bailey 1994 #431). They have been the impetus for calls for UN reform at all levels. Overly bureaucratized and entrenched hierarchical and interdepartmental procedures within

the UN system and among some of the larger NGOs appear firmly entrenched even in the most dire emergencies leading to significant implementation time lags.<sup>203</sup>

Presumed to protect innocent civilians, UN troops have frequently done little more than protect themselves (e.g. in Rwanda) or not been deployed at all (in eastern Zaire and until recently in the DRC for example). On the other hand, civilian humanitarian actors, particularly some of the NGOs active in the region, have expressed grave concern that the lack of coordination has allowed the military to lead humanitarian operations, thereby linking them too closely to political interests and military strategic priorities or the member states.

#### *The Role of States In Humanitarian Protection*

Here one must return briefly to the problem of the pre-eminence of nation-states within the UN system. Although it is clear that humanitarian norms require substantial support from within the political establishment and are only as effective as the degree to which they converge with other national interests, state dominance also compromises humanitarian protection. State intervention in human rights and humanitarian efforts is wrought with moral and ethical ambiguities and is likely to distort the beneficiary impact for the populations most in need.<sup>204</sup>

The primary responsibility for protection of citizens rests with governments, not with the international community as a whole. However, humanitarian

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<sup>203</sup> Special Envoy Khan for example reminds us that by the time UNAMIR II was actually deployed on the ground, its original mandate was no longer relevant to the needs on the ground. Similarly Juergen Dedring and Shashi Tharoor have lamented the relative inflexibility of the UN bureaucracy. Khan, 2000; Tharoor, 1996; Dedring, 1996.

<sup>204</sup> On this issue, see e.g. O'Rawe, 1999; Cumper, 1999 among others.



intervention is justified by the very failure of states to carry out their obligations to protect their citizens –or the populations hosted by a state. Ironically, although considered missions other than war, humanitarian military action is considered a legitimate extension of the United Nations’ protection mandate, as long as it abides by the traditional principles of war of limitation, distinction, and proportionality. ({United Nations High Commissioner for Refugees 1995 #659}, Teson, 1997; Gaus, April 24, 1999)

States are at the center of the problem of competing norms. To a large extent they continue to control the agenda, witness the US role in UN Security Council meetings to delay intervention in Rwanda and the DRC, or the French push to establish Operation Turquoise in part to respond to domestic pressure but also in response to its perceived colonial ‘right’ of intervention in the region. (Prunier, 1999); Mas, 1999; McGreal and Tran, July 12, 1994) I would argue that both American and French responses to the CHEs in the Great Lakes are examples of the prevailing dominance of sovereignty protection norms. On the other hand, countries such as Czech Republic (one of the loudest advocates on the UN Security Council at the time for humanitarian intervention in the Great Lakes, Canada and Norway, have been at the forefront of promoting a ‘human security’ paradigm. Canada not only funded the seminal study of the International Commission on Intervention and State Sovereignty designed to reframe the humanitarian intervention debate (International Commission on Intervention and State Sovereignty (ICISS), December 2001 ) but has spearheaded numerous workshops, publications and outreach efforts to ensure

that the normative position in favor of humanitarian protection is sustained and ideally deepened. Canada has sent or been willing to send in peacekeepers, explicitly to protect civilians threatened by war and death.

### *The Regional Context*

In the Great Lakes region the UN's inherent emphasis on nation-states is at best difficult to translate into effective humanitarian action. For one, in all three humanitarian crises during the 1994-1999, the lack of legitimate functional national governments was as much a root cause for the crises as ethnic rivalries and natural resource competition. The humanitarian community has been hard-pressed to identify appropriate interlocutors in the region with which to negotiate humanitarian access for example. As one representative declared, "[i]t's a new trend for us to face conflicts where you have no one to negotiate with...we had no choice. We had to come to terms with anybody with a gun."<sup>205</sup> Moreover, even when there were national governments in place, forced displacement together with traditional predatory state behavior in Africa, humanitarian assistance did not necessarily reach the populations at greatest risk or with the greatest needs. The UN thus has had to deal not only with the emergency itself but also with problems of corruption and increasing criminalization of economic activity in conflict zones. As a further consequence, UN humanitarian action has yielded unintended results as, for

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<sup>205</sup> Rolin Wavre, Africa spokesman for ICRC as quoted in Gail R. Chaddock and Judith Matloff, *West's Response to Zaire Crisis Draws Suspicion in Africa*, 1996 .

example, attempted mediation efforts among rebel factions in the eastern Congo were used for local advantage.

The lack of viable interlocutors or local partners extends to the relationship with regional organizations. Since the UN had invested relatively little effort in regional confidence-building measures through regional organizations while at the same time struggling to command and control its own military operations in Southwest Rwanda (witness the simultaneous deployment of UNAMIR and Operation Turquoise; as well as the withdrawal of Belgian troops at a time when they were most needed) for example, meant a loss of legitimacy and trust on the part of African observers. The global-local nexus in the regional context posed significant problems for capacity-building in complex humanitarian emergencies. A consistent complaint among local NGOs in the Great Lakes has been their marginalization during CHE's. Despite the fact that many of them had a long-standing presence and knowledge of the situation, they typically lacked the means made available to international NGOs to follow through with humanitarian actions of their own. Former Director of CARITAS in Belgium, Luc Heymanns, for example described the "war of the flags" in Goma following the 1994 Genocide when each international NGO rushed to the camps to stake out its "territory" and demonstrate their 'effectiveness' to the millions watching CNN and other media outlets transmitting dramatic footage from the camps.<sup>206</sup> In the process their local partners and counterparts were forced to the sidelines.

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<sup>206</sup> Interview, November 2001

The problematic global-local nexus of humanitarian interventions appears to have fostered rather than quelled the politicization of humanitarian assistance as government authorities vie with local NGOs for scarce resources. For example, members of the RCD governing authorities in Goma have pointed out repeatedly that the international community is quick to support local NGOs but slower to provide the government with the same support while expecting it to monitor and sustain human rights in the region. Progress on extending protection of life and livelihood to regional populations in the Great Lakes region has been far too slow. Not only has the UN system struggled with the distinction between IDPs and refugees throughout the crisis period, but ongoing forced displacement has had detrimental consequences for regional stability and long-term development. Refugee camps in eastern Zaire/DRC inadvertently harbored and indeed fostered many of the perpetrators of genocide and often simply reproduced Rwanda's old political structure. The lack of adequate aid to internally displaced peoples not only contributed to the collapse of local infrastructures and economies. As one humanitarian aid worker recalled from her experiences in the Sudan "[i]n an emergency, not only do people lose their food, property and loved ones, but traditional value systems are also destroyed, leaving communities exceptionally vulnerable to violence and exploitation." (Cf. Bailey, 1994:29) And so in the end we return to the question of the UN as humanitarian actor and defender of humanitarian protection norms. As we have seen in the African Great Lakes region, the answer must be a qualified "maybe". Much is contingent on political will, organizational reform and autonomy, regional and local capacity

building. The foregoing analysis has shown some of the paths humanitarian norms must travel before they become policy. They are difficult and often convoluted, but the evidence suggest that certain irreversible trends in both the legal and political arena have been set in motion which are likely to move humanitarian norms closer to the top of the international agenda.

As demonstrated by the Great Lakes Crises, regional and sub-regional organizations in Africa alone can only show mixed results at best. Formalized regional structures are valuable but highly constrained in their potential effectiveness. In the peacekeeping or peacemaking arena, for instance, regional and global organizations have been most effective when prepared to respond to local crises with overwhelming force (e.g. in Namibia or Mozambique) but relatively ineffectual when limited to small monitoring forces as in Angola. The prospects for a consistent early deployment of significant forces or even non-military resources seem dim at best in the current climate of material constraints. Although, one commentator put it, the 1996 Great Lakes crisis served well as “the poster child for the African intervention force” for which the United States in particular had been lobbying and had been willing to train for future crises.( Lippman, November 24, 1996:A36)<sup>207</sup> Such a force, also referred to as a continental defense force (Ostheimer, 1986) was envisioned to safeguard the rights of minorities in conflicts,

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<sup>207</sup> The training of African military is a particularly sensitive and politically charged issue not only for Africans but also in U.S. domestic politics. This became clear only recently in news coverage of the Department of Defense’s IMET program which ostensibly provided human rights training as well as technical military expertise in Rwanda to soldiers who ultimately used their newly enhanced military skills to attack refugees in Zaire and to overthrow the government.

for instance, but it seems unlikely to be able to fulfill such a role in complex crises such as in the Great Lakes. Furthermore, it is clear that not all security problems lend themselves to a regional analysis. For instance, regimes controlling weapons of mass destruction are likely to remain in the global domain, and the problem of land mines also has found greater resonance internationally than regionally.

Suffering from limited political mandates, resource shortages, conflicts of interests and allegiances among member states, as well as a continuing reluctance among African leaders to cede greater sovereign powers to regional or sub-regional entities, the regional conflict management capability remains adequate for many of today's security challenges. It also has spawned a wide range of regional security arrangements, from a loose, continent-wide collective security system embodied in the OAU to generally more effective sub-regional collective security arrangements such as the ECOWAS peace enforcement effort in Liberia. The most recent crisis in the Congo furthermore has brought to life a new regional power concert – the so-called “new African princes”. There is some concern with competition between regional and sub-regional security organizations. Stedman for instance points out that regional and sub-regional organizations can only be as strong as their members and the prospects for regional conflict management therefore relatively poor, given weak and dictatorial states. Others have argued that strong sub-regional groupings not only contribute to the further weakening of the OAU but are in fact detrimental to region- or continent-wide security. (Brown, 1996:263; cf. Ostheimer, 1984:168) The more recent experiences do not, however, corroborate such a concern. With a likely

reduction in U.S. and other Western powers' presence in the region, a democratic, post-apartheid South Africa will have to become more highly engaged in the region; a prospect which is greeted with optimism by those who see in South Africa a positive force in African economic and civil society development but also with fear of regional hegemony, considering that it commands approximately 45 percent of sub-Saharan Africa's GNP.( Venter, 1996:139) South Africa's hegemonic role is already felt in the Southern African Development Community (SADC- the successor to SADDCC), which now resembles more a balance of power than collective security organization, to use Morgan and Lake's terminology once more. And yet, this plethora of arrangements also means that regional response are potentially more flexible and more finely tuned to local exigencies than the international community can be.

A more selective, region-specific application of humanitarian and human rights protection is likely to be more successful in the long-run than the imposition of exclusively internationally mandated standards. A regional orders approach holds particular promise for the Third World, especially Africa. Not only does it accurately describe the multilevel sources of conflict and responses in the region, but it also enables indigenous African peace-building efforts. Equally important is the fact that the regional orders concept links the African regional security complex to the larger international community.

At the same time, by incorporating non-African parties in the larger regional order, a regional normative framework has kept key member states engaged, even if

only out of fear for the detrimental impact of regional instability on their economic and other interests.<sup>208</sup> There is a certain irony here, in that “now that the internationalists have declared the game over, the regionalists are desperately searching for a rationale to keep external interest and resources focused on Africa.” (T. Callaghy as cited by Hopwood, 1998:248) Senator Simon in conducting congressional hearings on the Central African crisis of 1994: “We need to recognize that Africa DOES matter to our national security. The greatest threat to our security now is instability.”( Subcommittee on African Affairs of the Committee on Foreign Relations , 1994:3) Evidence suggests that the rise of humanitarian and interventionist norms also is significant motivator for non-African participation in the region, including a growing concern for ethnic conflict management as well as humanitarian concerns for the displaced populations of Africa. A regional approach can have a powerful role in the creation of shared norms and expectations and perhaps eventually strong institutions of civil-society. This is particularly important for the guarantee of human rights in the region. As shown above, formal institutions are still relatively weak. And yet, some of the key instruments for an effective human rights regime on the continent -informal organizational structures and the contributions made by women- are more readily accounted for at the regional level than at global levels. (cf. Cheru, 1996:163ff) The growth of local and regional non-governmental organizations on the continent is but one sign of this trend. Regional

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<sup>208</sup> The interest-based line of argument is presented by Weiss and Blight , among others. (Weiss and Blight, 1992:170).



organizations thus manifest a growing norm against great power intervention, just as the existence of “the idea of collective security ultimately signifies international society’s rejection of aggression as morally acceptable in international affairs.” (Fung, 1995:80) And yet, even this fact reinforces the idea that underlying norms, particularly the strict adherence in principle, if not practice, to territorial integrity and non-intervention, have been changed by the very existence of a regional security order in Africa.

#### *Individual Norms Entrepreneurs*

Finally, one must note the importance of individuals in this process. The evidence shows that the UN Secretary General is central to the success or failure of humanitarian operations. The position not only serves as a counterbalance to the institutional weaknesses of the UN Security Council in the area of intrastate - especially ethnic- conflict but also as an advocate for general principles of humanitarian principles who theoretically at least stands above the fray of interagency or member states’ national interests and biases. Several analysts have suggested that the delay in UNSG Boutros-Ghali’s visit to Rwanda until 1995 contributed significantly to the perceived drop in legitimacy of UNAMIR operations by regional actors as well as to the bureaucratic delays in proclaiming the Rwandan crisis a genocide or the urgency of the refugee crisis in the Kivus in 1996. (Klinghoffer, 1998:139) Much has also been made of the communication gap between UNAMIR Commander Romeo Dallaire and his taskmasters in New York. (Kuperman, 2001:89ff) Dallaire indeed became a key figure in the conflict between

the prevailing non-intervention norm and the ascending humanitarian norm.

Although largely powerless during the crisis, he steadfastly lobbied for a more pro-active, interventionist stance. Many experts have suggested that while his deployment plan might not have guaranteed a successful prevention or end to the atrocities of Rwanda, giving him even partial support in a timely fashion (in response to his cable of 11. January, 1994) most certainly could have prevented the crisis from reaching the magnitude of genocide.

Among NGOs, one of the most ardent advocates promoting a rights-based approach to the crisis was Alison des Forges. A senior researcher for Human Rights Watch (HRW), Alison des Forges, is one of the few experts on Rwanda – fluent in Kinyarwandan and familiar with the country since independence. Despite her efforts –backed by her organization- to provide early warning data to the U.S.

Administration and UN officials, she remained largely unheard. One explanation for this absence of communication with her, can at least partially be attributed to the nature of human rights organizations. A significant factor in the international response was the presidency of William J. Clinton, albeit not necessarily in a way that was supportive of humanitarian protection. Thus at the time that the Rwandan crisis erupted on the world stage, the Congress had just demanded from President Clinton that he withdraw all troops from Somalia. The last soldiers returned home on April 7<sup>th</sup> – the day after the Habyarimana plane crashed over Rwanda and launched the genocide. As one government official put it, under these circumstances and given the domestic political environment it would have been impossible for Clinton to act

in any way other than to protect his own national/strategic interests<sup>209</sup>. Moreover, the Rwandan crisis virtually coincided with the publication of Presidential Decision Directive 25 (PDD-25) for the reform and establishment of criteria for peacekeeping operations. Due this unfortunate timing, Rwanda became the first test case for the Clinton Administration's peacekeeping reforms, thereby causing endless delays and reluctance on the part of many to intervene in a situation that did not conform with PDD 25's recommendation.

### ***Venues and Images***

According to Baumgartner and Jones, one way to measure the relative standing of an item on the political agenda is to measure 'venue shifts', i.e. changes in relative attention level, tone, and institutional location or venue in which authority to make decisions regarding the particular issue at hand rests. These shifts are a function of how monopolistic or shared they are, and what kind of access norms entrepreneurs are likely to have. The intensity of media coverage, and the positive (or negative) tone applied to the issue in the public discourse. (Baumgartner and Jones, 1993) This characterization very much holds true and helps to explain the course of norms competition in the Great Lakes and elsewhere.

For example, in the course of trying to implement humanitarian protection norms, the international community has had to make trade-offs between its development assistance and emergency response programs. It also has shifted the primary location of activity across a range of international agencies, NGOs, and the

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<sup>209</sup> Background interview with U.S. government official

armed forces. Although not inherently incompatible, budgeting and operational structures have created some perverse incentives that promote rather than prevent conflicts, and that inhibit a smooth transition from emergency relief to long-term rehabilitation and reconstruction of war-torn societies. Emergency humanitarian assistance brings economic resources to regions, which historically have seen little external aid and support. All of a sudden they are inundated with luxury vehicles (even by Western standards), an infusion of –usually US Dollars- hard currency, and vibrant economic activity generated by the large presence of foreigners in need of lodging, food and transport. Both Rwanda and DRC have benefited in this regard and suffered a significant outflow of resources after their respective emergencies had come to an end.

By the same token, although most would not admit it publicly there is an incentive for international humanitarian organizations to operate in emergency settings, since the increased media attention is ‘good for business’ and leads to an increased willingness to short-term, high-visibility projects in conflict zones.<sup>210</sup> The problem becomes one of transition from emergency to non-emergency assistance that is often fraught with political tensions. UNDP more so than most humanitarian agencies has struggled with the integration of its emergency operations with its original development mandate. Since UNDP is in part an advocate for the host government, complex humanitarian emergencies produce a somewhat schizophrenic

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<sup>210</sup> Christian Jennings goes so far as to claim that “refugees were the final card in UNHCR’s hand. Their continued presence in Mugunga meant continuation of UNHCR’s presence in eastern Zaire.” (Jennings, 2000: 279).

situation for UNDP's local representatives. Generally in charge of coordinating humanitarian assistance on a country basis, the Resident Representative may wear up to three different "hats" causing confusion both among the host country's leadership and population, and the international community when the host country is the source of the humanitarian emergency.

Efforts to close the gap, to increase coordination are met with suspicion by developing countries and even UN personnel. For example, discussions about the establishment of a Bureau for Conflict Prevention and Recovery as a successor to the Emergency Response Division of UNDP raised concerns over the costliness and diversion of resources that might otherwise have served long-term development needs in the global South. Many humanitarian workers are skeptical of coordinating mechanisms such as the IASC (Inter-Agency Standing Committee), and view proposals for improved coordination merely as a cover for excessive control and a drain on time and resources.

In general, the tendency within the international community – at least partially a consequence of the nature of that very community- has been to pursue a strategy of humanitarian protection through what Morton Deutsch has referred to as "mixed-motive", i.e. a combination of cooperative, individualistic and cooperative orientations.( Deutsch, 1998:199ff ) Moreover, given that limited resources are at stake, the tendency will be to focus on competitive interests rather than more cooperative, distributional approaches to protection norms. For the most part, humanitarian and human rights protection norms have struggled to gain access to the

international agenda, both because of the contentious relationship between the two 'camps' and because sovereignty norms tend to still be guarded by a more monopolistic group of member states. There are significant inconsistencies within the international community with regard to humanitarian intervention decisions during that the first half of the 1990s and the apparent practice -if not intent- of a double standard, suggesting a North-South divide within the United Nations on the question of military involvement. (Sahnoun, 1996; Hyndman, 2000) The global South appears at least as ambivalent about military interventions as do the great powers fielding the resources. A major concern appears to be whether or not the new rules for UN humanitarian engagement would provide a blanket justification for intervention in Third World countries by the West. During debates in the UN General Assembly, an Indian delegate, for example, took issue with the assumption that an UN offer of humanitarian assistance conferred any right of humanitarian intervention. (UNGA, 1999; Stockton, 1996) Stanley Hoffman put the problem more succinctly, suggesting that "as of today, a humanitarian crisis is a threat to peace and security only when the Security Council says so." (1993:i) Concerns over the legitimacy of international military humanitarian interventions has made many a receiving country, e.g. Rwanda, at best wary and at worst outright resistant to international forces even when deployed to support UNHCR's mission of protecting war-affected civilians

The problems of venue access and shifts is closely linked to the way in which issues are framed. Baumgartner and Jones refer to this phenomenon as 'image change', which refers to the way in which policies are understood and discussed, the

degree of importance and salience accorded to the issue, and the relative degree of acceptance or rejection of an issue. Here too, one can make a conceptual leap to international norms. As noted above, the media has been crucial with regard to 'image,' largely detrimental. In the case of Rwanda, for example, the endless pictures –frequently without accompanying text- confirmed a bias against interventions in Africa on the grounds of 'ancient tribal hatreds' among other reasons. Assuming that they were powerless anyway, American decision makers, for example, were hesitant to delay given that PDD 25 had just been signed, and that the likelihood of success seemed minimal.

There also have been significant 'image' problems on the ground for CHEs. Pierre Laurent has referred to what he calls the "humanitarian impasse." According to Laurent, experience shows that the image of the 'humanitarian community' is one and the same among victims and the warring parties, and that there is no room for variation and subtleties. This being the case, how to reach the victims w/o jeopardizing the fundamental principles of humanitarian assistance once these orgs. have become vulnerable, once their integrity can no longer protect them and once military operations tend to blur their identity?" (in Pirotte, Husson, and Grunewald, 1999:29) Similarly, Oxfam's Edmund Cairn has noted that "[A]id policy has replaced foreign policy for countries where major powers perceive little economic interest -- or no immediate threat of refugees from wars in their 'backyards'." ....in distant 'unimportant' wars...when images from them appear on television screens,

branded emergency aid successfully demonstrates that Western government are 'taking action'." (Cairns, 1997:43; 47)

### ***Problem Definition and Threat Perceptions***

Most humanitarian actions are referred to in terms of Chapter VII requirements, an inherent bias toward coercion and peacekeeping and away from traditional relief seems to have emerged. Ironically, for Rwanda it also has meant a disproportionate emphasis on relief for refugees -as the most visible external 'threat to peace and security' in the region- over assistance to internally displaced peoples or ending the genocide itself. (Klinghoffer, 1998) The history of responses to complex humanitarian emergencies suggests a pattern of constitutive norms of security maintenance and with regard to responses to non-military security-threats. The latter issue, in particular, raises the question of the viability of expanded definitions of security. In broadening the agenda, we may find that "a more profound understanding of the forces that create political loyalties, give rise to threats, and designate appropriate collective responses could open the way for a 'desecuritization' .... from the security agenda." (Krause and Williams, 1997:249 For the moment, refugees clearly still fall within the purview of the security agenda, conditioned not only by their own role in the international system but also the international environment overall. As long as refugees and violence are two sides of the same coin, it seems doubtful that we can do away entirely with the use of military force. Too frequently, however, decisions to use force are made under conditions of



competing interests and a lack of communication between those who are concerned for the refugees themselves and those who worry about the effect of refugees on their surroundings. How scholars and practitioners define security interests and responses to international crises in the future will, at least partially, be determined by the degree to which conflicting norms are either reconciled or eliminated in favor of new ones, as well as how these are operationalized in military terms. In the meantime, one should be aware of the slippery slope invoked by humanitarian interventions, no matter how noble the cause.

Thus, maintaining a rights-based approach to human security under conditions of armed conflict and complex emergencies poses two challenges. First, it requires a compromise among the primary humanitarian principles and the principles of human rights protection; i.e. in order to protect individuals' rights to life, liberty and sustenance, it may be necessary to a) choose sides and b) engage with armed actors even when they are not legitimate members of the international community. Second, in an environment of increased insecurity, humanitarian action has to expend relatively more energy protecting the humanitarian workers and aid rather than the recipient populations, adding further tensions to complex and volatile situation. An unfortunate by-product of the humanitarian interventions in the Great Lakes, particularly during the 1996 crisis in Eastern Zaire and the border areas in Tanzania, has been the perception among recipients of humanitarian aid that such assistance ultimately only benefits whites and foreigners. For example, although Tanzania is relatively stable, the overwhelming presence and infusion of resources

by international humanitarian organizations has contributed to a weakening of local governance structures and has distorted domestic political processes in provinces with high concentrations of refugees where the local authorities' meager resources simply cannot compete with the embarrassment of riches –by comparison- provided by the international community.<sup>211</sup>

### ***Political and Legal Legitimacy***

Clearly, the effectiveness and feasibility of military responses to CHEs is subject to serious practical constraints. For example, multilateral peace support operations require a coalition of the willing subject to both international and domestic politics. As the control of operations is contested among various humanitarian UN agencies, NGOs and military officers, military effectiveness is compromised to an even greater extent. Despite the growing frequency of military humanitarian action, its political and legal legitimacy remains hotly contested. In many ways, the question of legitimacy lies at the core of the UNHCR-military relationship. It influences the effectiveness of civilian and military actors in CHEs as well as the general international tolerance for military humanitarian actions. Although there are clear legal and political reasons to support a military role in CHEs, it also is clear that there remain significant gaps or weaknesses which compromise humanitarian missions.

A major point of contention is that of formal legality of civil-military interaction and intervention in CHEs. The UN Charter and various international

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<sup>211</sup> From various interviews in Dar Es Salaam, Tanzania, November 2001.

conventions allow for intervention when international peace and security is threatened, in response to gross violations of human rights or genocide, or when one state fails to meet its obligations within the international system. For example, the Genocide and Human Rights conventions, international refugee and humanitarian laws, the International Covenant on Civil and Political Rights, and most recently the newly proposed Guiding Principles for Internally Displaced Peoples (IDPs), all provide legal justification for intervening in another state in order to protect individual life.<sup>212</sup> In addition, the UN Security Council has played a major role in advancing a doctrine of humanitarian intervention as has the UNHCR. Since the resolutions authorizing the UNSCOM operation in Iraq, the Security Council has set precedent and increasingly widened the scope of military action. (Roberts, 1996) Successive UN Resolutions have contributed to a body of international agreements in support of humanitarian military action.<sup>213</sup> In addition, the 1951 Geneva Convention on Refugees, the 1967 OAU Convention, as well as Article 14 of the Universal Declaration of Human Rights give the UNHCR the authority to protect those persecuted and to address security issues when they become an impediment to

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<sup>212</sup> For a discussion of the legal framework, see Teson, 1997; Harff, Spring 1995; United Nations Secretary General, 8 September 1999; and United Nations Office for the Coordination of Humanitarian Affairs ;United Nations Office for the Coordination of Humanitarian Affairs (OCHA) and the Brookings Institution Project on Internal Displacement, November 1999; United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 1999.

<sup>213</sup> Relevant UN Resolutions include UNSCR 1261 regarding the special protection needs of children in armed conflict; UNSCR 1265 which condemned the targeting of civilians in armed conflict; and finally UNSCR 1296 which places the protection of civilians in armed conflict at the heart of peacekeeping operations.

fulfillment of the UNHCR mandate. (Halvorsen, 1999; Teson, 1997) And yet there remain significant gaps in international law, which are only beginning to be addressed, such as the rights of the internally displaced populations and the safety of humanitarian personnel mentioned earlier. A particularly thorny issue are the special protection needs of children and the problem of child soldiers. (cf. UNSC Debate, 1997; UNSC Resolution 1261, 1999)

There are significant inconsistencies in U.N. decisions during that time frame and the apparent practice -if not intent- of a double standard, suggesting a North-South divide within the United Nations on the question of military involvement. (Sahnoun, 1996; Hyndman, 2000) The global South appears at least as ambivalent about military interventions as do the great powers fielding the resources. A major concern appears to be whether or not the new rules for UN humanitarian engagement would provide a blanket justification for intervention in Third World countries by the West. During debates in the UN General Assembly, an Indian delegate, for example, took issue with the assumption that an UN offer of humanitarian assistance conferred any right of humanitarian intervention. (UNGA, 1999; Stockton, 1996) Stanley Hoffman put the problem more succinctly, suggesting that “as of today, a humanitarian crisis is a threat to peace and security only when the Security Council says so.” (1993:i) Concerns over the legitimacy of international military humanitarian interventions has made many a receiving country, e.g. Rwanda, at best wary and at worst outright resistant to international forces even when deployed to support UNHCR’s mission of protecting war-affected civilians.

The most fundamental legal argument against humanitarian action is embodied in the very principles such actions violate - those of sovereignty and non-intervention- as articulated in Article 2 of the United Nations Charter and in the 1951 Convention on Refugees. According to these international agreements, the primary responsibility for protection of citizens rests with governments, not with the international community as a whole. Military humanitarian action clearly undermines that responsibility, at least in theory. And yet in practice, this argument is weakened by the very failure of states to carry out their obligations to their citizens. As we saw in eastern Zaire in 1995 and 1996 or in Somalia, the UNHCR in fact could not rely on the host state to meet its international obligations because of lack of capacity and political will. Ironically, although considered missions *other* than war, humanitarian military action is considered a legitimate extension of UNHCR's protection mandate as long as it abides by the traditional principles of war of limitation, distinction and proportionality. (UNHCR, 1995; Teson, 1997; Gaus, 1999)

From a political perspective, one can argue that global realities leave no real choice but to produce a doctrine and training program that will allow the armed forces to carry out the range of missions that America's situation requires. Multinational peacekeeping forces "can open doors which might otherwise remain closed to efforts in peacemaking and peace-building" (UNDPKO, 1998:1); i.e., as a confidence- and trust-building mechanism for the host country and the war-affected populations. Once humanitarian action is perceived as necessary for peace and

security, i.e., traditional national interests, then there also is significantly greater potential for public support for humanitarian assistance.<sup>214</sup> “Coercive inducement” may be a viable middle option when preventive peacekeeping has failed in order to avoid full-scale peace enforcement or outright war. (Daniel et.al, 1998) Finally, legal guarantees may be insufficient as existing humanitarian laws are not enforced and often disregarded. By introducing military force into the repertoire of responses to violations of humanitarian laws, they are more likely to be enforced. Multinational armed forces also have certain credibility and power of persuasion that derives from the ability to respond not only to traditional threats of war but also the muddier operational terrain of CHEs. Thus, for example, Stephen Solarz and Michael O’Hanlon, among others, warn “a failure to risk casualties in missions of major humanitarian significance may raise questions around the world about the [U.S.] willingness to incur costs in defense of more traditional interests.”(1996; cf. Kagan, 1997)

### **Lessons learned**

As mentioned at the outset of this paper, innumerable evaluations have led to an emerging human security and protection normative framework. And yet it is not clear that the lessons are really learned or applied consistently. Several problems accompany humanitarian operations in this regard. First, humanitarian interventions tend to attract a particular type of persona that I refer to as “humanitarian cowboys.”

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<sup>214</sup> See for example public opinion polls on Bosnia conducted by the Program on International Policy Attitudes at the University of Maryland.

These are individuals who tend to move from crisis to crisis, are highly mobile and flexible but also less likely to accept strict regulation and oversight. The very nature of complex humanitarian emergencies typically leads to high turn-over in personnel. Most humanitarian workers tend to be redeployed as frequently as every three to six months. Consequently, there exists little institutional memory or experience for longer-term capacity or confidence-building. It also means that there exists a steady learning curve as there is insufficient time to prepare for the next mission. Learning takes place on the ground and frequently on the run.

That is not to say that the many evaluation reports produced by outside consultants, internal lessons learned units, scholars and journalists only gather dust. They do have an impact on the shaping of ideas and values that underlie current policy and operations among the leadership. However, they do not serve the immediate information and information exchange needs of complex humanitarian emergencies. One barrier to a consistent transmission of knowledge and information, is that such exercises do not necessarily build careers. Humanitarian workers are apt to want to ‘invent’ their own solutions, to leave their mark on an operation, as a way to build a professional reputation. Again one must be cautious in over-generalizing, but there are sufficient cases of “career-building” on the back of humanitarian tragedies to warrant a concern.

Lessons are being learned, even if implemented haphazardously and often in spite of the “here and now” climate that dominates international responses to humanitarian emergencies. The responses to Afghanistan, for example, already show

a more integrated and timely response than prior efforts. Whether or not a true “culture of protection” will emerge from the lessons derived from the complex humanitarian emergencies in the African Great Lakes region during the period of 1994-1999 remains to be seen. Humanitarian protection norms however have had a visible impact on the way in which international responses to CHEs are conducted on the ground.

Moreover, neutrality of relief depends on an equitable distribution of aid and resources which is difficult to achieve as the post-genocide intervention in Rwanda can attest. Here, UNHCR’s protection mandate favored refugee camps outside Rwanda but which were populated by members of the former Hutu government of Rwanda which had perpetrated the genocide. (Dallaire in Moore, 1998:83) Others even argue that neutrality is in itself a political position for NGOs operating in CHEs. (Bryans, et.al. 1999:12)

Refugees and IDPs may ‘compel’ a norm of military intervention. Intended mostly to contain or prevent refugee flows, military interventions tend to be “complicated affairs full of ambiguities and uncertainties” due at least in part to their conflict with the principles of sovereignty and a series of political, moral and operational dilemmas created by them. (Kier, 1996:99; Campbell, 1995) For example, in the face of one of the largest flows of returning refugees, the “Mugunga Exodus” of 1996 from refugee camps in Eastern Zaire to Rwanda, the international community created an intense debate over the need to intervene militarily to protect the people, but at the same time became virtually paralyzed. (Goldman and Wrong,



1996b) Conflicting interests resonate through virtually every recent debate on the subject of humanitarian action among members of the United Nations Security Council or General Assembly. Developing countries in particular appear concerned with the extrapolating a right to intervention from the humanitarian imperative. (Doyle, 1991; cf. UNGA Debates, 1999)

Military presence in Bosnia and Kosovo, and to a lesser degree in Haiti and Rwanda provided UNHCR and other humanitarian organization operating in the middle of armed conflict with much needed “surge protection” (Minear et.al. 2000), logistic and organizational support, and information gathering.

In the area of physical protection, military engagement has been needed – albeit rarely effectively delivered- to separate out and disarm combatants among the forcibly displaced. (Ginifer, 1998; Ogata in Biermann et.al, 1999:188-189). The U.N. Secretary General recently identified arms control as an “essential prerequisite for a successful peace-building process.... requiring “multidimensional approach involving demobilization”, law enforcement and measures to restrict arms flows.(UNSG Report, 1999). The importance of these functions for the management of displaced populations is underlined by recent examples of protection failures in the African Great Lakes. For example, had the international community deployed multinational forces to disarm armed individuals deemed threatening to the government of Rwanda, rather than allowing Rwandan military troops to raid and empty out the camp by force, the December 1994 massacre at the Kibeho refugee camp in Rwanda might have been avoided. (Furley, 1998)

Since often international military or police forces have been in short supply or delayed, UNHCR and analysts of the crises in Rwanda and Kosovo have recommended the use of private security forces to protect civilian workers and populations, but with serious reservations. (Bryans et.al, 1999) In general, however, only military forces have the necessary size, responsiveness and speed to be able to act quickly in complex emergencies. (Natsios, 1997:108) Others have also pointed out that the military offers more experience and is better organized than most other – non-governmental- partners to the UNHCR (Pirrotte, et.al., 1999; M.C. Williams, 1998) The fact that many of these crises are accompanied or precipitated by failing states also has meant that military forces have had to assume the state's public security functions. (Bellamy, 1997) Reviews conducted by both the UN as well as non-governmental experts suggest that an early and convincing use of force might have stopped or at least slowed down mass killings in Rwanda and Bosnia.<sup>215</sup> The military has recognized that providing logistic support to UNHCR is perhaps its most important function in CHEs, particularly in the early, usually most intensive phase of an emergency. (Connaughton, 1998; Nadler, 1999) They also have been instrumental in mitigating serious logistic logjams from Rwanda to Kosovo.

At the same time, civil-military logistic cooperation in CHEs is particularly complex. Coordinating effective civilian agency responses to CHEs alone already had proven to be a challenge, even with the recent innovation of the UN Office of

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<sup>215</sup> See for example, Amnesty International reports on military assistance, 1993 and 1996; the Independent Report on Rwanda to the United Nations (July 1999); the UNHCR Report on the Kosovo emergency (1999), the OAU Report on the Rwandan Genocide, and most recently the Brahimi Report on Peacekeeping (Aug. 2000).

Coordination of Humanitarian Affairs (UN OCHA) and various coordinating bodies such as the Inter Agency Standing Committee (IASC). There are problems of communication, differences in organizational cultures, and mutual distrust. (Lange, 1998:121; Harris, et.al.,1999; Williams, 1998) With each round of operations, the military has sought to improve its capacities to respond to humanitarian emergencies and often has been the most vocal critic of short-falls in performance due to shortages in funding, training or equipment.<sup>216</sup> Unfortunately, funds requested rarely are in line with the desired results. Concerns over the legitimacy of international military humanitarian interventions has made many a receiving country, e.g. Rwanda, at best wary and at worst outright resistant to international forces even when deployed to support UNHCR's mission of protecting war-affected civilians.

Effective military humanitarian action and relations with UNCHR objectives require a broad base of political stakeholders, and a consistent set of ethical and legal criteria under which military humanitarian engagement takes place. That is not to say that such criteria should be applied blindly, but rather that they should set a standard by which the specific conditions on the ground can be assessed and addressed.

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<sup>216</sup> For example, Lt. Gen. Satish Nambia, Commander of UNPROFOR in Croatia and Bosnia during the 1992-1993 period expressed concerns that the military intervention for which his troops were trained was fundamentally incompatible with the relief work they were being asked to do on the ground. (cf. C. Williams, 1993) Romeo Dallaire, Commander of the UNAMIR Peacekeeping Mission in Rwanda was among the most vocal critics of the state of civil-military coordination, disagreements over aid distribution which –given UNHCR's legal mandate- favored refugee camps over internally displaced and only promoted rather than stemmed the refugee tides, as well as his own troops lack of equipment and training. (Dallaire, 1998: 73ff) The media echoed many of these and similar concerns for operations in the African Great Lakes as well as Bosnia. (e.g. Walsh and Harwood, Winter 1998-99) For a detailed description of logistic challenges facing UNHCR-military interactions see Williams, 1998:37ff as well as Natsios, 1997:112ff.

Especially in thinking about refugees and violence, it is useful to consider the underlying historical and cultural pressures. Finnemore stresses that “violence is a fundamentally different mechanism of change than cognition.... Often there are choices to be made even within the constraints imposed by force, but outcomes imposed externally through violence are not captured by a cognitive theoretical framework.”(Finnemore, 1996c: 43;cf. Lapid 1996). The international community has initiated several efforts to develop international standards for humanitarian action, such as the Mohonk Criteria by the UN Taskforce on Ethical and Legal Issues in Humanitarian Assistance or the UN Guiding Principles on Peacekeeping Operations and Internally Displaced People respectively. But it is not clear, that all parties to international responses to CHEs have taken a stake in the outcomes.

There clearly is a North-South gap on the question of legitimacy of military interventions. It also is troubling that military humanitarian measures more often than not mask a lack of political will and commitment to the protection of war-affected populations. UNHCR might address by incorporating the interests or concerns of national powers and military commanders from the outset, whether through the Executive Committee mechanism or the UN inter-agency process. By the same token, UNHCR and military planners need to take into account local perspectives and needs, especially when there is no viable “host” state to assume the responsibility for the people on the ground. All participants in humanitarian actions, whether civilian or military need training and equipment appropriate to the special needs of humanitarian operation, including exposure to multinational command

structures and open, transparent communications. Military humanitarianism should be embedded within in a normative framework which defines clearly what is to be protected, when, and how. For the UNHCR in particular this also implies accepting a broader interpretation of the protection mandate, not just as a legal concept but in fact one which guarantees the physical safety of the forcibly displaced as well. An expanded concept of protection can ensure that the traditional characteristics of humanitarianism, i.e. independent freedom of movement and proportionality, are retained even when military intervention is called for.

All too often, poorly articulated and poorly timed mandates mean that military action becomes a substitute for political will. This has had detrimental implications for UNHCR and international military forces and their governments; not to mention dire consequence for the war affected populations. In Bosnia and Rwanda, for example, neither civilian nor military actors were able to protect civilians from rape, pillage and even murder. (Gourevitch, 1998; Williams, 1993) Premature delegation of military responsibilities to regional organizations which may not be adequately equipped to carry out an operation according to international norms and standards, as has been the case with the Organization of African states, reduces the likelihood of success for humanitarian actions in CHEs. In addition, although Western and P-5 member countries have dominated most multilateral peacekeeping forces in the post Cold War era, forces contributed to humanitarian actions by other member countries often are poorly trained and ill-equipped. (Hoffmann, 1995) While it obviously is not possible to protect all individuals all of

the time, the international community faces a considerable ethical dilemma in this regard. A related dilemma is that of denial of aid or action. For example, UNAMIR Commander Romeo Dallaire has claimed that UNHCR explicitly barred UNAMIR forces from assisting returning refugees in Rwanda in order to stem the flow of refugees south. (Moore, 1998:75) While presumably well-intentioned, this denial of assistance only made conditions worse. It is not surprising therefore that although the military is increasingly willing to take an active role in responding to CHEs and UNHCR more readily recognizes the importance and need for military engagement, the partnership remains an uneasy one. As has been noted elsewhere, under-resourced missions may cause more damage than do good. For the humanitarian agencies such as UNHCR, it means walking a tightrope between the need to be effective and the normative desire for impartiality. Providing assistance in CHEs may require taking sides, at least nominally, if the aim is to manage and ultimately settle the conflicts. On the other hand, as the experiences of the massacre at the Kibeho Refugee Camp in Rwanda in December 1994 or the reluctance of Rwandan refugees from eastern Zaire/DRC to return in 1996 have shown, war-affected populations are unlikely to respond to a intervention force perceived to be biased. (Regan, 2000:113).

The history of responses to complex humanitarian emergencies suggests a pattern of constitutive norms for security as well as appropriate responses to non-military threats to security. The latter issue, in particular, raises the question of the viability of expanded definitions of security. In broadening the agenda, we may find

that “a more profound understanding of the forces that create political loyalties, give rise to threats, and designate appropriate collective responses could open the way for a ‘desecuritization’ .... from the security agenda.” (Krause and Williams, 1997 :249)

For the moment, refugees clearly still fall within the purview of the security agenda, conditioned not only by their own role in the international system but also the international environment overall. As long as refugees and violence are two sides of the same coin, it seems doubtful that we can do away entirely with the use of military force. Too frequently, however, decisions to use force are made under conditions of competing interests and a lack of communication between those who are concerned for the refugees themselves and those who worry about the effect of refugees on their surroundings. How scholars and practitioners define security interests and responses to international crises in the future will, at least partially, be determined by the degree to which conflicting norms are either reconciled or eliminated in favor of new ones, as well as how these are operationalized in military terms. In the meantime, one should be aware of the slippery slope invoked by humanitarian interventions, no matter how noble the cause.

Military intervention often is too much, too late (e.g. Somalia), and the requirements of military planning combined with civilian constraints make it difficult to get the balance of competing norms right. Interventions in response to displaced population crises are difficult to control and actually can lead to greater regional instability, protracted conflicts, and more rather than fewer displaced peoples. (Bryans, et.al, 1999; Pomfret, 1997) As suggested earlier, unintended

consequences are a particular challenge for humanitarian operations. The introduction of military troops into an already unstable environment may exacerbate existing conflicts.<sup>217</sup> For example, UNHCR Commissioner Ogata herself admits that “there were occasions when UNPROFOR’s presence seemed to draw rather than to deter fire,” putting not only the forcibly displaced but also the lives of humanitarian staff sent to protect them at risk. (Biermann et.al, 1999:189, Cunliffe and Pugh, 2000:193ff) Similarly, foreign military units “can also attract refugee populations” and increase the displaced populations, for example in Mogadishu, Somalia, by at least 25%. (Natsios, 1996:53-54) There is always the possibility that they will have an adverse impact on conflict resolution efforts by hardening positions among combatants with nothing left to lose. The risk is particularly high in the face of protracted communal or ethnic conflicts. The use of military force opens up a potential for abuse of power by military personnel, whether it is the abuse and rape of women and children, forced recruitment into military service, or intimidation of civilian populations. Finally, it is important to note that crisis responses exact significant trade-offs and costs in terms of long term development and strategies to eradicate the root causes of CHEs. Increasing militarization of humanitarian aid compromise principles of humanity and proportionality (Ebersole, 1995) and may lead to an inappropriate “securitization” of political problems.<sup>218</sup> John Prendergast

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<sup>217</sup> James Muldoon of the UN Association refers to this phenomenon as “new guns, old hatreds.”( Muldoon, March/April 1995)

<sup>218</sup> Critical and post-modern international relations scholars in particular lament the “securitization” of society.(e.g. Wæver and others, 1993, among others).



and Colin Scott, among others, have made the provocative but all too true observation that “humanitarian aid may unintentionally sustain conflict...it can be misdirected as an instrument of war, providing the means [sic] of conflict. Second, it may contribute less overtly to ... the causes of insecurity and war.” (Hayes et. al., 1997:829) Ironically, it was the lack of adequate security that made UNHCR an unwitting accomplice to militant Hutu rebels and armed combatants in its camps in eastern Zaire/DRC as they benefited from the steady stream of supplies and transportation. Under such conditions one must also consider the ethical implications of military involvement in CHEs. With the exception of Rwanda in 1994, the international community has advocated an activist stance against genocide and politicide, and affirmed a right to assistance.<sup>219</sup>

The international community opens itself up to accusations of double standards when it chooses to intervene selectively. (Braekman, 2000; Whitman, 1996, Roberts, 1999) How does one justify action in Kosovo but inaction in Sierra Leone? Humanitarian actions also clearly undermine the right to self-determination, which the international community assumes to have been forfeited by human rights violations. A related “slippery slope” problem is when humanitarian interventions turn into invasions or blur the lines between relief and political-military objectives,

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<sup>219</sup> Patrick Regan however points out that while the decision not to intervene may have initially been determined by the low probability of success of an intervention to stop the killing, the combined magnitude of the killing and impending refugee crisis “meant that ethical issues surfaced within the global community. (Regan, 2000:62) Then U.S. Secretary of Defense, William Perry, invoked the concept of “ethical uses of force” when he discussed the conditions under which the U.S. would be prepared to convene, including not only moral concerns but also the capability to respond effectively. (Perry, April 18, 1995)

as in Kosovo. The assumption underlying UNHCR's and military actions in CHEs is that they serve a humanitarian intent, not always readily distinguishable from foreign policy goals. (Slater et. al., 1986).

### **Conclusion**

As the international humanitarian community grapples with the overwhelming challenges posed by complex humanitarian emergencies, military and civilian attitudes toward military interventions are in a state of flux, complicated by competing norms of international protection. International humanitarian action, is "grounded in the principle that massive human rights deprivations do constitute a threat to international peace and security either through transboundary refugee flows or spillage of international strife across borders". (Abiew, 1998:63) At the same time, increasingly coercive control and power associated with the concept of sovereignty are shared across a network of closely intertwined actors and institutions: both state and non-state; international and national, civilian and military. The military, while in some countries still somewhat reluctant to intervene in non-traditional missions, has begun to transform not only its own planning and training agenda but also has led to a growing acceptance of the military as an integral part of the international community's humanitarian responses (Johnsen, 1997 & 1998; Pirnie et.al, 1998; Record, 1998.)

The humanitarian crises in Rwanda illustrated that one of the most fundamental challenges for the international community is one of timing and mandates. As the Brahimi report on UN Peacekeeping Operations has pointed out,

international humanitarian interventions suffer from mandates that are poorly crafted, and more importantly, poorly understood by the recipient populations.( United Nations, 21 August 2000) Peacekeeping and peace-enforcement missions in the region have struggled time and again with an inability to cash in on member state pledges even after commitments of troops and materiel had been made. Consistent underfunding and understaffing of humanitarian actions led to long delays that in turn distort the potentially beneficial and conflict-preventive impact of an international military presence on the ground. The troops either arrived too late or not at all to do any good (as in the first and second wars in DRC) or the reality of the conflict has overtaken the original mandate requirements, creating debilitating mismatches between security needs and mismatches. In the case of Rwanda, domestic political constraints and ill timing proved to be a significant handicap. Intervention in such cases “is no substitute for prevention”. (Kuperman, 2001:117)

However, the fact that the international community was unable to agree on the deployment of a military intervention force sufficient in strength to stop genocide in Rwanda in 1994 is indicative of underlying struggle between two competing sets of protection norms. As then UN Undersecretary-General and Emergency Relief Coordinator Akashi aptly pointed out in a speech on May 23, 1997: “When people are forcibly uprooted and pushed from their houses, and the aim of warfare is to inflict maximum pain, then ‘protection’ requirements are quite different to what was needed in more traditional humanitarian assistance operations.” (Presswire, 1997) In developing appropriate responses to complex humanitarian emergencies, it is

essential to clearly define who and what is to be secured. Do we protect forcibly displaced populations from disease, death and persecution or do we protect national boundaries from the spillover effects of refugee flows, and how? The answer is very much dependent on the prevailing norms of international protection to which one subscribes.

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