INTERVENTION IN CIVIL STRIFE AND INTERNATIONAL ORDER

by

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## Contents

<table>
<thead>
<tr>
<th>Acknowledgements</th>
<th>vi</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>vii</td>
</tr>
</tbody>
</table>

### PART ONE: CIVIL STRIFE AND INTERVENTION

<table>
<thead>
<tr>
<th>Chapter I: The Nature of Civil Strife</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Civil Strife</td>
<td>2</td>
</tr>
<tr>
<td>B. The age of civil strife</td>
<td>10</td>
</tr>
<tr>
<td>C. Historical perspectives</td>
<td>13</td>
</tr>
<tr>
<td>D. The instability of new states</td>
<td>26</td>
</tr>
<tr>
<td>E. Conclusions</td>
<td>35</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter II: Civil Strife and Outside States</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Intervention in civil strife</td>
<td>38</td>
</tr>
<tr>
<td>B. The internationalization of civil strife</td>
<td>45</td>
</tr>
<tr>
<td>C. Civil strife and international disorder</td>
<td>57</td>
</tr>
</tbody>
</table>

### PART TWO: INTERVENTION AND INTERNATIONAL RULES

<table>
<thead>
<tr>
<th>Chapter III: Sovereignty and Intervention in Civil Strife</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Sovereignty and non-intervention</td>
<td>68</td>
</tr>
<tr>
<td>B. Sovereignty and civil strife</td>
<td>71</td>
</tr>
<tr>
<td>C. Intervention by invitation</td>
<td>84</td>
</tr>
<tr>
<td>D. The recognition of rebels</td>
<td>95</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter IV: Self-defence and Intervention in Civil Strife</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Protective intervention</td>
<td>122</td>
</tr>
<tr>
<td>B. Preventive intervention</td>
<td>131</td>
</tr>
<tr>
<td>C. Intervention and the international system</td>
<td>135</td>
</tr>
<tr>
<td>D. Collective defence</td>
<td>152</td>
</tr>
</tbody>
</table>
Chapter V : International Society and Intervention in Civil Strife
A. The authority of international society 156
B. Humanitarian intervention 162
C. United Nations intervention 174
D. Intervention in defence of international rules 179
E. Regional intervention 183

Chapter VI : Intervention in Civil Strife and Political Principles
A. Anti-colonialism 195
B. National self-determination and national liberation 205
C. Ideological intervention 214

PART THREE : THE CONTROL OF INTERVENTION IN CIVIL STRIFE 222

Chapter VII : Informal Controls on Intervention in Civil Strife 224
A. Intervention and military conflict 225
B. The expansion and escalation of civil strife 235
C. Deterrence and defence 248

Chapter VIII : Legal Regulation of Intervention in Civil Strife 267
A. The prohibition of subversive intervention 268
B. The right of counter-intervention 271
C. Responses to intervention 277

Chapter IX : The United Nations and Intervention in Civil Strife 299

PART FOUR : INTERNATIONAL ORDER 305

Chapter X : Civil Strife and Conceptions of International Order 306
A. The interdependence of civil strife 308
B. Soviet conceptions of the role of revolution in international relations 315
C. The United States view of revolution and international order 323
D. Communist China's conception of revolution and international relations 329
Chapter XI: Elements of International Order

Appendix

Bibliography
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Introduction

The intention of this thesis is to examine the significance of intervention in civil strife for international order. Intervention is defined here in purely descriptive terms as a particular sort of international activity. It is distinguished not by its legality or illegality but by observable characteristics which, though complex, are independent of moral, political or legal values. Such a definition differs from the attitudes to intervention that states normally take. Some wish to define intervention as invariably wrong; others see it as justified on occasions, whether frequent or rare.\(^1\) The procedure here will be to propose a definition of intervention in civil strife and then to inquire into the circumstances in which it may be considered desirable or undesirable. The criteria of judgement are provided by the fundamental rules of international society which take the form of normative expressions about how states ought to behave. Unlike a system of states, which is defined simply by the interactions between them, the society of states may be said to interact for certain common purposes. The basic rules of that society are those which are essential to the achievement of such purposes, and the measure of order among states is the extent to which these rules are upheld and their purposes realized. Order is not simply the absence of intervention. The task is to ascertain, as far as is possible, the circumstances in which intervention in civil strife accords or does not accord with these rules; and to give some account of the extent to which such intervention contributes to or detracts from order in the contemporary world.

Part One outlines the setting of the problem. Before considering how international society can regulate intervention in civil strife, it is necessary to understand

\(^1\) A variety of opinion was evident in the 1964 discussions of the United Nations Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States. G.A.O.R., XX, 6th Committee, Annexes vol. III, Agenda item 90.
something about the nature of that activity. Most obviously, definitions are required for civil strife and for intervention. These provide the essential skeleton but its true character cannot be known without some covering of flesh. Thus while primary attention is focused on civil strife since 1945 a number of historical perspectives indicate that only in some respects does it constitute a novel problem for international society. The chief novelty seems to lie in two interconnected factors: the proneness of many of the new states to internal conflict; and the tendency of outside states to become involved in those conflicts. These pressures on civil strife to acquire international dimensions mean that intervention in civil strife is less of a sudden, dramatic reversal of existing patterns than a natural, but not inevitable, extension of them. At the same time, intervention in civil strife can be seen to have inherent limits as a mode of action. It can achieve only a certain range of effects which vary according to the circumstances of each case. Nor is the initial decision to intervene simply a matter of the intentions of the intervening state. On the contrary, intervention in civil strife is a complex affair with manifold causes and consequences so that its regulation promises to be an equally complex matter.

Part Two relates the act of intervention in civil strife to some of the fundamental rules of international society. It is assumed that states desire to maintain their sovereign status and that respect for this sovereignty is therefore one of the primary rules of international behaviour. The institution of self-defence appears to be equally indispensable, being of fundamental and practical concern to all states. Doubts may be raised about the value of the concept of sovereignty and of the right of self-defence in the contemporary world but both appear to be sufficiently well-established to serve as standards against which to measure acts of intervention. The questions to be asked, then, are whether and in what circumstances intervention in civil strife is consistent with respect for the sovereignty of a state and with the
exercise of the right of self-defence on the part of the intervening state. Another central feature of international society is the authority which states as a body believe themselves to possess. It is apparent that the society of states has certain rights, however minimal or ill-defined, to impose standards of conduct on individual states. An attempt will therefore be made to clarify the nature of this authority and to examine the conditions under which it may lead to intervention in civil strife by international society or by states acting on its behalf.

These basic rules of the international community enjoy a greater measure of support and legitimacy than others although, as will become evident, there is much room for differences in interpretation. There are, however, a number of principles which claim universal validity but which are, in reality, more contentious than the rules which have been described as fundamental. These are political principles which, like the doctrines of anti-colonialism or national self-determination, relate in the first instance to questions of membership in international society, or which are primarily concerned with the internal political arrangements of existing states, as in the case of ideological precepts. Clearly, intervention in civil strife is one means of realizing either kind of goal. International society might in theory arrogate some of these principles to its own purposes - and this is, perhaps, what the states advocating them would wish to see - but they are at present objects of discord of varying intensity. Some measure of the nature and strength of these principles is necessary in order to indicate how far states resort to intervention in civil strife for purposes which diverge from those accepted by the community in general. The multiplicity of causes for particular states undertaking particular acts of intervention does not concern us here. What is significant about intervention for a political doctrine is that it is frequently put forward as a general rule for the whole of international society and that it usually draws upon some of the existing rules for support. Of course, intervention for any purpose may be simultaneously in accord with one of
the primary rules - it may, for example, be duly invited by a legitimate government - but there are sufficient instances where this is not the case to make discussion of the nature and import of some of these political principles worthwhile.

The act of intervening in civil strife, whether or not it accords with the fundamental rules of the international community, is not undertaken in a political or legal vacuum. There are inevitably pressures which other states can and do bring to bear on the intervening state. The most obvious form of control is to be found in those precepts of international law which prohibit certain types of intervention. The specific demands of international law may generally be assumed to coincide with some of the primary rules of the society of states, but the fact that they are expressed in a binding legal form is significant. In so far as states feel obliged to account for their actions (and in particular their interventionary activities) their behaviour may thereby be explicitly regulated. It is apparent, however, that many of the traditional canons of international law dealing with intervention in civil strife have become redundant in contemporary circumstances; the important task now is to indicate the problems of legal regulation and also some of the directions in which solutions might be found.

Less formal but probably more effective are actions such as counter-intervention, defence and deterrence undertaken by other states or by the divided state itself in response to an act of intervention. These reactions may cause a state to refrain from initiating intervention, to abandon intervention already begun or to alter its original purposes. Such informal methods of controlling intervention, however, are not necessarily related to international society's primary rules. Controls of this kind, in other words, may reinforce orderly behaviour but they may equally well constrain such behaviour or be used to carry through disorderly behaviour. One factor that helps to ensure that these processes are used in an orderly
fashion is international law which provides certain rules of conduct governing the responses of states to intervention in civil strife. The right of counter-intervention and the right of self-defence against intervention are of special importance in this context. It should not be forgotten, of course, that both formal and informal methods of control themselves contribute to the interpretation and development of the primary rules of international relations.

Brief consideration is also given to the nature and limits of United Nations activity in regulating intervention in civil strife. There are both formal and informal aspects. As an international forum the U.N. assists in the explication and development of rules relating to intervention by individual states; as an organization which possesses a diplomatic and on occasions a military arm it is also in a position to contribute to the direct control of interventionary behaviour.

Finally, Part Four attempts to provide an answer to the original question about the relationship between intervention in civil strife and international order in the contemporary world. Acknowledgement must clearly be made of the importance of the major powers - the Soviet Union, the United States and Communist China - in determining the measure of order achieved in this field. These countries are not only deeply concerned about civil conflicts and about intervention in them but also have particular ideas about the underlying purposes which they believe should govern intervention. These broad purposes, it will be argued, indicate divergent and in some degree contradictory conceptions of international society. In the light of these conclusions some assessment can be made of the elements of order and disorder to be found in the activities of states that intervene in civil strife.
PART ONE

CIVIL STRIFE AND INTERVENTION
CHAPTER I : THE NATURE OF CIVIL STRIFE

A: Civil Strife

The definition of civil strife is not self-evident, nor are the definitions of its two component parts. The term 'civil' appears to present the greater problem for while states can usually agree on whether or not a conflict exists, they may be in bitter disagreement about its nature. Since the criteria of interpretation are by no means universally accepted, the definition offered here must therefore be somewhat arbitrary. The definition of the term 'strife' promises to be rather less arbitrary but at the same time a little less precise.

A necessary but not sufficient feature of civil strife would seem to be that the conflict occurs within the boundaries of a state or at least of a political entity which has the generally accepted characteristics of a state. This will form part of the definition used here, but it is quite possible to start from a totally different assumption. Thus in communist doctrine a civil war is above all a war between classes.1 Since class is a universal social category, civil wars of this kind need not be confined to national boundaries and may even occur between states which represent opposing classes. In some sense, therefore, the wars not only in China (prior to 1949) and in North Vietnam (up to 1954) but also in Korea in 1950-53 could be represented as civil wars.2 The purpose of such a characterization may seem obvious i.e.

1 See L. Kotzch, The Concept of War in Contemporary History and International Law (Geneva, 1956), p.69.

2 'The national-liberation wars conducted by the peoples of China, North Korea and North Vietnam against the foreign invaders merged with civil wars against domestic reaction which served as a main support of colonialism. As a consequence the masses were freed not only from colonial, but also social oppression'. Y. Dolgopolov, 'National Liberation Wars in the Present Epoch', International Affairs (Moscow), (February 1962), p.20.
'to eliminate, or at least to minimize and to confuse, foreign attempts at intervention in cases where the war could equally legitimately be described as external'.¹ But whether or not one sees this as a deliberate purpose, what is significant is a Soviet awareness of the distinction between internal and other conflicts even when both types are believed to involve antagonistic social classes. Differences in the interpretation of events do not preclude a certain consensus when it comes to actions. For this reason the distinction between conflicts within states and conflicts between states is a useful one.

But international wars take place somewhere and may be physically confined to a single state. Moreover, civil conflicts may involve war-like actions across an international border. Hostilities may spill over in an unintended fashion or they may be deliberately conducted against external sources of supply to the other side. Clearly, some further criteria are required which relate to the stakes of the conflict and the identity of the participants. These criteria may be combined by saying that civil strife is a contest between factions within a country as to who is to exercise political authority in that country or in at least part of it in the case of attempted secession.² International war, by contrast, takes place between two or more states³ for a wide variety of stakes; these latter may include conquest and subsequent administration of a country but this is not the same thing as a contest for political authority.


² The term 'civil strife' has no accepted technical meaning but the noun 'strife', cognate with the verb 'to strive', is commonly defined as a contention or contest or as a struggle for superiority. 'Civil' in this context is the antithesis of 'international' rather than of 'military'.

³ The classical distinction was between international war involving only states and 'mixed war' involving a state (or government) on the one side and a domestic faction on the other.
The contest takes the form of efforts by each side to impose a result on the other. The faction challenging the incumbent or the factions challenging each other are by definition directing their efforts toward the capture of exclusive political power. It follows that these efforts must be on a scale and of a character which make achievement of this objective a feasible proposition. A faction must have some chance both of gaining power and also of exercising it. For this reason the factions must possess a certain degree of organization and must be capable of operating in more than a purely local area. Capabilities of this kind may be secured and built up by the faction itself so that it eventually possesses its own uniformed and disciplined army, an administrative apparatus and an ability to enter into agreements with outside states. On the other hand, the aim of a faction may be to take over such assets from the existing government. In this case a minimum of organization and resources is required and access to the powers of government becomes all important. Acts of disobedience such as riots, commotions, disturbances and so on do not in themselves constitute civil strife since there is present neither a capacity to supplant the authority of the incumbent nor an intention to do so.\footnote{See also the distinction between insurrection and rebellion drawn by N.J. Padelford, *International Law and Diplomacy in the Spanish Civil Strife* (New York, 1939), p. In. Vattel defines as rebels 'all subjects who unjustly take up arms against the ruler of the society, whether with the design of deposing him from the supreme authority, or of merely resisting his orders in some particular instance and making him accept their terms'; he goes on to distinguish sedition which includes positive disobedience or acts of violence toward public officials and insurrection which arises 'when the evil extends and wins over the majority of the citizens in a town or province, and gains such strength that the sovereign is no longer obeyed'. Civil war exists 'when a party is formed within the State which ceases to obey the sovereign and is strong enough to make a stand against him, or when a Republic is divided into two opposite factions, and both sides take up arms'. *The Law of Nations*, trans. C.G. Fenwick (Washington, 1916), book III, ch. xviii, sections 288, 289, 292. The definition of civil strife proposed here would include civil wars and, depending on scale and intentions, some instances of insurrection but would exclude seditions.}
attacks upon the authority of local officials may amount to civil conflict if they are organized as part of a wider campaign to undermine the authority of the central government. Certainly, some local disorders may erupt into violence and require suppression by troops rather than police but they do not necessarily amount to civil conflicts.

It is apparent that a faction seeking political power may have goals beyond the minimal one. Some of these will be sketched briefly in order to clarify the sorts of events that constitute civil strife. At the very least a faction seeks to install itself as the incumbent government. This may involve a very small number of people taking over from an equally small number as, for instance, in a coup d'état. It is simply 'a stroke of force at the particular rulers of an established system of government, usually executed by members of the ruling group, but not aimed at changing the system'. The stake is the necessary minimum, namely 'the occupancy of existing roles in the existing structure of political authority'. A broader purpose exists in what Rosenau terms 'authority wars' which are 'perceived as being fought over the arrangement (as well as the occupancy) of the roles in the structure of political authority' e.g. a clash between democratic and totalitarian parties. At the furthest end of the scale is revolution which involves 'a sharp, sudden change in the social location of political power, expressing itself in the radical transformation of the processes of government, of the official foundations of sovereignty or legitimacy and of the conception of the social order'. By its very nature

3 Rosenau, loc. cit.
revolution must be bound up with the lives of most individuals in a society but civil strife generally may be marked by any degree of involvement and any variety of purposes. What is important is the element of conflict between two or more groups as to which shall possess ultimate authority in the country.

Something has been about the scale and scope of the challenge for authority in a country but mention must also be made of the nature of the contest itself. It is characterized by two sides each attempting to impose a result on the other but how, it must be asked, are these endeavours made? The most obvious indication of an attempt to impose an outcome on another party is the use of armed force. The bombing of a palace, the occupation of a capital, the raising of a rebel army all signify a fairly clear effort to coerce an opponent, to compel him to vacate his position. The use of violence in an organized way, however, is essentially a means of imposing an outcome on the other party, and other means can and do exist for achieving the same result. Thus the mere threat of force may suffice to achieve power as it did for the Fascists in Italy in 1922. Now the abandonment of the criterion of the use of force as a necessary characteristic of civil strife does give rise to certain difficulties but they are not as great as they appear at first sight. In the first place, what constitutes a resort to force is in any case far from unambiguous though it may be operationally defined with relative ease. The line between the use and non-use of force is difficult to draw in both domestic and international society.¹

¹ For an example see D. Wood, Conflict in the Twentieth Century, Adelphi Paper no. 48 (London, 1968), p.1 whose definition is cited in the following section.

² In the latter case F. Grob has persuasively demonstrated The Relativity of War and Peace (Yale, 1949).
Nevertheless, it may be argued that war-like activity should be the distinguishing characteristic of civil strife since it is an abnormal state of affairs in domestic politics unlike international politics where its occurrence does not necessarily represent a breakdown of society. Against this it may be pointed out that what is abnormal in domestic society is open contention over political arrangements rather than simply the use of armed force. On the one hand, one does not need to go as far as Hobbes to accept that coercive force may be used in various ways by incumbent governments to maintain their authority in normal times. On the other hand, there are cases where groups do not agree on the legitimacy of the existing system and will not accept its authority but where the conflict remains below the level of organized violence. The anarchic conditions that prevailed in the Congo on the date of its independence in 1960 provide a good example.

A further objection to the criterion of attempting to impose an outcome is that the border-line between this and political persuasion or cajolery will be either indistinct or artificial. To expect a clear and natural division relevant to all cases, however, is to expect a similarity of conditions in all countries which does not seem warranted. For what would amount to coercion in one country will not necessarily mean coercion in another or at a later time in the same country. Coercion involves activities which are not accepted as part of the prevailing style of politics. Thus the manner of conducting elections which is customary in the Philippines, for example, would indicate a breakdown of acceptance of the electoral system as a means of determining who is to rule were it to be adopted by some group in Britain. An interesting case arises with coups d'état in Latin America where, some writers argue, it has become an established means of transferring control.¹ The question

¹ In these countries 'the imagery of power is that of a physical attribute of the ruler, and, as power is physical, so it is obtained by physical means. So it is force that is characteristic of the 'typical Latin-American revolution', not its unconstitutionality, which is merely a secondary attribute'. P. Calvert, 'The "Typical Latin-American Revolution" ', International Affairs, vol. 43 (January 1967), p.88.
is not whether such coups occur regularly or whether those who are not involved accept the outcome; the question is whether or not they involve coercion of the incumbents. In the case of a coup this will depend on the attitude of those removed from power: do they accept this as the normal and authoritative way of going about the transfer of power?

While one party may be attempting to coerce another in an effort to gain power, however, this does not mean that civil strife exists. It is necessary that both parties be seeking to coerce each other. A coup d'état, for example, may be against the wishes of a leader but he may be in no position to compel the rebels to accept his authority. Certainly he will have been coerced into abandoning office, but this is not a sufficient condition for the existence of civil strife. If, on the other hand, he is able to organize some resistance, some efforts to secure a victory for himself, then civil strife may be said to occur. It is likely but not inevitable that the contending parties will find non-forcible methods of pursuing their aims inadequate and will be tempted to resort to the use of force against one another; the importance of the stakes and the fervour with which they are generally sought after can only increase the likelihood of violence. Moreover, as we have seen, force may already play some role in the existing system so that challenges can only be made with like means. Civil strife, then, need not mean the use of organized violence by both parties; still less need it involve warfare either in the conventional sense of standing forces arrayed against each other in a battle over territory or in the unconventional sense of a guerilla war or an insurgency. The form taken by civil strife in a given case will depend on a variety of circumstances.

When groups within a country are competing for political authority, can one say that this is still a civil conflict if one or both are prompted or supported from outside? It is a rare instance of civil strife which runs its course without external involvement of one form or another but it would be absurd to suggest that instances of
Civil strife are therefore rare. For if outside influences operate upon a political system in normal times, there is no reason why they should disappear in time of strife; on the contrary, there are many reasons why such influences should increase in the event of conflict. Outside participation may reach a high level as it did in the Spanish Civil War and has done in the conflicts in Vietnam since 1945. As a result an internal conflict may be invested with major international significance and appear to be a form of international war. If the impact of outside powers passes a certain point, it may be argued, the conflict should cease to be regarded as civil strife and be treated as something else. But the actual importance of external influences on a conflict is impossible to assess with precision and certainty; equally, the origins of a conflict may be inseparable mixture of local and international factors with neither clearly predominating. Certainly, states will respond to civil strife in different ways according to how they see the question of outside involvement, but it remains a civil conflict as long as the stake is the exercise of political power within the country by one party or another. If an outside state participates on such a scale or in such a way that its aim is manifestly conquest of the country, then the element of civil strife may well be submerged. Even in the case of a group of foreigners initiating a conflict, however, it is still possible that their aim is to change the political system in some way; the fact of their being aliens may severely limit their chances of success but it does not automatically rule out the possibility of what has been defined as civil strife.

Similar reasoning may be applied to conflicts in colonial territories. Here it is the existing authority which is external in the sense that it is believed to be

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1 In the Spanish Civil war, for instance, approximately 88,000 foreign troops took part in the fighting but the Nationalists and Republicans each mobilized some one million men; the impact of outside states in such a situation evidently cannot be judged from numbers alone. Figures from Wood, Conflict in the Twentieth Century, p.25.
foreign rather than indigenous to the society' and frequently displays symbols of an alien culture. The colonial power may be challenged by indigenous rebellion but its object in resisting will be to secure acceptance of its political authority; this contrasts with a rising against a country which is militarily occupying another, although there may be cases where colonial administration comes close to purely military occupation. The nature and origins of colonial authority frequently have important consequences for the course of the rebellion and for the reactions of outside parties; it is this which prompts Aron to suggest that colonial conflicts are 'intermediary between civil and foreign wars'.

Certainly, these factors cannot be ignored in any study of the problem, but for the present primary attention is focused on the stakes of the conflict rather than the character of the contending parties. It is a conflict between indigenous and colonial authority and hence not essentially different from, say, a conflict between democratic and totalitarian factions.

B: The Age of Civil Strife

The years since 1945 have commonly been considered an age of civil strife. A variety of factors appear to have made internal conflicts more widespread and more frequent than at any other time in history. The calculations that have been made are impressive, though not necessarily conclusive. Eckstein, for example, has counted more than 1,200 cases of civil war, guerrilla war, rioting, widely dispersed turmoil, terrorism, mutinies and coups which were reported in the New York Times between 1946 and 1959.

In the period 1958-66, according to figures given by

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3 H. Eckstein (ed.), Internal War, p.3.
American Defence Secretary McNamara, there were 149 'internationally significant outbreaks of violence' within states; moreover, the incidence of these outbreaks seemed to be increasing with 23 'prolonged insurgencies' under way at the start of 1958 and 40 in existence by February 1966.¹ A similar picture emerges from the figures on wars and armed conflicts between 1898 and 1967 compiled by Wood. He lists situations where 'the regular armed forces of a country or community are involved (either on both sides or on one side only) and where weapons of war are used by them with intent to kill or wound over a period of at least one hour'.² This excludes some instances of civil strife as defined here but like the other figures they are helpful indicators. Since 1945 a total of 55 internal conflicts are identified in contrast to only 20 in the period before 1939. Of the post-war conflicts 19 began in the decade 1948-57 and 30 in the decade 1958-67.

It is tempting to compare the number of internal conflicts with that of conflicts between states. McNamara, for instance, contrasts the 149 internal conflicts in 1958-66 with a mere 15 conflicts between states. Wood's figures place 55 internal conflicts since 1945 beside a total of 24 inter-state conflicts. Comparisons of this sort, however, do not throw much light on the claim that conflicts within states have become more important than conflicts between states. If it were possible to establish criteria of significance - numbers involved or killed, money expended, weapons used, for example - one international war might count for more than ten internal wars, but the reverse might also hold good. What can be made of the fact pointed out by Quincy Wright that in the century before 1914 the number of deaths resulting from military action was greater within the United States than in the entire continent of

² Wood, Conflict in the Twentieth Century, p.1.
Europe? It is not simply a matter of finding acceptable definitions, counting and adjusting the figures. The events being compared are of a widely disparate character, and it may be less than meaningful to add up even those events which do fall into the same category. The picture is further obscured by the possibility of interdependence between internal and international conflicts. If the several rebellions in South-East Asia in 1948 were an outgrowth of World War II as many writers have claimed, who is to say that the one is more important than the other? The changed role of internal conflict in the international system cannot be assessed by numbers alone.

Even the figures on the occurrence of internal conflicts do not permit more than tentative conclusions either on the score of their greater numbers since 1945 or of their growing incidence. In the first place, as Wood points out, there were probably many local disorders in the first part of the century 'which because of the great difference in means of communication at that time, simply did not achieve a permanent record'. This contrasts with the rapid, extensive and vivid means of reporting which exist today. In addition, many such disorders would then have been local skirmishes in the outposts of European empires; were they to occur today they might endanger the independent governments which have succeeded the colonial powers. It is also necessary to distinguish between the absolute numbers of events and their incidence. This applies to pre-war and post-war periods, for the number of independent states differs markedly not only as between the two periods.

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2 The incidence of an event is determined by the number of times it occurs relative to the number of situations where it might occur, in this case the number of colonial territories and sovereign states.

3 op. cit. p.19.
but also as between 1945 and the present day (as a three-fold increase in U.N. membership indicates). On the other hand, the total of independent states and colonial territories combined has probably not grown by a very wide margin since the pre-war period. Absolute figures for internal conflicts would in that case not vary widely from the figures for the incidence of internal conflict.

Accounting of this kind, however, can only provide an indication of the full extent of the problem of civil strife for international society.¹ So much depends on the attitudes taken by outside powers which accordingly furnish the chief subject-matter of this thesis. Numbers alone, moreover, do not assist greatly in understanding the nature of internal conflict and with this in mind certain historical perspectives on civil strife will be explored.

C: Historical Perspectives

Conflict over authority has existed as long as authority itself. The problem was far from new when the system of nation-states began to emerge in Europe during the fifteenth and sixteenth centuries. Machiavelli's intention in The Prince, as he wrote in the letter of dedication to Lorenzo de' Medici, was to 'discuss and lay down the law about how princes should rule'.² It was natural that many of the chapters should be concerned with instructions on how to retain power within the state. The prince, Machiavelli warned, should have two chief fears, one on account of

¹ Even in 1944 J.L. Brierly was writing that 'in the world as a whole civil wars always have been and still are much commoner events than international wars, though they may impress our imaginations less; but that is only because their effects are localized, and generally, though not always, less destructive'. The Outlook for International Law (Oxford, 1944), pp.49-50. Since that time there appears to have been a change not only in the extensiveness of the effects of internal conflicts but also in the manner in which they impress our imaginations.

external powers, the other on account of sedition. Of the latter danger he wrote:

Political disorders can be quickly healed if they are seen well in advance (and only a prudent ruler has such foresight); when, for lack of a diagnosis, they are allowed to grow in such a way that everyone can recognize them, remedies are too late.

Bacon's essay, 'Of Seditions and Troubles', also warned of 'discontentments' which were inherent in the body politic, always liable to erupt and rarely amenable to settlement by reason. In few countries were constant efforts not required on the part of rulers simply to maintain their position. Even the Italian city-states where, unlike the medieval domains superimposed on the rest of Europe, 'the smaller distances to be overcome brought the problems of transport and communication, and consequently the problems of collecting taxes and maintaining the central authority, within the range of practical solution' were constantly on the defensive against exiles or leaders of deposed groups, against rival cities exploiting internal divisions and supporting secret conspiracies. One may doubt whether rulers of the present century could be more vulnerable to internal conflicts than the rulers of the fifteenth and sixteenth centuries.

This was the situation despite the fact that rulers saw themselves as members of a common society, sharing the same laws and moral obligations of the res publica Christiana. In their dealings with each other they felt bound to disclaim any intent to undermine another's authority, though the intense suspicion displayed towards the first

1 ibid., p.103.
2 ibid., pp.39-40.
3 Cited by Brierly, Outlook for International Law, p.46.
resident ambassadors indicated not only that such emissaries did indulge in subversive activities but also that the danger they posed in this way was not seen as an empty one.\(^1\)

An early work on the role of ambassadors, Bernard du Rosier's *Short Treatise About Ambassadors* (completed in 1436) stressed that they must labour only for peace and the public good; they must refrain from fomenting dissension and rebellion or encouraging conspiracies; 'the office of an ambassador is always for good, never for discord or evil ... and the ambassador of evil, coming for a bad purpose brings evil upon himself and will come to a bad end'.\(^2\) For breaches of this code the ambassador forfeited any immunity he possessed and was liable to be tried and sentenced by the ruler to whom he was accredited, for the latter was simply the most convenient dispenser of the civil and canon laws shared by the Christian princes. It was not any diminution in the threat which an alien ambassador could present that led to the practice of having ambassadors recalled in order to be 'punished' at home. This custom which became established by the end of the sixteenth century resulted rather from the crumbling of the notion of a single Christian Europe. The ambassador's prime allegiance came to be to his own country and if this required fomenting strife in other lands, then he was not to be punished for doing his duty, and certainly not by the local ruler whose position was at stake.\(^3\)

The insecurity of rulers reflected the nature of their government which for the most part remained above and apart from society. It was something that could be seized, exchanged or transferred without touching upon the vast majority of the population. Certain problems were raised in the event of usurpation but the new ruler could generally expect obedience from his subjects both as a matter of fact

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\(^3\) ibid., ch. iv.
and as a matter of law. He possessed no legal rights himself, according to Grotius, but the deposed ruler could be assumed to transfer his rights in order to avoid anarchy and chaos in his kingdom.\(^1\) It was essentially a matter between monarchs and only in a few exceptional cases were subjects permitted to resort to forcible methods against a usurper.\(^2\)

Such was the ease of transferring the nominal allegiance of populations that changes in the formal religion of a country could be effected by a change of monarch (or his conversion) on the principle of *cuius regio, eius religio*. For more than thirty years Spain sought to make the England of Elizabeth I Catholic by both war-like and conspiratorial means. In the latter case the object was not to convert the English people in great numbers but to supplant the monarch herself through armed rebellion or court intrigues. Thus it was that a series of Spanish ambassadors in England involved themselves in conspiracies against the throne in the hope of serving the interests of Catholicism and of Spain.\(^3\) This was also the time when the task of guarding internal security first became the responsibility of an official organization, directed during Elizabeth's reign by Sir Francis Walsingham.

Civil strife, it is clear, was liable to break out both in times of religious schism and of the earlier unity.

\(^1\) De Jure Belli ac Pacis, trans. F.W. Kelsey (New York, 1964), book I, ch. iv, section 15. See also chapter III below, section D.

\(^2\) ibid., sections 15-19.

\(^3\) Mattingly describes the position of the Spanish envoys in the following way: 'Whether or not the English Catholics made up a large or even a bare majority during the first twelve years of Elizabeth depends on what one means by "Catholics". The French and Spanish ambassadors who periodically reported such majorities had no means of estimating the religious opinions of the vast masses of Englishmen, and little interest in doing so. They were concerned with people who would support, or at least not oppose, a change in religion. The people they thought worth counting were those who counted politically, mainly the noble families and the gentry'. Renaissance Diplomacy, p.189.
What differed was the interpretation that rulers placed on civil conflicts during each period rather than their form or the vulnerability of monarchs. There is a certain parallel with the contemporary period which will simply be indicated here but will emerge more clearly in the following section. Sixteenth-century government, it has been suggested, was essentially apart from the rest of society; relatively few people were engaged in the business of governing and it could be conducted largely independently of the mass of the population. Nevertheless, security of the regime was a constant concern since it could be challenged from many quarters, particularly the more influential citizens, politicians and soldiers. The change of religion that might be wished upon a country at that time resembles the contemporary conversion of a government to a new ideological outlook; in both cases it is uncertain that the new beliefs would penetrate very deeply into the structure of society, even given that the modern regime may be better equipped to ensure such penetration. But the assessment of both sorts of change by parties inside and outside the country is markedly similar, especially in the shared tendency to view each conflict as part of a much wider confrontation.

This section is not intended to be a survey of the growth of the state but merely to provide a number of historical perspectives on the nature of civil conflicts as reflected by the changing nature of the state. It will suffice to outline the developments in the character of the state which transformed it into a new type of political entity in the three centuries or so before World War I. These changes occurred almost exclusively in Europe, but they provide a model which has been and is still being exported more or less indiscriminately to the rest of the world.

Essentially, the pattern consisted of two interrelated processes. Firstly, there was the increasing ability of the state to supervise and to regulate the life of the nation. Flourishing trade and commerce, and later rapid industrialization, provided a continuous and
expanding source of revenue for the government, enabling it to function on a wider and more permanent scale; it also became necessary for the government to involve itself in the economic life of a country through legislation and through public enterprises, notably in the field of communications. A larger administrative apparatus resulted from such activities and set precedents for their extension into new fields. At the same time standing armed forces became a feature of European politics. Military service became more professionalized, while the equipment of armies and then navies became more dependent on an industrial base in terms of heavy armaments, transport, technological advances in weaponry, and the large-scale production of those items required to keep great numbers of troops in action. The size of armies also reflected the second process in the development of the state. This was the growing participation of the population at large in the functioning of the state. In the course of the nineteenth century public support became as important an element in the conduct of government as the enlistment of the masses eventually became in the conduct of warfare. In 1826 Canning referred with some trepidation to 'the fatal artillery of popular excitation'.

This artillery served the cause of nationalism, 'the most potent general force in European politics ... an impulse that could evoke a loyalty and a spirit of self-sacrifice vastly more intense than the allegiance normally accorded to existing governments'. The French Revolution had demonstrated the power of mass participation, first in the revolutionary overthrow of the old order, then in the nationalistic urge to expand and conquer. It was an artillery which could prove difficult to control. The nineteenth century saw the establishment of nationalism as the indispensable companion of the state; where they did not already correspond there was pressure for the integration

1 Cited by Nicolson, Diplomacy, p.168.

or disintegration of existing states. The nationalization of the state meant a proportionate decline in the personal and dynastic element of government. Internal disputes centred as much on the issue of how people were to be governed as upon that of who was to rule.

For the most part such disputes in nineteenth-century Europe remained short of actual conflict, though the occasions on which they did erupt were dramatic and sometimes decisive. The positions taken up may be crudely labelled conservative, liberal and socialist. They advocated varying degrees and contrasting forms of popular participation in government, and only the most reactionary sought to reverse the direction of change. Even they, however, were aware that the state could and to some extent needed to exploit mass enthusiasm for its purposes. The changed situation was evident in the notion - and in the opposition that it aroused - that the state could be brought down by the denial of popular support. The most extreme challenge came from the anarchists who sought the total destruction by any means of the whole state organization and its replacement by local, voluntary associations. The syndicalists differed essentially in proposing the general strike as the chief instrument of revolution and in granting to the labour unions the central role after the destruction of state authority. Both groups accepted in some form the doctrine of class war and proletarian revolution, but it was Marxism which propounded the most comprehensive doctrines and attempted to elevate practically and philosophically the transnational community of interests shared by the workers of the world above loyalty to the nation. If the First and Second Internationals achieved anything, however, it was the modification of social and political attitudes within the existing system rather than its overthrow. Hopes of substituting a new loyalty among the proletariat foundered at the first call to patriotic duty in 1914. Subversion through the alienation of mass loyalty to governments evidently required more effective organization and more resources than the first Marxists could hope to have at their disposal.
These historical perspectives demonstrate that civil strife is not new to this century either in the form of direct blows at the ruler or in the form of efforts to undermine the loyalty of subjects. However, two changes in the general environment of the state appear to be novel in the twentieth century, at least in quantitative if not qualitative terms. These are, firstly, the growth of international communications and the interpenetration of populations at official and unofficial levels; and secondly, the availability of weapons and systems of warfare, the latter having received comprehensive theoretical and practical exposition.

The development of communications in this century has been remarkable in almost every aspect - radio, television, newspapers, printing, and transport, especially by road and by air. The effect has been twofold. Internally, it has drawn whole populations into politics in a deeper and more immediate fashion; as a result the control of the media or at least the avoidance of control by hostile elements has become essential to governments. Internationally, the growth of communications has permitted to an unprecedented degree 'informal access' to the populations of countries by the officials of other countries.¹ The change is typified in the intensity of international radio propaganda, the numbers of people serving their governments in foreign countries and the frequency of speeches by statesmen clearly directed at influencing the citizens of other countries (with or without the approval of their governments). International communication is now a vast, specialized and professional business undertaken by almost every government. Effective communications bear upon civil strife most obviously in that they create a wider audience and potentially a wider field of support than would otherwise

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be possible. This applies both inside and outside the country concerned. It is not without reason that 'in modern coups the capture of broadcasting facilities has become a necessity'.¹ Only if the government has lost all support before its overthrow does gaining the acquiescence of the population through the media cease to be absolutely essential. At the same time the communication of contending factions with the outside world has been greatly facilitated in terms of both the capacity to make contacts and the ability to transport physical resources. Yet there remains a gap between making contacts and actually securing support. Communications alone cannot be the decisive factor. Moreover, one should beware of assuming that these are altogether novel developments. Already in the mid-nineteenth century Mazzini had concluded that 'the increase of our means for locomotion and for intercommunication between one land and another is reducing our earth to manageable compass, and making its inhabitants more conscious of being but one family'.²

The availability of the means of war and of theories on their effective use is the second twentieth-century development which appears to have accentuated the problem of internal conflict. In terms of sheer fire-power a given number of combattants can now pose a far greater threat than fifty or a hundred years ago. And there would seem to be a ready supply of weapons to those who require them and who are able to pay for them in some currency, whether financial or political. It is not only other states that are prepared to equip civil war factions but also private arms dealers, the scale of whose operations has mushroomed since 1945.³ World War II itself left a surplus of weapons and military

equipment that were utilized, for instance, in the rebellions in South-East Asia in 1948 and which have constantly reappeared since. Soldiers as well as equipment have also proved available to those able to hire them; their employment is precluded by the nationalism or ideology of some rebel and incumbent groups but they have turned up on various sides in civil conflicts in Africa, notably in the Congo between 1960 and 1964 and in the Nigerian civil war. As with international communications there is the tantalizing question of the extent to which capacity has influenced decisions, in this case a capacity to wage war and a decision to fight. One can only point to the other side of the equation - the capacity to fight is at least equally available to the incumbent government, and this in itself may dissuade rebels from launching open warfare.

It is another question whether this century has produced new theories on the conduct of warfare, and in particular on warfare which is suited to civil conflicts. It may be the case that theories of revolutionary war have made it possible for rebels to fight with some success against opposition which would otherwise be insurmountable. These theories rely on a harmonization of military principles and political goals. Their fullest exposition has come from one man, Mao Tse-tung, though a number of lesser leaders such as General Giap, Castro and Guevara have added their own glosses. The most important of Mao's doctrines will be briefly summarized for their relevance to the claim that revolutionary war is omnipotent and irresistible in civil conflicts. The fundamental teaching is the primacy of politics. Political power may result from the possession of guns but

Our principle is that the Party commands the gun, and the gun must never be allowed to command the Party.
Yet, having guns, we can create Party organizations....
Whoever wants to seize and retain state power must have a strong army.1

China's Red Army, according to Mao, fought not merely for the sake of fighting but in order to conduct propaganda among the masses, organize them, arm them, and to help them to establish revolutionary political power. Without these objectives, fighting loses its meaning and the Red Army loses the reason for its existence.¹

The essence of victory is thus the political mobilization of the whole people, for as this is achieved the guerillas can move with ease and safety among the population, they can obtain intelligence about the enemy and can move their forces without his knowledge. Maintaining popular support is crucial so that, for instance, guerrillas must be strictly disciplined in their relations with civilians. On the military side, the guerrillas must attempt to 'pit ten against one' in tactical positions even though strategically they must 'pit one against ten'.² Surprise, speed and mobility are prerequisites; large battles by which everything may be lost must be avoided. Retreat is often an indispensable preliminary to harassment, attack and then pursuit. At all times what is needed is a combination of effective organization, massive mobilization of support, judicious military tactics and perseverance. These components are generally envisaged as being held together by communist ideology which has something to say about all four. There appears to be no reason, however, why a different ideology should not be substituted. In practice nationalism seems to be the only feasible alternative; indeed, some would argue that all communist revolutionary warfare must depend to a certain extent on the forces of nationalism. Yet if nationalism is to be considered as a source of inspiration, revolutionary warfare may be seen to have origins far earlier than the Chinese Civil War.

The two elements of revolutionary warfare - political strategy and military tactics - can be separately

traced back, the former to the French Revolutionary Wars and the latter to the Spanish resistance to Napoleon between 1808 and 1813. The wars waged by revolutionary France were marked by ideological offensives intended to gain widespread support among the citizens of enemy countries. Propaganda and proselytism, however, remained adjuncts to the military defeat of the enemy and the conquest of territory. There was no attempt to make the gaining of mass support integral with the destruction of the opponent's forces. The Spanish guerrilleros who sorely harassed Napoleon's armies in the peninsula illustrate the military component of revolutionary warfare. They refused to accept as final the superiority of the invaders' regular forces and resorted to irregular operations against small enemy units. They exploited the inaccessibility of the terrain and made full use of the elements of surprise and mobility. While the guerrilleros benefited from popular hostility toward the invader and attachment to the church and monarchy, they were not seeking to undermine French control in any political way. While they certainly sought a psychological effect, their strategy was neither to substitute themselves for nor 'to destroy the French but to undermine their will to stay in the country'.

The combination of military and political goals in a single concept of warfare appears first in the writings of Mazzini although the tenor of his language naturally differs from that of present-day theorists. Guerrilla methods, he maintained, offer the most effective road to freedom from foreign domination while simultaneously creating a national spirit. They must precede the creation of a regular army which will inflict the final defeat on

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the enemy. Before this stage, however, the guerrillas must follow certain tactics outlined by Mazzini which are not unfamiliar today. There must be control from the centre and strong discipline at every point; surprise, speed and intelligence must be exploited; attacks must be frequent but always with lines of retreat left open:

Every band should be a living programme of the morality of the party. The most rigorous discipline is at once a duty and a necessity among them. It is a sacred duty towards their country, and a necessity for the bands themselves, which could not long exist if their conduct were such as to deprive them of the sympathy of the people.

... Guerrilla war is a war of judicious daring and audacity, active legs, and espionage.

... the greatest merit of the guerrilla chief is to contrive constantly to attack, do mischief, and retire. The most rigorously, there is the essence of all concepts of revolutionary warfare - the primacy of political goals. As Mao admonishes the purely military outlook, Mazzini issues a warning about the limits of the guerrillas' function:

Guerrilla bands are the precursors of the nation, and endeavour to rouse the nation to insurrection. They have no right to substitute themselves for the nation. Mazzini has been cited at some length to indicate that revolutionary warfare is not a totally novel phenomenon.

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1 'Insurrection - by means of guerrilla bands - is the true method of warfare for all nations desirous of emancipating themselves from a foreign yoke. This method of warfare supplies the want - inevitable at the commencement of the insurrection - of a regular army; it calls the greatest number of elements into the field, and yet may be sustained by the smallest number. It forms the military education of the people, and consecrates every foot of the native soil by the memory of some warlike deed.

'Guerrilla warfare opens a field of activity for every local capacity; forces the enemy into an unaccustomed method of battle; avoids the evil consequences of a great defeat. It is invincible, indestructible'. 'General Instructions for Members of Young Italy' (1831), Life and Writings, vol. I, p.109.

2 'Rules for the Conduct of Guerrilla Bands' (1832), ibid., pp.369, 374.

3 ibid., p.369.
of the twentieth century. To the extent that it is not new, therefore, it cannot be considered to have added of itself a unique dimension to the contemporary problem of civil strife. Yet a number of circumstances have combined in recent years to enhance its original significance. Nationalism as a doctrine is potentially universal in its application, but each application is not universal in scope. Communist ideology, by contrast, postulates a world-wide system based on class so that any civil conflict must also be seen in international terms. It also offers techniques for maintaining control over a movement which may be partly nationalist in character as well as communist. Most significantly, perhaps, communist ideology has become the Weltanschauung of the USSR and China. At once revolutionary warfare appears to have a potential not limited to national goals but extending to the international strategy of those who can direct it. It is frequently pointed out, moreover, that situations where guerrillas can exploit social, economic or nationalist discontent have multiplied enormously in the last decades. While the number of possible arenas for internal conflict may not have increased by that great a margin, most are now independent states rather than colonial territories. As such they are subject to considerable internal political stresses, a situation made all the more significant by the development of communications and of theories of revolutionary warfare.

D: The Instability of New States

The most striking general difference between the newly-independent states and the older states lies in their economic condition. While there are older countries which are poor - in Latin America, for example - it is almost without exception the case that the newer states lack economic viability. This weakness correlates strongly with the experience of internal conflicts. In the period 1958-66, according to the figures of Secretary McNamara, only one

of the 27 nations in the World Bank category of 'rich' suffered a 'major internal upheaval'. This incidence of less than 4% compares with 48% among the 'middle-income' countries, 69% among the 'poor' countries and 87% among the 'very poor' countries. One cannot conclude, however, that economic backwardness is a cause of civil conflicts. Certainly, the incidence of civil strife may diminish as states move up the scale from poorest to richest, but economic growth involves more factors than the purely economic. It is those other factors, for example the political consequences of central regulation of the economy, which may obviate the pressures for internal conflict. At the same time, economic underdevelopment may be in part the result of political instability. The picture drawn by Hobbes of the consequences of the situation where 'men live without a common power to keep them all in awe' is not far removed from contemporary conditions in many parts of the world: 'there is no place for industry; because the fruit thereof is uncertain: and consequently no culture of the earth'. Again, there are certain countries which enjoy political stability and yet remain economically backward. The conclusion must be that there is no simple, direct relationship between economic conditions and civil strife; whatever connections exist must be more precisely specified.

The connection between underdevelopment and vulnerability to internal conflict is sometimes seen as being made by political leaders, often, but not necessarily, communists. Poverty is believed to produce grievances and discontent among the masses who are consequently ready to follow those who promise immediate and drastic changes; the process of agitation would include focusing attention on conspicuous consumption, corruption and the system of land-ownership. The concern of the people with their economic circumstances can thus be directed into political channels. Communist ideology stands out in this respect.

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1 Leviathan, ed. M. Oakeshott (Oxford, 1946), p.82.
because its basic doctrines are materialist and because it appears more ready to encourage resort to open conflict and violence as means of changing the existing order. There are some flaws in this position. Communism flourishes as much, if not more, in the wealthier countries of Western Europe as in the poor nations; this indicates that support for communist goals has a greater variety of causes than economic needs alone. More important, however, is the argument that it is the political circumstances in which people find themselves that are decisive; thus while extremes of poverty may be borne for generations without leading to political discontent, serious dissatisfaction with political arrangements which is unrelated to economic conditions can erupt into conflict. Nevertheless, the possibility remains that energy latent in the economic sphere may in some cases be transformed into political action by deliberate efforts; it is a field of enquiry where little definite has been discovered.

The gap between the economic and political spheres may also be bridged by the notion of economic growth or modernization. The mere desire for better material conditions becomes political when it has something to say about the way in which society must be changed in order to achieve the desired increase in production. This concern with economic development is a phenomenon peculiar to recent decades; countries that have been poor for centuries now see and embrace the possibility of raising their living standards at an unprecedented rate. The demand for improvement may be felt at the individual level, though, as the previous paragraph suggested, there are difficulties in relating such pressures to the political sphere. But at government level economic growth is often an urgent matter of high politics. Poor states today need to make decisions in order to develop,

unlike the European economies which two centuries earlier began to 'take off' without conscious direction. The country may be pressed to choose between various types of economic system in the search for maximum growth. This pressure sometimes comes from outside. The Soviet Union, for instance, developed the concepts of 'national democracy' and 'revolutionary democracy' in order to encourage leaders to extend state control of the economy and to establish one-party systems. The United States, China and Russia all offer competing models of rapid industrial growth, the latter two from conditions of basic underdevelopment. While this rivalry ordinarily involves little more than diplomatic bargaining, it becomes important when there is serious disagreement within a country about the economic methods to be adopted. In these circumstances the capture of political power may appear essential to a minority group which believes that modernization is being held up by the incumbent regime or is being inadequately pursued. Alternatively, the modernization process may itself produce instability, favouring some groups rather than others. The favoured group, if not already in power, may seek to capitalize on and secure its position; the less favoured group may take political action in order to advance their interests. The coups in Nigeria in January and August 1966 are to a certain extent examples of these two situations (respectively). It is true that the great powers may give encouragement and assistance to groups which follow their particular model, but this should not be taken for the

1 The crucial difference is that 'there is, generally speaking, no indigenous bourgeoisie and no indigenous accumulation of private capital. The desired economic development has therefore to be undertaken by state initiative, state accumulation and investment of capital, state planning and controls'. C.B. MacPherson, 'Revolution and Ideology in the Late Twentieth Century', in Friedrich (ed.), Revolution, p.142.

motive force behind conflicts over economic growth. Such aid may well exacerbate the conflict which, however, remains essentially indigenous.

The internal debate over economic growth is thus closely related to the level of political development. In most newly-independent states there is no broad and established consensus about political arrangements for the simple reason that there has been insufficient time to secure such agreement. One of the many arguments concerning the wisdom of granting independence to colonial territories has in fact centred around their readiness for effective self-government. To a certain extent the ability to govern can be taught to dependent peoples, notably through the development of institutions such as an impartial civil service, an efficient police force and political representation in one form or another. But the art of operating an independent, sovereign political system can only be learned through actual experience. At the moment of independence, therefore, no state is fully prepared to exercise self-government although some may be better prepared than others.

Many of the governments that have gained independence since 1945 enjoyed little opportunity to establish their authority either in their opposition to the colonialists or in collaboration with them. The task of the new leaders is often to justify their tenure of power at all rather than to justify simply their policies which is what a regime with established authority would normally expect to do. An essential feature of civil strife - a fundamental dispute about who is to govern - is thus immediately present. Nor is there necessarily any consensus about the area of affairs which politics covers or about the methods which may be legitimately employed for political ends. Dissension may be further deepened when the political system itself is the stake in an economic competition:
the state apparatus itself, and wage employment in the public sector which it represents, are the main resources which the new 'political community' possesses. Competition is primarily for jobs, not for changes of policy. It is difficult to avoid a 'winner take all' situation, particularly if the 'successor class' appears to have been chosen through circumstances dictated by the departing colonial authorities.¹

The constant threat of a violent seizure of power by opposition groups may also compel the incumbent government to employ valuable resources simply in the task of maintaining its position rather than in creating support for the political system as a whole.

The difficulties are self-compounding, for an opposition that is totally excluded from political benefits may well look to outsiders for support and assistance. Any inhibitions on involving foreigners are so much the weaker on account of that very exclusion. In Western Africa, for instance, because the concept of nation is not fully developed ... the opposition group may find no incompatibility between its position as a national party seeking power and its acceptance of alien support. In fact, it may even define its objectives in non-national terms, calling itself 'an African party' or a branch of an African Socialist movement.²

Outside intervention in the politics of a country - such as Nkrumah's support for various political refugees - may thus indicate an unfinished struggle for power. In a country where political authority is more firmly established both the inclination to look for external assistance on the part of opposition groups and the potential influence of outsiders are correspondingly diminished.

One of the tasks in developing a 'political culture' is the creation of a sense of social and national cohesiveness. Loyalty to the nation has often to be won in the face of racial, tribal, religious, linguistic and


regional diversities and antipathies. Moreover, where social conflicts are latent or have already erupted, the inducement to intervene appears to be strong. National boundaries often cut across tribal or linguistic groups and governments tend to be sympathetic toward the plight of minorities in other countries who belong to the same race or share the same religion. The possibility of outside intervention gives an added stimulus to the search for unity. One solution has been the appeal to a transcendent ideology which may draw upon both European and local ideas. Resort to an alternative solution - stimulation of an outside threat to the national unit - seems to have been relatively uncommon. Another response, the ethic of anti-factionalism characterizes much African political thought. It derives from 'the dogma that imperial powers once divided in order to rule'. Anti-factionalism seeks to deny the 'ultimate excuse' for outside intervention in African affairs, manifesting itself in the doctrine of the one-party state, in the notion of a classless Africa and in the denigration of tribalism.

At the same time, however, it is not certain that internal conflicts arise from diversity as such, for even social antipathies need to be focused on political issues in some way. The civil war in Nigeria is again an instructive example. Certainly, the fighting was chiefly between Ibos on the Biafran side and non-Ibos on the Federal Government side, but their antagonism cannot be put down simply to tribalism or tribal rivalry. (It would be similarly unhelpful to ascribe World War II to German and British nationalism on the grounds that Germans fought on one side and Britons on the other.) In the Nigerian case as was suggested earlier, the conflict may be interpreted as a consequence of the process of modernization which produced a division of political benefits that was

2 loc. cit.
regarded as unequal and unfair. Even though one side defines its cause in tribal or racial terms this may conceal the true dimensions of the conflict. The real importance of social disunity among the new states is that it means the presence of underlying and conflicting loyalties which may be activated by political conflicts.

For a variety of reasons the military has played a crucial role in the political life of the new states. On numerous occasions the army has intervened in order to take over the political system or to establish one of its own choosing. This activity is not limited to the new states, of course, as Finer's work shows. He deals mainly with the older countries at three levels of 'political culture'; consequently there can be added to his list of motives for military intervention the concern for modernization and progress. Such a purpose was evident among the army officers who deposed Nkrumah in February 1966. There is always a risk that the army will seek to take over control in a politically underdeveloped country, but unless there are widespread and fundamental dissensions in the country - as was the case with Nigeria - the violence involved is likely to be short-lived and on a small scale. The reason is partly that the army itself frequently serves as the main instrument for guaranteeing internal security, a task which has generally taken first place over defence against outside attack. Moreover, the army is in many cases the most effective organization in the country, having overwhelming force at its disposal and a capacity for administration which sometimes leads army officers to believe that they could run the country more efficiently than politicians who are thought to be corrupt and self-seeking. In such circumstances there are few reasons to expect that the army will remain completely apolitical,

particularly when it is itself part of the modernization process.\(^1\) The solution may be rather to incorporate the armed forces into the political system so that the incentive to take over completely is reduced. As President Nyerere concluded a few months after the Tanganyika Army mutiny:

> There is always some element of risk about having an army at all in a developing country, but since you can't do without an army in these times the task is to ensure that the officers and men are integrated into the Government and party so that they become no more of a risk than, say, the Civil Service.\(^2\)

It might seem therefore that the military is an important channel for involving outside states in internal conflicts in view of the fact that the armed forces of many new states are heavily dependent on foreign training and equipment. The extent of outside influence resulting from this is problematical but even in the few cases where it is considerable the possibility of active determination of a struggle for power remains small. Gutteridge's analysis of the question concludes:

> It is very often foreign aid which gives to armies the power to intervene in politics, but the purpose of intervention is more likely to be determined by particular local conditions than by the influence of a source of assistance. In fact, the professional traditions of the major powers who provide the majority of aid, be it in Latin America, Africa, or Asia, are more likely to inhibit the development of partisan attitudes than to encourage them: that there is no consistency in the pattern of the military in politics is perhaps the best proof of this.\(^3\)

Moreover, if the new states are in any case more susceptible to internal strife than the older states, their armed forces may prove to be the best instrument for ensuring internal

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1 Sir Alec Douglas-Home was setting an unrealistically high standard in his remarks following the East African mutinies of January 1964: 'I was afraid that they would get their independence before they had the two essential things that are necessary if you are to run a country. One is a police force, loyal to the Government; and another is armed forces, loyal to the elected government of the day.' Cited by Mazrui, op. cit., p.161.


3 ibid., p.140.
stability and supervising political development. Success of the army in this role would reduce the sources of disorder as well as diminish the opportunities for outside intervention.

E: Conclusions

The international system has always contained a considerable number of relatively weak and unstable states which have been prone to internal conflict and subject to external intervention. Since the early part of the nineteenth century many of the Latin American countries have been in this position. Even powerful states have been liable to break down in internal dissensions at certain historical periods. Nor is it the sheer number of states that is significant in the contemporary system, for the several hundred principalities and petty kingdoms in the old European system were not regarded as a comparable problem. What, then, has been the special significance of the new states since 1945? The central features peculiar to the post-war world are to be found, firstly, in the needs of the new states themselves and, secondly, in the concern of outside powers with the course of their political and economic development. Any attempt to assess the importance of civil strife in the contemporary world must take these features into account.

The new nations are not only economically and militarily weak in general but must depend to a considerable extent on outside assistance to overcome these deficiencies. Such assistance may not be a matter of life and death for them but its supply or withdrawal can seriously affect their viability. The rate of economic growth will determine the level of government spending and the standard of living of the population; an adequate military capacity will enable the incumbent regime to put down or contain small-scale revolts and disturbances before they threaten to bring down the government. While poverty and military weakness are not direct causes of political instability, economic progress and military strength tend to be regarded as political issues. Few states, if any, can choose to disregard them; indeed,
as Halpern suggests, 'the revolution of modernization ... is not a peculiar burden carried temporarily by the under-developed, but is history's first common, world-wide revolution'.¹ What is crucial for the new states is that this revolution must be carried out in a situation where established and secure political arrangements are lacking. The government itself is the instrument for modernization and development and it can be captured relatively easily in a country where it is not yet fully integrated into society. Those initiating civil conflict frequently proclaim their intention to fulfil these goals more efficiently than the existing government. While reform coups and revolutions in the name of progress are by no means a thing of the present alone, what is unique today is the near-universal acceptance of the value of modernization. New and old states alike espouse, or at least claim to espouse, goals which require rapid and ceaseless change.

This introduces the second major factor, namely the concern which the major powers show for the future of the new states. In part, it is involuntary. The needs of the new nations press themselves upon those in a position to satisfy them. Wealthy and powerful states must not only give economic and military assistance but must also give some thought to the political protection of other governments from internal and external threats. For such conflicts threaten to expand and involve outside powers to the point where they cannot be ignored. Involvement may be necessitated, moreover, by the potential effects of internal strife on the relationship between the leading powers; this will be especially true if an outside power is believed to be already involved. Nor are civil war factions always averse

to exploiting this tension. In part, this outside concern is voluntary. Nations do in a sense choose certain moral and political standards which may be relevant to particular internal conflicts. Concern for human suffering, for individual liberty, or for racial equality spring most obviously to mind. To some extent, therefore, states may have become more willing to intervene in others' affairs. In part, finally, this concern with the development of the new nations derives from a capacity to become involved; the ability to influence the course of events often stimulates an interest in them, an interest which is both voluntary and involuntary. Here it is necessary to say only that capacity includes both the physical ability and the knowledge required for intervention. Some writers have argued that power has outstripped knowledge in this respect. It is certainly easier to show that the ability of the leading states to intervene in the affairs of the weaker ones has expanded enormously in the post-war years than to discover a corresponding increase in the knowledge of states, whether it be for the purpose of economic development, suppressing a rebellion or subverting a government. The new states, in short, live in a world that cannot shut itself off from them; nor can they isolate themselves from the rest of the world.

CHAPTER II: CIVIL STRIFE AND OUTSIDE STATES

Civil strife creates a problem for international order in the first instance because states are frequently led to intervene in it but ultimately because they disagree about the purposes of such intervention. Before considering the wider aspect of the problem, however, it is necessary to provide a definition of intervention and to analyse more closely the pressures working for and against this phenomenon. The nature of intervention in civil strife, its limits and its potential are clearly relevant to the character of the broader problem of international order.

A: Intervention in Civil Strife

The term 'intervention' referring to a certain kind of activity of the part of states has been subject to a great number of definitions since international lawyers and others first became concerned with the topic. Disagreement between them has resulted from the conflicting purposes of the definers and from clashing notions about the function and value of definition as well as from the complexity of the act of intervention itself.¹ These battles will be circumvented rather than settled by confining the term 'intervention' for present purposes to intervention in civil strife; other varieties of intervention, for example in internal affairs generally, will be left undisturbed.²

Intervention in civil strife is to be defined as actions taken by a state which can be expected to affect the


² C. de Visscher suggests that intervention in the contemporary world, especially that which is subversive, 'differs sharply from intervention as that was known in the nineteenth century; for even when its motives were political, intervention involved nothing more than occasional pressures for limited objectives'. Theory and Reality in Public International Law (Princeton, 1957), p.296.
relations between an incumbent government and a rebel group or between two rival factions within another state.

Intervention in this sense might include not only all forms of aid to incumbents or rebels but also attempts to mediate between the two sides or to encourage them to refrain from conflict; this study will be concerned primarily with intervention that assists one side to impose its goals on the other. Intervention might also include actions designed to create a rebel group in another state or to instigate active revolt by a group already in existence. The distinction between civil conflicts which originate externally and those which attract outside participation after breaking out is crucial for some purposes and these will be considered later. But the essence of the activity defined here is the action of an outside state on an existing or potential situation of civil strife in another country.

Naturally, this definition is not without problems. It seeks to avoid both purely subjective and purely objective criteria of definition by referring to an expectation that the course of a civil conflict will be affected. To define intervention as activity which actually has an effect on a civil conflict is in some cases to demand proof of what is unprovable or knowledge of what cannot be known, at least until after the event. The present definition designates actions which, taking into account all the circumstances which seem relevant, can generally be expected to have an influence on the course of a civil conflict. Consider, for example, the initiation of economic sanctions against a particular government. The question is whether or not such a policy is interventionary in the sense defined here. It will not do to ask that judgement be suspended until the actual effects of the policy are seen; the period of waiting may stretch out indefinitely and then the expected effects may not be observed, perhaps on account of some chance factor, perhaps on account of countermeasures taken by the government. On the other hand, it cannot simply be assumed that economic sanctions will automatically undermine the authority of the incumbent government and consequently
promote opposition elements because they are intended to do so. 'The naive theory of the relation between economic warfare ... and political disintegration,' in Galtung's words, 'sees some kind of roughly proportionate relation: the more value-deprivation, the more political disintegration'. Galtung goes on to argue that economic sanctions, far from invariably promoting civil strife in the country concerned, may well diminish opposition to the existing regime. The community as a whole may resent being victim of outside pressures and feel more tightly integrated than before; it may adapt itself to new conditions of hardship and in the process lose some of its internal rivalries.

When such a policy is first undertaken, therefore, it is a matter of judging whether in this particular case it can be expected to produce civil strife within the target state. Knowledge is required both of the situation in the country concerned and of previous instances of economic sanctions since precedents can help determine whether a given action might generally be expected to have an interventionary effect. Thus continuous failure of a certain type of activity to have any effect at all will at some time produce the conclusion that such behaviour is no longer interventionary. Similarly, background knowledge of this kind is required by a judge in domestic courts who has to determine whether or not an allegedly obscene book does in fact tend to deprave and corrupt; it is a decision which must be informed by an awareness of many social and psychological factors and which cannot be made simply by reference to the statutes. Such factors, moreover, are liable to change over a period of time. Acts which are interventionary - like books which are corrupting - cannot be specified without reference to the general context in which they appear.

The present definition of intervention in civil strife also avoids the thorny problem of the intentions of the intervening state. To require that a state have an interventionary animus before intervention can be said to exist is to place an excessive burden on what is largely a fragile working hypothesis. In the first place, states do not have simple, unambiguous motives; they may even be unclear as to their own purposes. Thus a certain act on the part of a state may be designed to achieve a variety of purposes, only one of which might be called interventionary; again, a particular act may turn out to be interventionary although this was far from the minds of the statesmen undertaking it. Clearly, there are great practical difficulties in reaching definite conclusions about the motives of states when the idea of motives is in any case simply a convenient fiction for explaining complex behaviour. In the second place, the question of motives appears irrelevant for present purposes. In judging the actions of others, states tend to be less concerned with the intentions that may lie behind these actions than with the consequences that they themselves expect to follow. For states usually assume that intervention in civil strife is deliberately planned, and the impartial observer may almost as often reach the same conclusion. While the question of interventionary intent is of some importance in controlling intervention, a more significant factor would seem to be the freedom of choice that a state has in undertaking intervention.¹ The circumstances making for intervention, in other words, count for more than whether the interventionary effect is intended or unintended.

Intervention in civil strife may take any form from the despatch of large numbers of troops to simple verbal encouragement of a rebel group. The relevant test is whether any of these activities can be expected to affect the civil conflict in question. Now while it is true that an act such

¹ See chapters VII and VIII.
as the introduction of troops will invariably produce some effect whatever the circumstances, this is not the case with many other actions. The dissemination of propaganda in another country, for instance, cannot always be considered interventionary even when it takes the form of a clear call to revolt. An interesting example is to be found in General de Gaulle's remarks on a 'free Quebec' during his visit to Canada in July 1967. He had in mind the emergence of Quebec into the rank of a sovereign state and appeared to be encouraging secession by the province. But it was also apparent that any such attempt by Quebec was unlikely and that the President's remarks were not generally expected to alter this situation. It was certainly a lapse of diplomatic courtesy, since the federal government had long been embarrassed by secessionist demands, but little more. In different circumstances, however, comparable remarks might be highly interventionary. In a weakly unified state explicit approval of secession on the part of an outside power might well be expected to encourage a province to break away, especially if the latter sees a promise of more concrete assistance in the future. Thus while words may most clearly announce an interventionary intent, it is their likely effect that must be assessed.


2 The International Convention concerning the Use of Broadcasting in the Cause of Peace, signed in 1936 and entering into force in 1938, obliged the parties to refrain from broadcasting matter of 'such a character as to incite the population of any territory to acts incompatible with the internal order or the security of a territory of a High Contracting Party'. Article 1, cited by D.W. Bowett, Self-Defence in International Law (Manchester, 1958), p.50. This definition of hostile propaganda is broader than the present definition of intervention since it refers to acts likely to challenge the existing order generally rather than promote civil strife but it is of a similar nature. The test of interventionary propaganda put forward in A.V.W. Thomas and A.J. Thomas Jnr., Nonintervention: The Law and its Import in the Americas (Dallas, 1956), p.274, by contrast, would take at face value the symbols that are manipulated and ignore the probability of success.
It is obvious, moreover, that the location of the activity concerned will not be of prime importance. What may be the case is that actions on the territory of the intervening state will prove more difficult to relate to a civil conflict elsewhere than actions in the divided country itself; a probable sequence of cause and effect must be shown to exist between the original actions and the course of the conflict. No simple assertion may be made either that no such connection can exist or that one will exist in every case. Stalin was somewhat less than frank when he claimed that Soviet encouragement of the American Communist Party within the Soviet Union could not be construed as hostile to the U.S. Government:

In what do the activities of the Communist Party consist? ....These activities usually consist in the organization of the working masses, in organizing meetings, demonstrations, strikes, etc. It is perfectly clear that American communists cannot perform all this on Soviet territory.¹

Nevertheless, it may be true that the actions of the Soviet Government in supporting foreign communist parties in various ways did contribute to the overthrow of other governments; the line of argument might not be sustained but it has to be kept open. At the same time, however, most states are jealous of the right of their citizens to comment freely on the iniquity of certain other governments; they do not wish to be accused of subversion on each occasion that they criticize or allow to be criticized the form of government of another state. The right of granting asylum to political refugees, including rebels, is similarly maintained by most states, regardless of their ideological persuasion. Accordingly, it is reasonable to require that accusations of subversion or intervention in this kind of situation be accompanied by a demonstration of the probable effects of the action concerned. The only

generalization that may be safely offered is that demonstration of interventionary consequences of purely verbal activity, unaccompanied by more concrete actions, is likely to prove elusive.¹ This will be so even when the words in question amount to a command to a rebel group in another country.²

The definition of intervention offered here has been influenced by the purpose of this study which is to discover the ways in which intervention in civil strife may be regulated. If the concern were primarily with the goals of states or with the effectiveness of interventionary policies, then a definition would be needed which focused more directly on the motives of states and on the actual consequences of their actions. The present definition, it has been argued, does not ignore such factors but treats them as part of the background knowledge which is required in order to say whether a given action might generally be expected to have an interventionary effect. Domestic law takes a similar approach to regulating the behaviour of individual citizens. A man may be deemed guilty if his actions could have reasonably been expected to lead to unlawful consequences. The man's motives may or may not have been malicious, but this is not of primary concern although it may affect the severity of any punishment inflicted. Again, the normal consequences of his actions may have been frustrated by chance or by deliberate

¹ Lecturing on the role of propaganda in the cold war R.H.S. Crossman warned that 'Psychological warfare is no substitute for action. It is, at best, an accompaniment to action, something which slightly accelerates the process of military force or the process of diplomacy. It is not some mysterious trick of its own which can be used when you are prevented from using conventional weapons.' Address to the Royal United Service Institution, 18 February 1953; excerpts in W.E. Daugherty, 'The Creed of a Modern Propagandist', in Daugherty, M. Janowitz (eds.), A Psychological Warfare Casebook (Baltimore, 1958), p.44.

countermeasures but this does not alter the prime question of guilt or innocence. Of course, this parallel should not be taken too far. Intervention in civil strife has not been defined as *per se* contrary to international law; one of the aims of this study is to determine the circumstances under which it is desirable to prohibit intervention. Domestic law, moreover, differs in substantial respects from the sorts of international rules to be considered here (of which international law forms only one variety) but what is common is the manner in which rules or statements of law are applied to the behaviour of the persons to which they are addressed. It is the regulation of the interventionary behaviour of states that provides the focus of this study.

B: The Internationalization of Civil Strife

Civil strife takes place within the boundaries of a single state but almost without exception it arouses interest or concern among outside states. On occasions this concern is transformed into action of an interventionary kind. Some assessment thus needs to be made of the tendency evident in any civil conflict apart from the most minor to acquire international dimensions. The most obvious instance is provided by civil strife which is instigated or promoted from outside since an international element is already present at the outbreak of the conflict. This situation produces its own pressures for further internationalization. What will be considered here are the ways in which any existing internal conflict might involve outside states. This is part of the 'problem' of civil strife in any international system although, as will be seen, there are other factors making for the limitation of such conflicts to purely local affairs. More often than not, however, the balance of these forces seems to be on the side of internationalization.

The pressures for internationalization may originate in either the incumbent government or in the rebel group. In some conflicts both sides will be able to act
effectively with their own resources or will lack sufficient time to call upon outside help. The essence of a coup d'état from the rebels' point of view is speed and surprise; only a small quantum of armed force is usually considered necessary and as a rule this is provided by the army of the country concerned. An attempt to bring in outside forces would normally be superfluous and quite possibly self-defeating since the element of surprise could be lost. What the rebels are most likely to require is the acquiescence of interested outsiders and the promise of support for the new government. Similarly, the incumbents, unless forewarned, can only rely on the resources they possess at the moment the coup is attempted. If the coup lasts only a matter of hours the time factor will preclude outside support; but if it is prolonged for a matter of days this may prove long enough. Thus US military intervention in the Dominican Republic on 28 April 1965 came only four days after the initial military revolt against the government of Reid Cabral. Pressures for internationalization of civil conflict may thus be restricted by the factors of time and the availability of adequate forces.

Even in a coup there is scope for outside support to be sought by incumbents and rebels both beforehand and afterwards. But it is when the conflict persists for any length of time that the two sides will tend to look outside. Modelski has argued as an empirical generalization that since incumbents always and by definition have international connections, simply because they are in charge of the legitimate machinery of the state ... the insurgents, by virtue of having to approximate the incumbents as closely as possible in order to supplant them, must develop the same machinery. ¹

culture and resources - each of which must be developed and maintained. Usually it is the insurgents who have the most to do in these areas. In many cases rebel leaders have made contacts with foreign countries before a civil conflict and will expand them in the course of the war. In addition to the personal element, of course, a rebel movement may be able to call upon connections with outside governments, organizations and political parties. 'Only in the most exceptional cases,' Modelski points out, 'does the structure of solidarity coincide with the boundaries of a political system such as that of a nation-state. Naturally, there are many bases of solidarity; nor is political solidarity something which rebels alone can exploit. An incumbent regime may elicit support by representing itself as 'democratic' or 'communist', 'Arab' or 'African', or even simply as 'legitimate'; and the appeal need not be to other governments alone, for individuals, groups and organizations may be induced either to assist directly or to put pressure on their governments to adopt certain policies. The language of such appeals is clearly important too; a common language or culture - in the sense of shared terms of reference - already implies feelings of sympathy and concern. To communists, for instance, the term 'revolutionary' is normative rather than descriptive since it is used both of a rebel movement and of a regime in power in order to indicate that its cause is just and worthy

1 ibid., pp.15-18.

2 Long before Ho Chi Minh began the struggle against the French in 1945, he had been dealing with foreign governments. In the 1920s he spent some time with the communist movement in China, founding the Vietnamese Revolutionary Youth League there in 1925; early in World War II he was imprisoned by the Kuomintang but released by them in 1943 so that he could conduct an anti-Japanese campaign in Vietnam. Ho had also made contacts with the Soviet Union at various times. J.J. Zasloff, The Role of the Sanctuary in Insurgency: Communist China's Support to the Vietminh, 1946-1954 (Santa Monica, 1967), pp. 4-6; B.B. Fall, The Two Viet-Nams: A Political and Military Analysis, second edition (London, 1967), pp.61-3.

3 op. cit., p.16.
of support. The language of nationalism, democracy and so on has similar terms.

Finally, a civil conflict generates a demand for material resources which both sides must seek to satisfy. In some cases the country concerned appears large enough to sustain the demands made upon it but even then assistance may be more easily gained from outside. The Civil War in Russia saw a variety of support given by Britain, France, the United States, Italy and Japan to the enemies of the Bolshevik regime. In the Chinese Civil War it was the government that received aid from a number of countries including Russia and the United States at various times. It is not simply that the weaker side seeks outside aid in order to redress the internal balance but that both sides have an incentive to go outside in an attempt to improve on their position, whether one of inferiority or superiority. External resources, moreover, are often more readily available than local ones or are in a more usable form. Both sides, for example, may be able to produce their own weapons but only after a time and at the cost of foregoing other uses of the resources employed, all this for a possibly inferior product; imports, by contrast, can be paid for in the future with gains yet to be secured but can be put to use immediately. The demand for outside aid may be strongest at the moment of impending defeat when one side must risk all in order to retain a chance of winning. An incumbent on the verge of defeat, like Chiang Kai-shek in the twelve months before October 1949, may be similarly

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1 In April 1949 F.A. Voigt described the difficulties of the Greek communist rebels whose organization was being stretched to the point of collapse: 'The "Democratic Army" cannot renew its cadre without assistance from the northern neighbours. That is to say, the time is approaching, if it has not come, when Albania, Yugoslavia, and Bulgaria - and, of course, Russia - must decide whether they can depart from the principle hitherto observed, namely that assistance to the Greek Communist Party shall be confined to the supply of arms, ammunition, equipment, rear bases, training, and so on, and make assistance include the active participation on Greek territory of a cadre which, whatever it may appear to be, will not consist of Greeks, but of trained and experienced men from those northern countries'. The Greek Sedition (London, 1949), p.13.
desperate for external aid. In the final analysis an outside source of supply offers both government and rebel leaders a chance of continuing the struggle in exile or at least of a dignified retreat. This is but one illustration of the phenomenon whereby 'the presence of an international component in one of the internal war structures sets up pressures for "internationalizing" the other three structures'.\(^1\) It is not only that there are inherent tendencies in civil conflicts to involve outside powers but also that once given vent these pressures facilitate further assistance to the one side and stimulate aid to the other.

On the other hand, there are factors which tend to work against internationalization. Some are inherent in civil strife, relating to its intractability to outside management, while others depend on the domestic problems likely to encumber an intervening state. It is simple enough for an outside state to extend assistance but it is another matter to ensure that this support serves the purposes for which it is given. There are problems in determining who is to receive aid and when it is to be given.\(^2\) There is even a possibility that intervention may produce effects quite the reverse of those intended. The goals which intervention cannot achieve thus become an important factor in limiting the actions of outside states.\(^3\) Even if the donor can be sure that whatever assistance reaches its friends will be used in ways which suit it, there is a danger that the external origin of such support will itself handicap the recipient. A government receiving external aid may become even more discredited in the eyes of a rebellious people.

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\(^1\) Modelski, op. cit., p.18.


\(^3\) Machiavelli's discussion of the problems faced by outsiders in winning over dissident subjects for the purpose of conspiring against their prince remains instructive. The Prince, pp.45-6, 103-5.
population by arousing suspicion of dependence on a foreign state and by diminishing its claim to legitimacy. An insurgent group may similarly damage its cause by appearing to be reliant on an outside state especially when nationalism is part of its appeal. On the other hand, a faction which is already largely alienated from the rest of the society may have little to lose and much to gain by accepting aid from outside; in this situation, of course, the unpopularity of the faction will minimize its ultimate chances of success. The intervening state must take these possibilities into account and more besides.

For in some cases foreign assistance may not only be welcomed by the party which requests it but also increase its appeal. The ability of a faction in a civil conflict to demonstrate a commitment on the part of an outside state to its goals can produce advantages beyond those flowing directly from whatever practical aid is given. The securing of aid from other countries may in fact serve to endorse the justness of the claims of the party that receives it. This is true of conflicts where one side has adopted a political ideology that is shared by a number of other countries; their identification with the cause of the rebels or the incumbents not only encourages the faithful but also wins converts to the faith. A similar effect has been evident in many of the anti-colonial struggles that have been fought since 1945: the greater the international endorsement of colonial rebellions the greater their legitimacy became even, one suspects, in the eyes of the colonial countries themselves. All this is apart from the more cynical calculations which suggest that people are attracted to the side which has the better prospect of winning and that external aid can often increase those prospects. In any event the existence of a request for intervention appears to be an important factor since it indicates that the party concerned itself believes that outside aid will prove more beneficial than harmful.

The fact that an intervening state is closely identified with the cause of one of the parties to a civil
conflict does not necessarily mean that the former in any sense controls the latter.\textsuperscript{1} Strong identification may exist while only marginal influence is exercised; slight identification may conceal a high degree of control. Nor is control directly related to the absolute level of external aid. The possibility of external control is important when the aims of an existing faction differ from those of the intervening state or when an outside state seeks to initiate and sustain a rebellion for its own purposes. In either circumstance control is not to be achieved simply through close identification or large-scale assistance, and the factors which make this so constitute another set of practical limitations on the act of intervention. In this context control may consist of three elements: the power of authority which depends on shared values and the habit of obedience; the offering of positive incentives; and the negative threat of sanctions. This analysis is relevant to the control or attempted control of both insurgents and incumbents although it may be that in practice one is likely to prove more susceptible to control than the other.

The element of authority will be considered first. It has often been claimed that a group which subscribes to communist ideology will consequently accept the authority of outside communist states, in particular that of the Soviet Union or China according to the leanings of the group itself.\textsuperscript{2} Certainly, many Soviet and Chinese statements indicate that they believe themselves in possession of at least a moral or doctrinal authority on revolutionary issues which is born of their own experience and their contributions

\textsuperscript{1} The correct assessment of the degree of external control will be seen to be important in the matter of regulating interventionary behaviour. See chapters VII and VIII.

\textsuperscript{2} The discussion in this paragraph applies - with appropriate modification - to ideologies other than communism; the necessary condition is a system of political beliefs on which authority may be based.
to Marxist-Leninist thought. Yet even if a common creed and shared values exist, obedience does not automatically follow. The recognition of common values and beliefs does not prevent them from being interpreted and applied in different and possibly incompatible ways. Many writers have pointed to the tendency of insurgent forces to follow their own independent line: they alone are in a position to understand what policies the situation requires, they cannot rely on the judgement of outsiders, and they frequently have a distrust for 'politicians' abroad who are naturally concerned with a variety of other interests - this suspicion is even directed against governments-in-exile whose members are of the same nationality as the rebels.\(^1\) Thus Mao Tse-tung resisted Stalin's demand for an alliance with the Nationalist Government in China; thus Tito, Ho Chi Minh and Castro also worked for their own style of communism. Indeed, it is generally true that those communist parties which actually fought to achieve power themselves have proved the most independently-minded both before and after their success. In the absence of ideological bonds there appears even less reason to expect an insurgent group to accept the authority of an outside state save in the extreme case of a conflict initiated by infiltrators who are for some reason individually committed to the intervening state. It is not a commitment, however, which can be easily created amongst potential recruits to the group.

\(^{1}\) See E. Ahmad, 'Revolutionary Warfare: How to Tell When the Rebels Have Won', The Nation, vol. CCL (30 August 1965), p.99; B.B. Fall, 'Viet-Nam in the Balance', Foreign Affairs, vol. 45 (October 1966), p.13; Zasloff, Role of the Sanctuary in Insurgency, p.vi. But see Modelski's view of the Vietminh insurgency: 'Due to the distance from Moscow and to the circumstances of war and of clandestine existence, the local leadership could on the whole pursue policies attuned to local conditions. Yet freedom from unthinking conformity did not weaken, and indeed may have strengthened, the ties of allegiance to the international movement as led by the Soviet Party'. 'The Viet Minh Complex', in Black, Thornton (eds.), Communism and Revolution, p.205.
The exercise of authority over an incumbent government which is involved in civil strife would appear to be a somewhat unlikely proposition. A government will normally be accustomed to wielding authority itself even in the case of an ideologically committed regime. While a rebel cause may be closely bound up with goals and beliefs of an ideological nature, an incumbent government is likely to be primarily concerned with the instrumentalities of power which need to be defended against the efforts of the rebels. An outside government which sees intervention in civil strife as a potential form of control over an incumbent will thus be obliged to rely rather on some combination of incentives and sanctions, a conclusion that applies equally in the case of insurgents. Essentially, the efficacy of such a policy will depend on the situation in which it is pursued as much as on the amount of assistance actually given or the size of the sanction threatened. Three necessary conditions may be identified for the exercise of control in this context.

The first requirement is that the incumbent or the insurgent be in urgent need of the assistance which is offered; if the aid is wholly or partly dispensable, the outside state will find it correspondingly more difficult to exert an influence. In a civil war situation this requirement is more likely to be satisfied than at other times for the government may feel that it is fighting for its very existence and the rebels may believe that victory is worth some loss of independence. Even so, the fact that external aid is present in many civil conflicts does not necessarily mean that it is indispensable. A second requirement is that the intervening state be capable of withholding assistance in the event of its terms not being met. The difficulty here is that intervention is usually undertaken for a number of reasons, not all of which relate to the actions of the party which benefits from it. Thus intervention may be designed to serve pressing goals such as self-defence or the victory of certain political principles; to the extent that assistance must be given
in such cases its potential as a means of control is diminished. The attempt to govern another's behaviour by threat of sanctions, moreover, always remains subject to the limitation that a threat which has to be carried out is a threat which has failed. The third and last requirement is that the state seeking control be the sole source of assistance, for clearly the more countries that are able and willing to give the aid which is needed the smaller will be the influence that each is capable of exercising. A monopoly position would appear more likely the higher the level of assistance required and the more specialized its nature; it is at this point that the strongest powers are most able to make their influence felt, given that the conflict concerned has generated large demands on the part of one or both of the factions.

It is obvious that in practice these requirements will never be so fully met that they allow an intervening state complete control over the policy of the faction receiving assistance. Whatever elements of control can be won by giving and threatening to withhold assistance are likely to fall far short of total direction, being subject to the fluctuating bargaining skills and strengths of those involved. The various stages of civil strife, for example, seem to differ in the ease with which they may be directed from outside. The initiation of a conflict is perhaps most easily achieved since only a handful of supporters may be required - though this is to say nothing about the ultimate

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1 The U.S. has frequently been in the position of having to continue support for leaders about whom it had serious misgivings, simply because abandonment of them could worsen the situation. There was a reluctance to use sanctions of this kind against Chiang Kai-shek after 1945 and again in the case of President Diem of South Vietnam when the possibility arose of a coup against him. According to Roger Hilsman, 'among both Americans and Vietnamese, the greatest concern of all was that a coup d'état might result in a civil war between pro-Diem and anti-Diem forces that would give the Vietcong an opportunity'. *To Move A Nation* (New York, 1967), p.494. In February 1962 the U.S. did cut off all aid to the Laotian leader Phoumi Nosavan but with apparently little effect.
chances of success. The maintenance of a conflict in accord with desired objectives is rather more difficult for the reasons outlined in the preceding paragraph. The greatest problems would seem to arise in the termination of a civil conflict. A faction will certainly be unwilling to give up a struggle in accord with outside direction if it has any prospect of success, and even if its prospects are minimal the alternative of passive surrender may seem no better than continued struggle. Equally difficult problems arise for the intervening state in the event of victory by one of the factions. For then the needs of the faction lose their urgency; these needs, moreover, become those of a government in unchallenged power and hence more likely to find satisfaction through aid from other governments which might have been reluctant to intervene in an undecided civil conflict.

The general conclusion seems to be that an intervening state cannot hope to maintain a fixed degree of control over the party it supports and that this uncertainty must be regarded as a factor likely to limit intervention. Clearly, the degree to which the ultimate aims of the intervening state correspond with those of the faction assisted is important. The greater the similarity of objectives the more willing will the intervening state be to ignore the difficulties and uncertainties of controlling events. Yet the possibility always remains that this convergence of policy will not continue indefinitely. Finally, it suffices simply to mention the possible costs of intervening on the losing side for, as we have seen, the success of intervention cannot be guaranteed. Aid to an incumbent who is eventually overthrown or to an insurgent who is ultimately defeated exacts a price in terms of future relations with the country concerned.

1 '...in the case of Intervention, as in that of Revolution, its essence is illegality, and its justification is its success. Of all things, at once the most unjustifiable and the most impolitic is an unsuccessful Intervention'. Sir W.G.G. Harcourt, Letters by Historicus on some Questions of International Law (London and Cambridge, 1863), p.41.
The limits inherent in the act of intervention, it was suggested above, relate either to the conditions prevailing in the country where the interventionary effect is intended or to the domestic circumstances of the intervening state. In the latter case decision-makers considering intervention may be restrained by internal political pressures or by the limited resources available to them. These factors need not be discussed in great detail here although this is not to imply that they are of little importance. It is sometimes argued, for example, that democratic governments find intervention more difficult to conduct than totalitarian ones since the latter are relatively independent of popular opinion and are more easily able to undertake covert activities. Particular forms of intervention may indeed prove extremely difficult for a democracy. A drawn-out military action involving high casualties such as the American involvement in Vietnam seems likely to produce internal divisions which weaken and constrain national decision-making. Yet public opinion in democratic countries will not always prevent leaders from embarking on intervention of this kind and may in fact heartily endorse it before the full consequences become clear; it is also possible that a tradition of bipartisanship on foreign policy issues will encourage intervention and sustain it. Democratic and totalitarian leaders alike may be tempted by the promise of easy and rapid success but neither can guarantee it in every case; it is simply that failure may have more immediate consequences for the former than for the latter. Again, democratic governments have proved capable of initiating covert intervention, as did the United States over Guatemala in 1954 and Cuba in 1961, though it seems impossible that such operations could remain secret for any length of time in an open society. Perhaps

1 George Liska has argued the need for the United States to isolate its society and economy from the impact of military engagements by measures such as the professionalization of the armed forces. Imperial America (Baltimore, 1967), p.106.
the most that a democratic country can achieve in this respect is to make at least some of its covert undertakings plausibly deniable so that there is an element of doubt as to its actual role in the events concerned.

The general conclusion seems to be that domestic inhibitions on intervention by a democratic government do exist but that while decision-makers may be constantly aware of this their calculations will not be closely constrained in advance of an intervention. Popular opinion may, on the contrary, increase the pressure for intervention to a point where the government believes it has no choice but to act. In either case it is evident that no simple generalizations can be made about the relative ease with which democratic and totalitarian governments may intervene in civil conflicts. For the factors operating in each case - whatever the type of government - are usually complex and elusive. A similar conclusion seems warranted with regard to the role played by physical capacity in limiting intervention. It is a truism to say that the stronger a state the greater its potential for intervention. But it is important to note that power in the sense of physical resources is rarely the sole determinant of a civil conflict and that even massive superiority on this score cannot guarantee success. Also to be borne in mind is the possibility that limited resources for intervention may prove remarkably efficacious despite the apparent disadvantage that success may not be achieved as quickly. The limiting effect of resources on intervention thus needs to be qualified by considerations such as their relevance to the situation concerned and the expertise with which they are employed. Domestic restraints on intervention do exist but they are never simple ones.

C: Civil Strife and International Disorder

It is apparent that few civil conflicts take place without the involvement of at least one outside state. The pressures tending to produce intervention are manifold. On the one hand, there are forces within states that make for instability and for external participation in those
conflicts which do break out. On the other hand, there are pressures among the members of international society making for concern about and on occasions for intervention in the private affairs of a state. These pressures are so much the greater in the event of an internal conflict, especially one that takes the form of a civil war.\(^1\) So far as pressures of this kind are concerned, a broad distinction may be drawn between those relating to the character, interests and outlook of particular states and those relating to the nature of international society in general. Instances of the former include the humanitarian concern displayed by many states in both normal times and during civil conflicts when human suffering seems to be particularly heightened; some states may feel unable to ignore this and may even feel a duty to intervene. Again, intervention for objectives relating to internal political arrangements has become bound up with ideologies that prescribe particular forms of government or, like anti-colonialism, proscribe certain forms. At the same time an increase in the capacity of states to intervene appears to have permitted an expansion in the range of goals which they can hope to achieve by participating in or instigating civil conflicts. Lastly, states have always been concerned about defending what they conceive to be their interests, vital and not so vital. The breakdown of order in a foreign country can impinge on these interests in a variety of ways, sometimes directly if hostilities endanger the lives or property of nationals, sometimes indirectly if a civil conflict ruptures normal relations or threatens to precipitate international conflicts. As states differ and perhaps clash in these various characteristics, so will their responses to civil strife in other countries; the very diversity of states

\(^1\) J.N. Rosenau suggests that human psychology plays some part in determining the reactions of outsiders to violence; he points to a morbid interest in the plight of others, to a propensity to ignore rules in reacting to violent events and to a fear of situations over which little control is exercised. 'Internal War as an International Event', in Rosenau (ed.), *International Aspects of Civil Strife*, pp.50-60.
is an indication that they will approach the question of civil strife with a wide range of attitudes and intentions.

Another set of pressures making for the internationalization of civil conflicts relates to the nature of international society in general. Civil strife can, by its very nature, involve the character of a state — whether, for example, it is communist or non-communist, democratic or totalitarian, and so on — and this character may be considered an important factor in determining the general nature of international relationships. It is not simply that one type of regime is preferred for intrinsic reasons but that the international consequences of its being adopted are also taken into account. In a world divided ideologically into blocs and alliances the character of a state can affect the balance of strength between these groupings. In addition, the actions and reactions of outside states with regard to internal conflicts may give cause for concern about the rules — or lack of rules — governing intervention. If another state has instigated civil strife or is intervening in an existing conflict, others may consider it desirable that this behaviour should as a general rule be punished or at least denied success. In so far as intervention makes up an important part of international activity, civil strife is likely to create situations in which rules of behaviour need to be determined. Finally, internal conflicts have a bearing on the 'culture' of international society which is taken to mean the sum of ideas and moral values about government and politics which flow across international boundaries at both official and unofficial levels. One can point, for instance, to the ethic of revolution which is propagated by Communist China or Castro's Cuba; it is an ethic which is echoed by the more extreme groups in many Western countries. This sort of concern with civil strife is the most difficult to pin down since it takes the form of ideas about the legitimacy of governments, the justice of revolution, the purpose of international society and so on. It is even harder to identify occasions when it has contributed to a decision to
intervene in a civil conflict. However, there is no doubt that states have experienced a growing material interdependence in recent years which emerges in all their concerns about civil strife; it would be surprising if there were no corresponding interdependence at the level of ideas and moral values.

Some writers, looking at the complex interdependence of states, have concluded that it is impossible to do anything other than 'intervene' in a civil conflict. Modelski, for instance, argues that there is no way for an outside state to avoid involvement in internal war. Even though a country may decide not to act at all, to do nothing and to say nothing, then by this very fact it, too, helps - sometimes unwittingly - to mold the outcome of the process: for by refusing to act it helps the stronger party to suppress the weaker, irrespective of the merits of the case.¹

In one sense this is obviously true. The course of a civil conflict must be determined in part by what other states do and what they fail to do. Indeed, one side of the problem of civil strife in international society is the fact that in many cases states are in a position to influence it and are consequently pressed to make a decision between acting and not acting. And even if in practice there is nothing that looks like a deliberate decision on this score, this may also be taken as a negative decision. It is not very helpful, however, to regard positive decisions, negative decisions and non-decisions about involvement in a civil conflict as acts of intervention. To use the term 'intervention' to cover any act or omission is useful only in that it demonstrates the pervasiveness of the problem of civil strife in international society.

Intervention has been defined here as actions which can be expected to affect the relations between an incumbent government and an insurgent group. Failure to act

is thus not an act of intervention in this sense. Yet actions which are designed to prevent or limit interventionary behaviour on the part of others can be construed as acts of intervention themselves. A non-intervention agreement, for example, is interventionary not because it has a direct effect on the civil strife about which it is made but because it in some way alters the behaviour of those who would otherwise intervene; it is one thing simply not to give assistance to one or both of the contending factions and another thing altogether to attempt to prevent assistance from reaching them. The Non-Intervention Agreement formulated by a number of European powers in response to the Spanish Civil War provides the best illustration of this. The British Foreign Secretary Eden and the French Premier, Leon Blum, both believed that the Agreement favoured the Spanish Government (and for this reason among others supported it). The incumbents were more likely to benefit because, in Eden's words,

the dictator powers could supply arms much more readily to the insurgents than the democracies could to the Spanish Government. The manufacture of arms in the dictatorships was multiplying rapidly whilst both France and ourselves were still woefully short, even of necessities. This unpleasant reality was not understood by opinion in Britain and France at the time, nor could it be publicly proclaimed, but it influenced both Governments.¹

A non-intervention agreement, it can be seen, does not necessarily aid the stronger party more than the weaker as Modelski argues, for the latter may gain more if its opponent is prevented from acquiring major support. It can also be assumed that a non-intervention agreement is concluded because it is found necessary i.e. because states would otherwise intervene; such an agreement cannot always be dismissed either as superfluous (because the states concerned do not wish to intervene) or as ineffective (because they will intervene anyway). Again, if an effective

non-intervention agreement can be classed as interventionary, one which is only partially effective can also be regarded in this way. And the effect on the course of the war is even more apparent when as a result assistance is being given to one of the parties by some outside states while others are refraining from helping its opponent.\(^1\) Asymmetrical intervention of this kind may be produced by design or by accident. In either case it is still interventionary in the sense used here, for intervention depends in the first instance neither on intention nor on actual effect.

Finally, on the possibility of non-intervention, it is worth noting that certain actions cannot but be interventionary, however sincerely the intention is disclaimed and however strenuously the avoidance of interventionary effects is sought. The United Nations' Congo operation bore both of these features. A Security Council Resolution on 9 August 1960 stated clearly that the ONUC force 'will not be a party to or in any way intervene in or be used to influence the outcome of any internal conflict, constitutional or otherwise'.\(^2\) True, it was Hammarskjold's

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\(^1\) Such a situation aroused the wrath of the Soviet Ambassador in London during the Spanish Civil War: 'The violation of the agreement has ... created a privileged situation for the rebels, which was certainly not the purpose of the agreement. As a result of this abnormal situation the civil war in Spain has been prolonged and the number of victims increased.

'Not wishing to remain in the position of persons unwittingly assisting an unjust cause, the Government of the Soviet Union sees only one way out of the situation created - to restore to the Spanish Government the rights and facilities to purchase arms outside of Spain, which rights and facilities are enjoyed at present by all the Governments of the world.'

Note to the Chairman of the Non-Intervention Committee, 23 October 1936; text in Degras (ed.) *Soviet Documents*, vol. III, p.213.

intention to remove the Belgian presence and to prevent further intervention in the Congo by other powers. But in doing this ONUC had to deal with matters which are central to any civil war. Its mandate was, in Claude's words,

- to uphold order without enforcing orderliness,
- to assist the government without taking sides in controversies regarding the location of governmental authority, and to prevent civil war without becoming involved in efforts to suppress dissident and secessionist movements.¹

Clearly, where any international organization or individual state sets out to create conditions of stability in a situation of political chaos, it must intervene. The motive of non-intervention can have little, if any, meaning in practice.² Nor would such actions be any the less interventionary if they affected both sides equally; they may be impartial in that case but they remain likely to alter the relationship between incumbent and rebels, if only from conflict to coexistence.

¹ Swords into Plowshares, p.289.

² A report by Dayal, the U.N. representative in the Congo, described the inevitable results: 'almost every significant measure taken by ONUC in the impartial fulfilment of its mandate had been interpreted by one faction or another as being directed against itself'. Report of 2 November 1960, cited by L.B. Miller, World Order and Local Disorder (Princeton, 1967), p.79.
Intervention in civil strife has been described as a problem for international society. While Part One sought to outline the measure of the problem, Part Two will look at the relationship between such intervention and a number of fundamental international rules. In this way it is hoped to assess its impact on the bases of international society as it exists in the contemporary world. These rules or principles take the form of directives about the course of action which states may properly take or which they ought to avoid in specified circumstances. They are to be found not only in the more or less codified body of international law but also in the informal and imprecise 'political' rules which states take to be binding upon themselves. It is not to be expected that all the rules of a diverse and heterogeneous society will be expressed or expressible in simple and certain terms. Their interpretation promises to be complex and possibly contentious, particularly in view of the fact that states tend to regard intervention as a matter touching their vital interests.

These fundamental principles may be stated briefly: respect for the sovereignty of states, the right of self-defence, and the collective authority of the international community. Each is potentially relevant to intervention in civil strife; the problem is to determine how they apply to particular cases. The rule requiring respect for the sovereignty of states is generally taken to mean that intervention in a conflict must be properly invited. In many instances the invitation is issued by a government that claims to be entitled to receive assistance from other states for the purpose of suppressing a rebellion. It is therefore important to examine the nature of the right to invite (and to give) assistance in these circumstances as it is established in international society. The manner of invitation, moreover, is a question of concern to international society in that it cannot allow 'invitations' to be imposed by the intervening state. Invitations by
governments to intervene in civil strife have their counterpart in the device of recognizing a rebel movement. The government of a state normally enjoys the sole right of invitation but if a rebel group is able to supplant the incumbent in some way, then it too may be entitled to invite outside assistance. Examination of the conditions of recognition indicates the circumstances in which aid to a rebel movement may also be consistent with the rule requiring respect for the sovereignty of states.

While intervention that is duly invited may be said to serve the interests of the divided state, intervention in self-defence is based on the fundamental concern of states to protect themselves. Again, the right of self-defence is far from being self-explanatory and the conditions of its exercise need to be considered at some length. Certain rights of intervention in civil strife are also claimed by the international community itself. It may determine that particular goals - humanitarian action or the protection of fundamental rules, for example - can be rightly pursued by individual states or by the society as a body. Clearly, much will depend upon the manner in which these determinations are made as there is a possibility that they will contradict other basic principles of state behaviour. There are, in fact, many doctrines claiming the authority of international society which would permit states to intervene in order to promote certain political arrangements in the divided state. Some assessment of their standing in international society is thus in order.

The task is to elaborate on these rules in order to discover when intervention accords with them and when it does not. It is apparent, however, that disagreement is probable not only over their interpretation in particular cases but also over their order of priority in the event of a clash between them. Thus a state may intervene in self-defence against the wishes of both factions, thereby breaching the sovereignty of that state. The resolution of such a clash of rules will depend on the prevailing interpretation of the ultimate purposes for which they exist:
are they designed primarily to allow states to protect themselves or to ensure that peoples are allowed to manage their own affairs without interference? The issue will be decided not by abstract discussion but by the actual policies that states pursue on these matters. It is improbable, therefore, that these basic principles of international society will be precisely and unambiguously interpreted and applied; indeed it is more likely that much of their content will remain subject to debate, if not to open disagreement.
CHAPTER III: SOVEREIGNTY AND INTERVENTION IN CIVIL STRIFE

International society depends upon each of its members enjoying a separate existence, the fundamental condition of which is the capacity of states to conduct their own affairs more or less independently of others. In formal terms, the essential quality of a state is its sovereignty. The fundamental postulate of a society of states must therefore be that members do not conduct their affairs in a manner that involves intrusion into affairs properly the concern of others; sovereignty, in other words, is to be respected. How does the act of intervention in civil strife relate to the notion of sovereignty and mutual respect for sovereignty? It is apparent that a society of sovereign states can survive as such despite gross and frequent breaches of sovereignty; the history of the world since 1945 provides some evidence for this (though this is not to imply that intervention in civil strife is always a breach of sovereignty or that it is the only way to commit such a breach). The level of infringement of sovereignty at which a society of states ceases to exist has so far remained problematic since it has not yet been reached in the contemporary world. Nevertheless, three important questions remain to be answered. Firstly, does the rule of respect for sovereignty require complete abstention from intervention in all circumstances? Secondly, does the condition of civil strife detract in any way from the attribute of sovereignty? Thirdly, under what circumstances is intervention in civil strife compatible with the sovereignty of a state and hence with the basic rule requiring respect for sovereignty? In considering this last question the natural distinction will be followed between assistance to an incumbent government and that given to a rebel movement since each raises substantially different problems.
A: Sovereignty and Non-intervention

The principle of non-intervention in internal affairs (including the conduct of civil strife) may be argued either from fundamental international rules or from basic precepts concerning the internal management of a country.¹ As a principle of international relations non-intervention can only be derived from the rule that states respect each other's sovereignty, for other fundamental rules relating to self-defence and the authority of the international community may be invoked to justify acts of intervention which breach state sovereignty. The attribute of sovereignty in a state, it is argued, signifies a certain measure of independence in policy-making and a certain freedom to conduct domestic affairs; an act such as intervention impairs this independence and therefore constitutes a failure to respect the sovereignty of the state concerned. Some writers find this attribute of states established in natural law. According to Wolff, one of the first writers to expound the idea of non-intervention at length,

to interfere in the government of another, in whatever way indeed that may be done is opposed to the natural liberty of nations, by virtue of which one nation is altogether independent of other nations in its actions.²

Other writers take a positivist view, arguing that the obligation to respect the sovereignty of others originates in the practice of states, in particular through their consenting to be bound by the rules they establish. Thus Hall takes the view that any act of intervention in civil strife impairs the independence of a state:

Supposing the intervention to be directed against the existing government, independence is violated by an attempt to prevent the regular organs of the state from managing the state affairs in its own way. Supposing it, on the other hand, to be directed against the rebels, the fact that it has been necessary to

¹ Precepts of the latter kind will be examined in the following section.

call in foreign help is enough to show that the issue of the conflict would without it be uncertain....If, again, intervention is based upon an opinion as to the merits of the question at issue, the intervening state takes upon itself to pass judgment on a matter which, having nothing to do with the relations of states, must be regarded as being for legal purposes beyond the range of its vision.¹

Both naturalist and positivist approaches to international rules thus seem to permit the deduction of a rule of absolute non-intervention from the norm of respect for sovereignty.

Now it should be noted that intervention cannot be defined in this context as a breach of sovereignty in itself for then the prohibition of intervention becomes simply a re-statement of the rule that sovereignty should be respected. Intervention in civil strife must therefore be defined in factual rather than normative terms if the rule of non-intervention is to clarify the rule of mutual respect for sovereignty. Once intervention is seen simply as an international action, certain flaws in the argument for absolute non-intervention become apparent. It is clear that any action may be directed toward a variety of ends and, especially with such a complex social activity as intervention, it is impossible to determine in advance what ends will be served or even that particular ends can never be served by it. More specifically, it is impossible to prove that an act of intervention will necessarily impair the sovereignty of a state or that intervention will never be necessary for a state to maintain respect for its own sovereignty. Thus intervention invited by a government may restore to a country the capacity to act independently and to conduct its own affairs. Again, intervention in civil strife may be successful in countering prior intervention by

¹ W.E. Hall, A Treatise on International Law, eighth edition, ed. A. Pearce Higgins (Oxford, 1924), p.347. Hall, it may be noted, permitted intervention solely on the grounds of self-defence which for this purpose he placed above respect for sovereignty of the divided state.
another state. To put it another way, even given that the sovereignty of states is an attribute of overriding importance, no specific rule of international behaviour can logically be deduced from it. Similarly, the condition of individuals in society, however it is interpreted, does not permit deduction of simple rules for their behaviour toward each other; the fact that men are necessarily alive cannot, for example, give rise of itself to a rule that killing is forbidden in all circumstances.

An absolute rule of non-intervention must therefore be to some extent laid down rather than derived strictly from first principles. It is possible to argue, once this principle has been posited, that as a matter of observation it is more conducive to the maintenance of states' sovereignty than a principle which allows exceptions. The argument for non-intervention may thus be based on the hypothesis that this rule best achieves the purpose of international society, namely respect for the sovereignty of its members. Returning to the domestic analogy, a comparable hypothesis would be that a prohibition of all killing - including, for example, capital punishment - will lead to fewer deaths than would any other rule. Such hypotheses may be examined in both theoretical and practical terms but it is in the real world that they must ultimately be proved or disproved (in so far as such things do admit of proof or disproof). The more valid the hypothesis in the international field, for example, the more one would expect to find states endorsing the principle of non-intervention. However, it has been the practice of states to regard intervention in civil strife as a feasible, necessary or desirable undertaking on various occasions. Some states have acknowledged this, incorporating it into their approach to international relations. Other states

1 Part of the Western tradition, according to Martin Wight, is to regard intervention in internal affairs as an occasional, if unfortunate, necessity of international politics and to look upon certain goals of intervention with more favour than others. 'Western Values in International Relations', in H. Butterfield, M. Wight (eds.) Diplomatic Investigations (London, 1966), p.116.
declare adherence to the principle of absolute non-intervention but they too have found that intervention commends itself as a course of action from time to time. Certainly, the idea of non-intervention has strong appeal to many but it is an ideal divorced both from fundamental rules of international society and from the realities of international relations.

B: Sovereignty and Civil Strife

If, in international society, sovereignty is to be respected, it is pertinent to ask what this attribute of states entails. In general terms sovereignty may be taken to mean supreme legal competence within territorial boundaries, subject only to certain limitations with regard to the citizens and physical assets of foreign states. A sovereign state can thus be expected to display certain characteristics which will be generally accepted as necessary and sufficient conditions for its existence as such. A standard formulation of these characteristics is to be found in the Montevideo Convention of 1933, Article 1 of which specifies four basic qualifications for sovereignty: a permanent population, a defined territory, a Government (understood as one to which the population renders habitual obedience), and a capacity to enter into relations with other states. These criteria refer to particular factual circumstances and it is possible to conceive of a political entity or the people in a given area of land not displaying these characteristics. Equally, it is possible that a sovereign state might cease to possess the necessary qualities that make up sovereignty.

At this point, a number of questions may be asked concerning the relationship between civil strife and the sovereignty of a state. Firstly, does this notion of sovereignty in international relations have any implications for the right to states to resort to civil strife if they so choose? Secondly, does a condition of civil strife

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1 See, for example, W.D. Coplin, The Functions of International Law (Chicago, 1966), pp.30-55.
detract from the attribute of sovereignty, in particular through the loss of an effective government? Thirdly, whether sovereignty is lost or not in the course of civil strife, are there nevertheless precepts of some sort requiring outside states to refrain from intervention? These questions will be considered in turn.

(i) The 'right' of revolution. Sovereignty has been defined as supreme legal competence within a given territory so that a state would appear quite free of restrictions in the matter of arranging its system of government. Vattel held that this freedom was a self-evident right of states:

Since the results of a good or a bad constitution are of such importance, and since a Nation is strictly obliged to procure, as far as is possible, the best and most suitable one, it has a right to all the means necessary to fulfil that obligation. Hence it is clear that a Nation has full right to draw up for itself its constitution, to uphold it, to perfect it, and to regulate at will all that relates to the government, without interference on the part of anyone.¹

Vattel goes on to argue that there are certain restrictions on the manner and the circumstances of a resort to civil strife as a means of regulating a constitution² but these he derives from natural law, not international law. Certainly, international law may draw upon natural law but the former cannot itself lay down these sorts of conditions. The position of the positivists is even clearer. The writ of international law derives from and applies to relations between states only; states which are endowed with sovereignty are hence perfectly free to manage or mismanage their affairs from the point of view of international law.

Nevertheless, the notion of sovereignty itself indicates one limitation on a state's freedom to resort to civil strife. Since every state must respect the sovereignty of others it is clearly barred from embarking on a civil

² ibid., sections 32-3.
conflict which is likely to endanger or impair the independence of another. In general terms, a state has a duty to ensure that affairs within its territorial boundaries are conducted in such a way that they do not impinge unduly on the freedom of others. Thus it is that a state is obliged to take reasonable precautions to protect the lives and property of aliens living within its borders. Now while it is true that states are normally freed from this particular obligation in the event of civil war, this does not mean that they are also absolved from the duty of respecting the territorial integrity or the political independence of another state. The clearest and most obvious case is a civil conflict which spills over on a large scale into the territory of a neighbouring state. Certainly, the latter state has a right of self-defence but this only indicates that it has in fact been threatened in some way. Moreover, the notion of self-defence may be extended to include, for example, the maintenance of political stability in a state which plays a crucial role in another's security system or in a state where the breakdown of internal order is likely to produce rival interventions with possibly disastrous consequences for all.¹

Against this it may be argued that the rule of respect for sovereignty simply requires a government to take all reasonable precautions to prevent the outbreak of civil strife and to contain the effects of any conflict that does erupt - at least in so far as there is a possibility of such conflict impairing the rights of other states. Nor does this appear an excessive demand since any government can be assumed to be seeking these goals in its own interest anyway. Strictly speaking, however, this requirement means that a government threatened by rebellion which it cannot contain must abdicate its authority in favour of a group

¹ See also Chapter IV on the notion of self-defence.
which can ensure that no injury will be done to any outside state. The choice for the incumbent is between, on the one hand, plunging the country into a civil war which it may or may not win but which will certainly injure other states and, on the other hand, placing the aim of respecting others' sovereignty before the aim of staying in power. The latter alternative, of course, may not appear to be a reasonable one to ask a government to take but it is a logical consequence of the rule requiring respect for sovereignty.

In one way at least, therefore, rules of international society have something to say about the resort to civil strife by a particular state. But there is also a very real and practical sense in which the normal conduct of international relations may influence the resort to civil war. For in their day-to-day dealings with one another governments inevitably affect each other's capacity to cope with potential or actual outbreaks of civil strife; these effects, resulting from arms sales, economic aid, trade and so on, may be unintended and incidental but they are nonetheless present. Clearly, none of this has a direct bearing on the notional freedom of a state to conduct its internal affairs as it wishes, including the resort to civil war, but there is the possibility that developments in the ability of states to assist in the prevention or suppression of civil strife in other states will reveal a need for international regulation of such activity. The purpose of this regulation would be to ensure that the sovereignty of states which at present happens to include the possibility of revolution does not come to exclude that possibility altogether. It is something akin to this

1 This is not contrary to the conclusion that Lauterpacht reaches in the context of civil strife that 'there is no warrant for holding a State liable for injurious events which it could not prevent'. Hersch Lauterpacht, Recognition in International Law (Cambridge, 1947), p.248; see also pp.247-9. It is not unreasonable to maintain that a government may have some control over the outbreak of civil strife, though it may be unreasonable to expect it always to avoid conflict.
position that the Soviet Union and Communist China have taken up at various times\(^1\) although no accepted international rules on the matter can be said ever to have existed. Nevertheless, it must be borne in mind when the right of aiding an incumbent who is fighting a civil war is considered later in this chapter.

(ii) **Civil strife and loss of sovereignty.** A state which becomes divided by internal conflict may have difficulty in manifesting the third characteristic specified by the Montevideo Convention, namely the existence of a government to which the population renders habitual obedience. In some cases the fourth criterion may also be unfulfilled if a civil conflict produces the collapse of all political institutions and the breakdown of executive capacity. In these criteria there is thus the implication that a state is no longer sovereign if it becomes involved in a civil conflict which destroys or incapacitates government in the country. It is an implication which is rarely drawn in practice. Even the situation of total anarchy in the Congo immediately after its independence in 1960 did not rouse any country to claim that the Congo could not or need not be treated as a sovereign state. For there is a natural reluctance on the part of states to admit that sovereignty is lost easily and simply. The fact that a few malcontents are able to incapacitate a government for a short while clearly cannot be taken to constitute a loss of sovereignty without serious consequences. On the contrary, the assumption is that a government in such a position retains supreme legal competence which it will exercise in suppressing the rebellion. As the scale and scope of a rebellion increase, however, difficulties are encountered in maintaining this assumption. Ultimately, of course, rebels may succeed in establishing themselves as a separate and widely recognized entity which is treated as a sovereign state. At this point the sovereignty of the

\(^1\) See Chapter X.
original state over the area concerned has undoubtedly been lost; the detailed steps in this process will be examined in a subsequent section.

There are strong reasons, moreover, for regarding civil strife, not as a condition in which sovereignty is lost, but as an exercise of the freedom granted to states to manage their own affairs. Internally, civil strife is a break with existing patterns, but other states do not take this break to mean a loss of sovereignty. In the same way that war between states is 'nothing but a continuation of political intercourse, with a mixture of other means', so civil war may be regarded as a continuation of domestic politics. In support of this view a number of propositions may be mentioned which, though not strictly in the cognizance of states, do influence their attitudes toward the question of the sovereignty of a divided state. There is the view, for instance, that armed force in a civil war is simply the instrument of the popular will and that the conflict represents a testing of opinion. Guerrilla warfare, in particular, is often seen as a form of referendum in that victory requires mobilization of widespread support. On the other hand, it is possible that civil war may be a means for a small number of rebels to gain control from the majority, especially in view of the fact that, as Mao's strategy claims, one rebel is able to maintain a threat against ten opponents. Yet even in normal times the same sort of result may occur. The political processes of a state often lead to the exploitation of the majority by a


2 In Mazzini's words, 'Great revolutions are the work rather of principles than of bayonets, and are achieved first in the moral, and afterwards in the material sphere. Bayonets are truly powerful only when they assert or maintain a right; the rights and duties of society spring from a profound moral sense which has taken root in the majority'. 'Manifesto of Young Italy' (1831), Life and Writings, vol. I, p.118.

minority. Equally, a government may rely on the armed forces to retain its position; the outbreak of civil strife means simply that those forces have to be used actively rather than passively. From the point of view of international society, therefore, civil war cannot be distinguished from the political process by the forms it assumes. On the contrary, civil strife is a time when the political arrangements within a country are in the balance and when intervention by an outside state is likely to disrupt the process of decision - perhaps more so than in times of domestic peace. It seems desirable, therefore, that states regard civil strife as no detraction from the sovereignty of a state; respect for sovereignty, indeed, appears all the more necessary during an internal conflict.

(iii) Non-intervention in civil strife. There are a number of arguments for non-intervention in internal affairs which supplement the fundamental rule of respect for sovereignty by referring specifically to the situation of civil strife. The first type of argument to be considered is that even a genuinely popular or genuinely national rebel movement ought not to be assisted and that intervention in such a case is in fact unnecessary. It sometimes betrays a rather naive belief that right will always triumph in the end, as the comments of an American international lawyer writing in 1921 reveal:

No state can remain permanently strong which continues needlessly to oppress a subject people. The authority exercised over them must be tempered with humanity, or control will sometime surely be lost.¹

The same argument has been made in more hard-headed terms by the Soviet Union and a number of other communist countries. As a scientific doctrine, Marxism-Leninism is held to permit accurate analysis of the existing situation and prediction of future trends; hence the liberation of the oppressed nations as well as the revolution of the proletariat in the industrialized countries is regarded by orthodox

communists as an inevitable development which will take place even without outside help. Comments by Stalin in 1936 have become a familiar theme in Soviet policy. Revolution is a matter for the people themselves: if they desire it, then it is possible; if they do not desire it, then it cannot be forced upon them.

You see, we Marxists believe that revolution will occur in other countries as well. But it will come only when it is considered possible or necessary by the revolutionaries in those countries. Export of revolution is nonsense. Each country, if it so desires, will make its own revolution, and if no such desire exists, no revolution will occur.¹

On occasions, of course, this theme becomes a minor one as when, for instance, the Soviet Union feels obliged to declare in some way its support for revolutionary movements. Western countries also allow themselves the luxury of definite predictions about the ultimate and inevitable overthrow of the communist system. Such a notion was inherent in the American doctrine of containment in the 1950s. According to Mr. Dulles the communist system of government 'is going to collapse through the fact that in the long run people are not going to allow themselves being exploited. Whether this evolution will require decades or centuries is totally irrelevant'.²

A second form of this argument is that intervention in civil strife is incapable of establishing particular principles of government on behalf of another country. J.S. Mill, for example, claimed that political freedom was an objective which a people had to gain by its own efforts

and that it could not be properly valued and enjoyed if it came as a gift. In recent years the same problem has been presented in terms of intervention for the sake of democracy, especially in the American hemisphere. The preamble to the Charter of the Organization of American States declares the necessity of developing democratic institutions, based on individual liberty and social justice, but the same document prohibits all forms of interference in the 'internal or external affairs of any other State' (Article 15). The implication is that intervention whether in time of domestic peace or conflict is not capable of establishing democracy - a proposition for which there is considerable evidence in practice - and that even if it were capable it would not be a desirable or appropriate means. Acceptance of this view resolves the apparent contradiction in the Kantian formulation: each state shall be democratic and no state shall interfere in the affairs of another. The imperatives are addressed, one to peoples, one to states.

The idea that intervention in a civil conflict can be self-defeating when it is undertaken for certain purposes has a counterpart in the importance which revolutionary movements frequently attach to self-reliance. We are not concerned at this stage with the calculations of prudence which might require a rebel faction to act

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1 Mill's remarks, it should be noted, applied only to a purely domestic conflict, not to a situation where the incumbent was being assisted by outside powers: 'there can seldom be anything approaching to assurance that intervention, even if successful, would be for the good of the people themselves. The only test possessing any real value, of a people's having become fit for popular institutions, is that they, or a sufficient portion of them to prevail in the contest, are willing to brave labour and danger for their liberation....if they have not sufficient love of liberty to be able to wrest it from merely domestic oppressors, the liberty which is bestowed on them by other hands than their own, will have nothing real, nothing permanent....If a people...does not value it sufficiently to fight for it, and maintain it against any force which can be mustered within the country, even by those who have command of the public revenue, it is only a question of time in how few years or months that people will be enslaved....Men become attached to that which they have long fought for and made sacrifices for'. 'A Few Words on Non-Intervention' (1859), reprinted in R.A. Falk (ed.), The Vietnam War and International Law (Princeton, 1968), pp.36-7.
independently in order to function more efficiently but with the notion that victory ought to be achieved by its own efforts. Thus a revolution in the name of nationalism may find some incongruity in the prospect of receiving outside aid. This is especially true when the national element must be stressed and developed in order to promote the right kind of victory. Mazzini, for instance, argued that the goal of creating a national consciousness was of prime importance:

Convinced that Italy is strong enough to free herself without external help; that, in order to found a nationality, it is necessary that the feeling and consciousness of nationality should exist; and that it can never be created by any revolution, however triumphant, if achieved by foreign arms.¹

Communist revolutionary warfare has also been marked at times by expressions of independence and self-reliance. Mao Tse-tung was able to win a political and military victory in China with the very minimum of outside aid and he has preached the doctrine of self-reliance to successive generations of guerrillas.² The lesson that victory must be achieved primarily with internal resources was emphasized again by Lin Piao in 1965:

In order to make a revolution and to fight a people's war and be victorious, it is imperative to adhere to the policy of self-reliance, rely on the strength of the masses in one's own country and prepare to carry on the fight independently when all material aid from outside is cut off. If one does not operate by one's own efforts, does not independently ponder and solve the problems of the revolution in one's own country and does not rely on the strength of the masses, but leans wholly on foreign aid - even though this be aid from socialist countries which persist in revolution - no victory can be won, or be consolidated even if it is won.³

¹ 'General Instructions for Members of Young Italy' (1831), Life and Writings, vol. I, pp.107-8.
³ 'Long Live the Victory of People's War', Peking Review, 3 September 1965, p.22.
It is probable that he had in mind the growing level of Soviet assistance to the Vietnamese liberation movement and that this was causing some concern in China. But his remarks do contain a genuine element of warning for they are consistent with the fundamental communist teaching that the common people - peasant or proletarian, and led by a vanguard party as they must be - are the indispensable basis of any revolution.

A parallel form of this argument is that an incumbent ought to be able to retain his position without outside assistance, or at least with only a minimum of such aid. If the government is unable to exercise its primary function of maintaining law and order, the argument runs, it should not be helped to keep from power another faction which could fulfil its function. This view is sometimes presented as an open and shut case: either the government survives on its own resources or it does not survive at all. A more realistic view, however, accepts the fact that an incumbent government already possesses benefits simply from being a recognized member of international society and that these benefits inevitably help its domestic position. The problem then becomes one of not giving more assistance than is considered 'fair' in the light of the situation of the receiving government. Concern not to go too far in supporting the existing government was evident in the American landings in the Lebanon in 1958. Eisenhower wrote later that

The decision to occupy only the airfield and capital was a political one which I adhered to over the recommendations of some of the military. If the Lebanese army were unable to subdue the rebels when we had secured their capital and protected their government, I felt, we were backing up a government with so little popular support that we probably should not be there.¹

While there was concern that the United States should not take over functions that the Lebanese government ought

properly to perform, the situation was somewhat complicated by the charges that the rebels had been infiltrated into the country. Also discernible in Eisenhower's remarks is the notion that the military outcome of such a conflict will to some extent reflect the popularity of the government. A clearer example of this attitude toward intervention on behalf of an incumbent in a civil war is to be found in the comment of U.S. Under Secretary of State, George Ball, on the American role in Vietnam: 'if the Vietnam war were merely what the Communists say it is, an indigenous rebellion, then the United States has no business taking sides in the conflict and helping one side to defeat the other by force of arms'. Since the use of armed force is an undesirable form of political activity, Ball seems to be saying, it is not proper for another state to assist one side to defeat the other by such means.

A third argument against intervention in civil conflicts rests on the assumption that more benevolent approaches to the problem are available. It is not that intervention is unnecessary or likely to prove self-defeating but that benefits can be more easily bestowed on the country concerned by policies other than participation in civil conflicts. This view is frequently associated with the advocacy of various international panaceas. Cobden, for example, believed that trade and education rather than political manoeuvres were the only means of guaranteeing the progress of freedom in other countries. He believed, too, in the power of example, in particular that which Britain could exercise in Europe by refraining from

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involvement in both international and domestic conflicts. In his view, intervention in civil strife could do nothing but harm for it imported into the conflict elements inimical to freedom of thought and freedom of government and it impaired the example which the intervening state might otherwise have set. A modern equivalent of Cobden's position is difficult to find for there are few matters which are today considered altogether beyond the scope of politics. International trade and education, for instance, have become a concern of many governments. A creed such as that of the United Nations Educational, Scientific and Cultural Organization - namely, that war begins in the minds of men - runs the risk of being totally irrelevant if it abstains from political issues. For education, trade, science and so on may themselves become important factors in a civil conflict so that it is impossible for an outsider to take an impartial stand on these matters.

The fourth and final argument of this kind addresses itself to intervention which has no hope of success. The effect on the politics of the country concerned would be simply to encourage a futile attempt at rebellion which could only result in pointless loss of life and wasted effort. Clearly, there are elements of prudence in this view but it amounts to more than a mere profit and loss calculation. The American policy of 'liberation' enunciated in the 1950s by John Foster Dulles did not,

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1 'Nor do we think it would tend less to promote the ulterior benefit of our continental neighbours than our own, were Great Britain to refrain from participating in the conflicts that may arise around her. An onward movement of constitutional liberty must continue to be made by the less advanced nations of Europe, so long as one of its greatest families holds out the example of liberal and enlightened freedom....'

'For, let it never be forgotten, that it is not by means of war that states are rendered fit for the enjoyment of constitutional freedom; on the contrary, whilst terror and bloodshed reign in the land, involving men's minds in the extremities of hopes and fears, there can be no process of thought, no education going on, by which alone a people can be prepared for the enjoyment of rational liberty'. 'England, Ireland and America' (1835), The Political Writings of Richard Cobden (London, 1886), pp.35-6.
despite its high-sounding tones, contemplate indiscriminate encouragement of rebel movements in the communist states of Eastern Europe. President Eisenhower certainly did not intend to support any rebellion that might break out, explaining that the United States 'doesn't now, and never has, advocated open rebellion by an undefended populace against force over which they could not possibly prevail'. The language chosen by the President indicated that in certain circumstances - an armed populace, for example - the U.S. might intervene but it also constitutes a clear statement that a rebel group would not be encouraged to destroy itself. The wish of a people to postpone a possible rebellion can thus be interpreted as a question for the country concerned and hence not subject to outside interference.

C: Intervention by Invitation

It is frequently the case that an incumbent government requests assistance from outside powers in order to retain its dominant position in a country. The arguments for permitting this kind of intervention are several and weighty. In the first place, reference may be made to the function of governments, to the fundamental purposes for which they exist. One of these functions must be considered to be the maintenance of a degree of law and order sufficient to secure the lives and property of its citizens. If the internal condition of a country dissolves into civil strife, the incumbent government may well find itself in need of assistance to restore order and security.

In this way the right to invite intervention may be established. As regards the right to accept such an invitation, it is possible to argue that international society depends on the existence of established governments capable of maintaining order among their citizens and of fulfilling their international obligations. This was the view taken by Stowell:

The efficacy of international society is ... dependent upon the cooperation by the states whenever such cooperation is required to preserve the existence of a member state or to enable its government to fulfil its obligations under international law .... Reasoning a priori from this indisputable premise, international law would appear to justify states in coming to the assistance of a sister state to help it to suppress rebellion and preserve its orderly life.2

On this view, intervention is permitted when an incumbent government requires it for the purpose of maintaining or restoring order within its boundaries.

There is a difficulty, however, in that any outbreak of civil strife represents a challenge to the incumbent government. Its very legality is challenged as well as its de facto position and the main basis of its claim for preferential treatment seems to be chiefly that of priority. For the rebel group is in effect proposing to take over its functions and one of the points at issue may be the claim that the new government would perform these functions in a more satisfactory manner. Nevertheless, the matter of priority contains a deeper significance in

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1 It is for this reason that an international act such as the Declaration on the Neutrality of Laos remains an exceptional undertaking. In Article 6 of the Protocol to the Declaration, signed 23 July 1962, the guarantors agreed that 'The introduction into Laos of armaments, munitions and war material generally, except such quantities of conventional armaments as the Royal Government of Laos may consider necessary for the national defence of Laos, is prohibited'. Text in C.E. Black and others, Neutralization and World Politics (Princeton, 1968) p.177. The nature of the exception is perhaps a less than ingenuous acknowledgement of the need of governments to have some access to armed force for domestic purposes.

2 Intervention in International Law, p.329.
that the incumbent government is in some way the representative of the nation in general and cannot be considered to lose its mandate immediately upon the outbreak of any internal conflict. After all, one of its mandates is to maintain law and order within the country. The incumbent government, then, is entitled to act on behalf of a country in a way that a rebel group is not.

Yet in some cases the insurgents may claim to be in a better position to restore and uphold order, perhaps on account of their superior military strength or their greater measure of support from the population. Even if this is conceded to be true of a particular conflict, it does not necessarily follow that assistance should be withheld from the incumbent. For while order may be most effectively brought about in that country by denying aid to the incumbent, it can be argued that this establishes a precedent which will encourage rebel groups elsewhere to challenge their governments. The net effect might thus be to increase the level of disorder among the members of international society as a whole for the sake of denying support to one particular government which happens to be weaker than the insurgents. It is evident that these arguments and counter-arguments omit considerations of justice; they show no concern for which side has the more rightful cause or for the relationship between popular support for a government and domestic order, tenuous as that relationship might be. Their purpose is the maintenance of internal order which does require that attention be given to established institutions and physical capacities. Hobbes observed that 'covenants, without the sword, are but words, and of no strength to secure a man at all'.¹ If the covenant and the sword are not to be supported under all circumstances, the consequence may well be a loss in their effectiveness.

The next level of argument concerning intervention by invitation of the incumbent looks to the nature of the

¹ Leviathan, p.109.
relationships that tend to develop between established
governments. It claims that governments naturally and
inevitably form relations with each other which are difficult
to rupture simply on account of the outbreak of civil
strife. These relationships may exist between governments
as such i.e. the leadership of a country as determined
by its existing political processes, or between
particular individuals or groups of individuals who
happen to hold office in a country. An example of the
former is to be found in the support which the United
Kingdom felt obliged to give to the Nigerian Federal
Government during its war with secessionist Biafra.
This support arose in large part out of the previous
relationship between the two governments. Thus Britain
continued what the Minister of State for Commonwealth
Affairs, Mr George Thomas, called her 'traditional
exports' to Nigeria; they had been on a 'normal
commercial basis' and 'could not have been stopped without
our being far from neutral and, in fact, taking sides'.
What was meant by 'traditional' became a little clearer
at a later date when the Minister maintained that it
referred to both the quality and the quantity of exports.
According to the Foreign Secretary, Mr Michael Stewart,
Britain was providing 75 per cent of the Federal
Government's supply of arms at the start of the war and
to withhold them would be tantamount to saying:

We have put you in a position where you are
very heavily dependent on us for the instruments
of power. Now, when you are faced by a challenge
to your authority, we will put you at a very
serious disadvantage.

Against this is possible to argue that in some
cases at least - and Nigeria was almost certainly not one

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1 30 January 1968, Parliamentary Debates, Commons,


of them - aid is given for limited purposes only and that these purposes do not include the killing or suppression of fellow citizens in the event of civil strife. It seems improbable that any such stipulation could be formally incorporated into a written agreement or that any understanding, whether formal or informal, could realistically be expected to stand up should a challenge to the government arise. Of course, it may be the hope of the donor or seller that his supplies will not be used in a civil conflict, but the only way to guarantee this is to refuse aid altogether before the event. The arms embargo which the United Kingdom instituted against South Africa was apparently based on the fear that any weapons supplied might be used to put down an uprising by the coloured population against the white government. One object of the embargo was thus to avoid the predicament of being committed to the incumbent government in the event of a civil war where sympathies would most probably lie with the insurgents.

The relations which lead one government to support another in the event of civil strife are in some cases formalized by a written treaty. The emphasis in such a treaty may be simply on the maintenance of good relations and the continuance of mutual support and it would be unusual for specific provisions to be made concerning civil strife. Few governments are prepared to admit the likelihood of purely internal strife or are prepared to give an open and unconditional commitment to support an incumbent government should it come under attack from inside the country.¹ In practice, however, support in those

¹ Lauterpacht argues that states are not bound to supply arms to a government unless a treaty exists since they possess a right to remain impartial. 'Even then the provisions of the treaty may have to be read subject to the implied condition of its fulfilment not involving the danger of international complications following upon interference, implied in an unilateral grant of advantages, in a civil war of considerable dimensions'. H. Lauterpacht, Recognition in International Law, p.232.
circumstances is clearly implied and is generally given; it is the attempts to break off such support that are, as has already been argued, exceptional.

The situation is more complex when a treaty seeks to establish a right of intervention for one of the parties. The idea behind a provision of this nature is that the established government may not be able to issue an invitation to intervene if it is incapacitated or intimidated by a rebel group. The invitation is, as it were, extended in advance so that the recipient is at liberty to accept or decline when the occasion arises. The Platt Amendment of 2 March 1901 contained such a provision:

The government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty.¹

The Amendment, originally attached by the US Congress to the Army Appropriation Bill for 1901-2, was embodied in the Permanent Treaty of December 1902 and eventually became an Appendix to the Cuban Constitution. It is clear that an agreed right to intervene is likely to exist only when the holder of the right enjoys a strong influence over the other state. The existence of this sort of provision is a visible sign of one state's inferiority, and perhaps for this reason it has not found much popularity in recent years. It is deliberately eschewed, for example, by the countries of the Soviet bloc where ideological factors might be expected to make it more acceptable if not mandatory.

Treaties which have in the past been concerned with civil strife were usually intended to guarantee the security of a particular regime or an individual ruler. Thus a king or prince might seek to secure his position through an agreement with other monarchs providing for assistance against rebellion. The inhibitions on

¹ Cited by Thomas and Thomas, Non-Intervention, p.23.
requesting and granting help of this kind appear to have been much less powerful at one time than those working against guarantees concluded between governments. The main reason for this was the strength of the idea in early modern Europe that the Christian princes were united by the sanctity of their office, an idea which corresponded to the deep horizontal divisions in society. Intervention was something of a right and a duty for a royal ruler who would view anti-monarchical forces in any country with concern and would feel obliged to assist in their suppression.\(^1\) The Holy Alliance of 1815 was one of the last examples of a community of sovereigns coming together to guarantee one another against revolutionary uprisings. In that case the undertakings were mutual but it is also possible for them to work one way only. Thus the Treaty of Fez between France and the Sultan of Morocco in 1912 guaranteed support for the latter against all internal challenges to his authority:

The Government of the Republic pledges itself to lend constant support to His Majesty against all dangers which might threaten his person or throne, or endanger the tranquility of his state.\(^2\)

There is some doubt, however, as to whether Morocco could then be considered an independent sovereign state, and

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1 In 1712 Saint-Pierre could happily propose a European confederation intended to secure any existing government against rebellion: 'In return for joining the Union each prince will be assisted against rebels by the forces of his confederates. So that by this means... they will always be reduced to obedience'. Mémoires pour rendre la Paix perpetuelle en Europe (1738 ed.), cited by F.H. Hinsley, *Power and the Pursuit of Peace* (Cambridge, 1963), pp.42-3.

indeed an arrangement like that contained in the Treaty of Fez does indicate a relationship of protection and dependence. For this reason, as well as the decline in the importance of hereditary rule, the twentieth century has seen few, if any, treaties between fully sovereign states whereby one guarantees a particular regime in another.

International lawyers have taken diverse views on the validity of treaties which guarantee the position of an individual ruler or of a form of government. Vattel, writing of a Europe which remained an essentially monarchical community, asserted that agreements to support a particular sovereign were unquestionably proper and often necessary.

Kings do not always treat solely and directly for their Kingdom; at times, by virtue of the power they possess, they conclude treaties relating to themselves personally, or to their family, and they may lawfully do so, since the safety and the true good of the sovereign is bound up with the welfare of the State.¹

In the event of rebellion, Vattel continues, the treaty must remain valid and binding, even if the King and his family are driven from the country by the rebels, for it would be absurd to hold that the alliance terminates at the moment they have need of it, and by the very event which it was intended to provide against. Moreover, the King does not lose his royal character by the sole fact that he loses possession of his Kingdom.²

Vattel clearly makes a presumption in favour of the rights of the monarch although he suggests that there are conditions under which a king might be justly deprived of his position; in that case 'the personal ally of the deposed King should not assist him against the Nation which has rightfully deposed him'.³ In a very different atmosphere Hall attacked the idea that individual rulers

² ibid., section 196.
³ loc. cit.
or even particular forms of government could be the proper objects of international guarantees:

the doctrine that intervention on this ground is either due or permissible involves the assumption that independent states have not the right to change their government at will, and is in reality a relic of the exploded notion of ownership on the part of the sovereign.¹

It was not so much the international agreement itself that worried Hall as the proposed interference in the political processes of the country concerned. Internal affairs were a matter for the people as a whole and no longer the personal business of the ruler; 'a promise of illegal interference,' he maintained, 'cannot give a stamp of legality to an act which without it would be unlawful'.²

Finally, consideration needs to be given to the manner in which an invitation to intervene is issued. Each state has certain regular or constitutional processes through which any such request must ordinarily be made. It is clear that the mere fact of an invitation having been made in accordance with these normal arrangements does not necessarily mean that other states are entitled to accept it. There may, for example, be international rules requiring non-intervention in a particular case which are not to be overridden by an act of the country itself.³ If, on the other hand, an invitation is not made in a way that is valid by the standards of the inviting state, difficult problems may arise. It is generally assumed that the internal processes of another state are not to be questioned by outside states and that the actions of a government must be taken at their face value. Yet the manner in which and the purposes for which an invitation to intervene in a civil conflict is made may be of crucial importance to the responses of other states. They may feel entitled to assist only a legitimate

¹ Treatise on International Law, p.345.
² ibid., p.356.
³ The neutralized country of Laos is one modern example.
government which has issued a valid invitation; failure to inspect the credentials of such a request may lead them to breach this obligation. Nevertheless, the circumstances of civil conflict, even if they do not throw the legitimacy of the government into doubt, may make the normal channels for inviting assistance inoperative. Clearly, some discretion must be permitted for states to accept invitations to intervene which are not strictly valid or constitutional. The United States was aware of these difficulties when it received an inquiry from President Chamoun of Lebanon about possible assistance in 1958. Eisenhower, by making it clear that he 'would not send United States troops to Lebanon for the purpose of achieving an additional term for the President', \(^1\) sought to deter Chamoun from acting on his own initiative and without the approval of his cabinet. In this case, as in others, the presumption seems to be that intervention by invitation generally requires a valid request on the part of a government although this is by no means always a decisive factor in determining the propriety of intervention.

On some occasions states may charge that an invitation has been rigged or arranged by the intervening state. Such charges have been made not only of invitations which are patently invalid but also of invitations which by most standards would be considered genuine. In many cases, of course, there is room for sincere disagreement while in others charges of this sort are simply political manoeuvres designed to discredit the intervening state. All of this, however, is quite consistent with the notion that intervention is permitted in accordance with what is accepted as a genuine invitation. To return to the example of American support for the government of President Chamoun in 1958, the latter's invitation was denounced as invalid by the Soviet Union on the grounds that it had been brought about by the United States. Addressing the UN Security Council, the Soviet Representative,

\(^1\) Eisenhower, Waging Peace, p.267.
Mr A. Sobolev, claimed that the situation in Lebanon was a purely internal conflict. Whether or not this was the case his comments are relevant to any instance of civil conflict:

In an attempt to justify his country's aggressive actions, the United States representative alleges that it was requested by the present rulers of Lebanon. It is no secret, however, that these rulers are simply political puppets of the United States State Department.¹

The essence of the Soviet charge was that the nominally legitimate government of Lebanon, being subordinate to the United States, did not represent the people of the country and that the invitation which was issued originated not from the government but from the intervening state. The implication is that were these allegations not the case (and most observers do believe them false) then the invitation itself would have been a valid one.

Comparable charges of manipulation were levelled against the Soviet Union at the time of its intervention to suppress the Hungarian uprising in 1956. In this case, however, it would seem that the allegations were substantially true. At the end of October the two leaders of the country were Imre Nagy as Premier and Janos Kadar as First Secretary of the Communist Party. Nagy encouraged the liberalization movement in Hungary, abolishing the one-party system of government on 30 October and withdrawing from the Warsaw Pact on 1 November. In this he was opposed by Kadar who on 2 November called Soviet armed forces into Budapest to crush the growing revolt. The invitation was challenged on three grounds: firstly, that Kadar could not be considered the legitimate representative of a nation which for the most part favoured political reform; secondly, that the request was not approved by the political leader of the country, Premier Nagy; thirdly, that the Soviet Union had in some way compelled Kadar and a number of

other leaders to issue an invitation. These arguments were countered by the claim that the leadership of Nagy had lost its legitimacy by taking the path of revisionism and 'counter-revolution'. If that had been so, Kadar's invitation could have been treated as a more or less authorized expression of the wishes of the people as a whole. But there is still the problem of where the initiative for the invitation lay: did Kadar voluntarily ask for this assistance or did he have it thrust upon him? There are, moreover, degrees of pressure which an outside state may exercise in order to obtain the issue of an invitation, and it would be unreasonable to declare invalid any invitation which was in the slightest way influenced by external considerations. The dividing line between permissible and impermissible influence will necessarily vary from case to case and must remain to some extent undefined. One can only say with certainty that an invitation which is issued after intervention has taken place is scarcely likely to be valid.

D: The Recognition of Rebels

The device of inviting intervention in civil strife has been seen to be necessary for an incumbent government in a variety of circumstances. The device is also useful to the intervening state since a valid invitation indicates to the outsider that its actions will be welcomed at least by the legitimate government of the country. At the same time an invitation will help to rebut charges of aggression or invasion which third parties may bring against the intervening state. It is a one-sided situation, however, if there are no circumstances in which a rebel group can be properly assisted from outside. But there are several important arguments which do lead to this conclusion i.e. that a rebel movement may not invite outside aid and that any aid of this nature runs the risk of being condemned as aggression or invasion. There is, first of all, the proposition of absolute non-
intervention which applies to assistance to both incumbents and insurgents. More significant in this context, however, are those arguments which are based on an interpretation of the sovereignty of states. Sir William Harcourt, writing in 1863, argued that the principle of sovereignty in international society necessitated a mutual restraint from disrupting the exercise of authority by other governments:

Sovereignty, by the very definition of the term, implies a right to the obedience of subjects, whether the Sovereign be a despot, a monarch, or a republic....To deal with the insurgent subjects of another State on a footing of independence, is to violate the sovereignty of the State which has hitherto exercised dominion over them.1

Harcourt's view is in accord with the accepted definition of a sovereign state which includes the characteristic of habitual obedience to the government on the part of its subjects. Consequently, actions by another state which are designed to destroy that obedience amount to an attack on the sovereignty of the state concerned. While international society may have nothing to say about the conditions of rebellion, it is thus naturally concerned with the intervention of a state which attacks the sovereignty of another member of that society by subverting its government.

Subversive intervention in international relations may be distinguished from two other forms of state interaction. On the one hand, a state may attempt to affect the decisions of another state through, for example, persuasion, diplomatic pressure, constraints, coercion and threats. So much is a necessary and established part of international intercourse, the limit on such behaviour

being the point where a state loses its independence in decision-making altogether and hence ceases to be a sovereign state. On the other hand, a state may launch an armed invasion or attack against another in an attempt to conquer some or all of its territory. This is the core of the notion of 'aggression' which has perturbed statesmen for some considerable time. Actions of this kind are intended to deprive a state of territory, possession of which is again a necessary feature of a sovereign state. If, then, it is posited that a third characteristic of sovereign states i.e. the existence of a government, is as important as the first two, the conclusion must be that intervention of a subversive nature is as much disruptive of the fundamental norms of international society as armed attack or influence which amounts to actual control. However, even granting this to be the case for the moment, it may be pointed out that international society has found occasion to tolerate and even to encourage armed attack or domination of one state over another for certain purposes. It is conceivable, therefore, that subversive intervention might be considered permissible in certain circumstances as a means of upholding international rules or existing rights such as self-defence. Some of these possibilities will be raised in later chapters.

The authority of a government as a constituent element of a sovereign state, however, differs from the other elements in significant ways. It concerns, essentially, a relationship between government and citizens which involves the whole population of a country. This population is in theory, as we have seen, free to manage its own affairs without interference. Now it frequently occurs that some citizens seek to alter the current political arrangements or to replace office-holders and are unable to do so in accord with the prevailing rules. If they then attempt to impose their demands on the rest of the population, there may be some grounds for granting them certain rights, including that of asking for and receiving outside assistance. The grounds are
in a sense the converse of those on which a legitimate
government may invite external aid to secure its position.
A rebel movement may represent a general desire for change
in the country against which the incumbent is able to hold
out purely by virtue of his advantageous position,
especially his control of the armed forces. Here the
argument that certain types of civil strife constitute
a form of political choice is again relevant. For
example, the authority of a government may be substantially
impaired even though the rebels control no territory.
Thus it would be unrealistic to argue that an outside
state should abstain from attacking an authority which
scarcely exists. Again, a rebel movement may by armed
force gain control of a considerable proportion of the
country's territory with the result that it bears some
resemblance to a state itself, with a capacity for
rights and duties which approximate those of the incumbent.
In either of these cases there are grounds for allowing
outside states to assist the rebels and this is often done
in practice through the device of recognizing the rebel
movement. The conditions and consequences of recognition
need to be discussed at some length.

In the centuries after 1500 when the modern state
system was beginning to emerge the preceding arguments
would have found little support. The sovereignty of a
state was embodied in the sovereign himself, the monarch
carried legitimate government in his person. Any act
against the sovereign was an act against the state for
there was no area of relations between peace on the
one hand and war on the other.¹ Encouragement to rebels
was no less an affront than an attack or invasion and
constituted sufficient grounds for a declaration of
war. In these circumstances no right of rebellion could
be accorded to the subjects of a ruler save where this
right derived from the existing constitution of the state.

¹ De Jure Belli ac Pacis, book III, ch. xxi, section 1.
Thus the seven cases listed by Grotius where resistance to a monarch was lawful were all based on explicit or implicit stipulations of the law of the country. It was a natural corollary of this that were the position of the legitimate monarch in fact usurped he alone could provide legitimation for the new ruler. Equally, the usurper could acquire no rights by force of arms or by virtue of popular support. Grotius was bound by the concept of legitimacy. He could see no alternative source of authority either in the state itself or in the international community. While he allowed a foreign prince to intervene on behalf of rebels whose rights had been violated, the possibility of outside states conferring some sort of recognition on a rebel movement was beyond his fundamental terms of reference and outside the experience of the international society of his day.

The eighteenth century witnessed a retreat from this position although not until the following century did the process come near completion. Indications of the impending change can already be detected in Pufendorf's De Jure Naturae et Gentium published in 1672. Arguing that 'he who actually holds the supreme sovereignty should, despite the fact that he seized it by base methods, be held for the time by the citizens as a lawful prince', Pufendorf continues:

1 ibid., book I, ch. iv, sections 8-14.

2 'Now while such a usurper is in possession, the acts of government which he performs may have a binding force, arising not from a right possessed by him, for no such right exists, but from the fact that one to whom the sovereignty actually belongs, whether people, or king, or senate, would prefer that measures promulgated by him should meanwhile have the force of law, in order to avoid the utter confusion which would result from the subversion of laws and suppression of the courts'. Ibid., section 15.
These conclusions are all the more to the point with respect to foreigners, who have no concern in examining the title whereby a man secures sovereignty, but merely follow along with the possession, especially when the usurper of the sovereignty can rely upon great resources.¹

Elaborating on this view, Barbeyrac maintained that a ruler held his position by the validity of his acts as recognized by the people and that a usurper could therefore acquire legitimacy if he performed the same valid acts.²

The idea that all international rights derived from the person of the legitimate monarch was clearly on the retreat.

Vattel was one of the first writers on international law to recognize that a rebellion which had reached certain proportions could by that fact acquire a certain legitimacy. This was possible regardless of the origins of the conflict and of the issues involved:

Civil war breaks the bonds of society and of government, or at least suspends the force and effect of them; it gives rise, within the Nation, to two independent parties, who regard each other as enemies and acknowledge no common judge. Of necessity, therefore, these two parties must be regarded as forming thenceforth, for a time at least, two separate bodies politic, two distinct Nations. Although one of the two parties may have been wrong in breaking up the unity of the State and in resisting the lawful authority, still they are none the less divided in fact.³

This was the conclusion deduced from the relations between the legitimate ruler and the rebels, but Vattel went on to suggest that third parties had an interest in treating the contending factions in this way:


Moreover, who is to judge them, and to decide which side is in the wrong and which in the right? They have no common superior upon earth. They are therefore in the situation of two Nations which enter into a dispute and, being unable to agree, have recourse to arms.¹

Whereas the international law of sovereigns had to insist on the primacy of personal sovereignty, an international law of nations could take into account the actual achievements of the citizens of those nations even if they amounted to a seizure of power by force. At the same time, the position of outside states changed from one of strict obligation to the principle of legitimacy to one which allowed them some freedom to shape their policies according to the necessity of events.

If a civil war is to be regarded at some point as a war between two separate states, it follows that third parties are free to remain neutral or to ally with either side subject only to the laws relating to any international war. This could not be considered 'an interference in the constitution of the other state (for it is then in a state of anarchy)'.² Assistance to a rebel movement thus became as legitimate as a declaration of war, but it was a war in alliance with the rebel entity rather than simply an act of war against the parent state. The policy of France towards Britain's rebellious North American colonies after 1776 provides an important example of intervention in civil strife which amounted to a war against Britain in alliance with the rebels. The first contacts were made in 1776 when North American representatives arrived in Paris to negotiate questions of military supplies, trade and diplomacy. The choice facing France was not simply between recognizing the colonies as belligerents and refusing recognition,

¹ loc. cit.

for the former course implied an alliance with the rebels and a guarantee of their security. Even if France had not wished to treat the matter as one of war with England, there was no doubt that the latter would see it in this way. The treaties of commerce and alliance which were signed in 1778 thus constituted a declaration of war against Britain which the French King justified as an attempt to avenge injuries and as self-defence against England's domination of the high seas.¹ The fact that France withheld her intervention until the colonists had achieved some measure of success, however, did not mean that France was greatly concerned that the possibility of de facto independence for the rebels should be demonstrated. The delay was due more to diplomatic tactics than to any legal considerations.² For although Vattel and others had indicated the significance of the actual performance of a rebel movement, the practice of states had not yet developed empirical criteria for assessing that performance from which legal consequences could be drawn. The major developments in this direction were to occur in the nineteenth century.

The ideals of the American Revolution itself provided considerable motive force for these changes. 'It accords with our principles,' declared Jefferson as Washington's Secretary of State, 'to acknowledge any government to be rightful which is formed by the will of the people, substantially declared'.³ It is clear that for Jefferson recognition of a rebel movement as the legal government of the country was due only after it had succeeded in replacing the previous government. While recognition at this point is not our main concern here, it is a natural extension of Jefferson's ideas to anticipate

¹ See Stowell, Intervention in International Law, p.346n.
² Goebel, Recognition Policy of the United States, p.93.
³ Cited by Thomas and Thomas, Non-Intervention, p.247.
the successful conclusion of a rebellion, especially if the rebel cause is believed to have more justice than that of the incumbents. Madison's Message to Congress in November 1811 took an early step in this direction in declaring that the United States regarded

with friendly interest the establishment of independent sovereignties by the Spanish provinces in America, consequent upon the actual state of the monarchy to which they belonged; that, as neighbours and inhabitants of the same hemisphere, the United States feel great solicitude for their welfare.¹

Within a few years the United States was giving limited assistance to the Latin American colonies in their conflict with Spain, though carefully avoiding an open commitment which might have provoked retaliation.² Despite popular enthusiasm and political agitation, official American policy continued in cautious vein. The independence of the Latin American republics was recognized only after Spain had effectively abandoned its efforts to maintain or restore its sovereignty. The Monroe Doctrine proclaimed in 1823 set a formal seal on the progress of events, indicating also that the United States was prepared to offer some form of guarantee of the continued independence of the former colonies:

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¹ Cited by Goebel, op. cit., p.118.

² In 1820 Monroe wrote to General Jackson setting out the American position: 'The policy here hath been to throw the moral weight of the U. States in the scale of the Colonies without so deep a compromitment [sic] as to make ourselves a party to the war....Our ports were open to them for every article they wanted, our good offices are extended to them with every power in Europe and with great effect. Europe has remained tranquil spectators of the conflict whereas had we joined the Colonies, it is presumable that several powers would have united with Spain'. Cited ibid., p.140.
With the existing colonies or dependencies of any European Power we have not interfered and shall not interfere. But with the Governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European Power, in any other light then as the manifestation of an unfriendly disposition toward the United States.  

British policy toward Latin America followed on similar lines though at some distance behind the United States. For both countries it was a delicate matter of balancing the measure of actual independence against respect for the nominal sovereignty of Spain. If the former were allowed undue influence, the act of recognition was likely to provoke hostility. The 1829 edition of Martens' The Law of Nations stressed the political factors operative in this type of situation:

In fact, when we speak of the passive conduct observed in such circumstances, or of the succours furnished, by foreign powers, it is state policy that generally decides, whether he who feels himself offended shall dissemble, or, at most, complain of the injury, or whether he shall seek retaliation by violent means. 

It was increasingly the case in the nineteenth century that the desire of some of the leading states to see the independence of subject peoples in various parts of the Americas and of Europe made for passive encouragement of revolutionary movements, though not always active assistance and rarely formal recognition. There is a twentieth century parallel in the anti-colonial movement which enjoyed comparable favour in international opinion together with strong internal pressures within the dependent countries themselves. One of the most important differences, however, lies in the development of doctrines concerning

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1 Cited by Thomas and Thomas, Non-Intervention, p.11.

the status accorded to revolutionary movements in the last hundred years or so.

Prior to 1865 there appears to have been no mention of the term 'recognition of belligerency' in the writings of international lawyers.¹ At times, however, state policy had in fact come close to according such a recognition. In 1825, for example, Canning sent a despatch to the British Ambassador in Constantinople concerning the Greek revolt against Turkey; 'the character of belligerency,' he argued, 'was not so much a principle as a fact, that a certain degree of force and consistency acquired by a mass of population engaged in war entitled that population to be treated as a belligerent'.² This affirmed the idea that the actual independence of a territory justified treatment of it as a state for certain purposes at least, belligerency being a status that involved particular kinds of rights and duties. This passage in Canning's despatch was adopted as one of the grounds for Britain's recognition of the belligerency of the Confederate States in 1861.³

The problems raised by the American Civil War proved more complex than earlier cases and their effect was to precipitate a change in state practice regarding rebel movements which reached certain dimensions but which were not yet independent states. In Hall's words,


² Cited ibid., pp. 180-1.

³ Lauterpacht, Recognition in International Law, pp. 188-9.
full independence at a given moment is consistent with entire uncertainty as to whether it can be permanently maintained, and without a high probability of permanence a community fails to satisfy one of the conditions involved in its conception as a legal person. Frequently however it is admitted, through what is called recognition as a belligerent, to the privileges of law for the purposes of the hostilities in which it has engaged in order to establish its legal independence.¹

It is not important here that the nature of the recognition of belligerency has been (and still is) a matter of legal debate between those who believe it declaratory and those who believe it constitutive. The relevant point is that a rebel movement could achieve a status which entitled it to act in the manner of a state, and in particular to seek certain assistance from outside states. This assistance did not in itself constitute an act of war against the parent government by the outside state. Nor did it require from the latter a recognition of the rebel movement as a fully sovereign state, much less a guarantee of its existence; for one problem in recognizing a rebel community as a state is that in the nature of things its boundaries remain unsettled. The emergence of the status of belligerency indicated that a government ceased to be the sole authoritative organ of a state even while it still had a chance of defeating insurgents; there were, of course, several conditions which the latter had to fulfil in order to achieve this but they were certainly something less than the establishment of de facto independence.

Before going on to look at some of these conditions, it is important to note that the American Civil War also raised the problem of the relationship between recognition of belligerency and the interests of outside states. For the War inevitably produced effects which other parties saw as detrimental to their interests; if the protection of their interests required continuance of relations with the rebels including, for example, trade on a regular basis,

¹ Treatise on International Law, p.36.
then recognition of belligerency might provide a legitimate way of defending one's position. Some writers go so far as to argue that the 'true ground of recognition' for a third party must 'be based solely upon a possibility that its interests may be so affected by the existence of hostilities in which one party is not in the enjoyment of belligerent privileges as to make recognition a reasonable measure of self-protection'. The same writer consequently finds the geographical location of a rebellion to be a significant factor. Thus an insurgency which is 'isolated in the midst of loyal provinces, and consequently removed from contact with foreign states' can rarely have international repercussions; a revolt which occupies territory adjacent to another state may affect the latter but the onus is on the neighbour to demonstrate a threat to its interests; lastly, a revolt which involves maritime warfare is considered likely by its very nature to affect the commerce of third parties - in this case it is the absence of a threat which must be demonstrated (usually by the parent state) if recognition of belligerency is to be ruled out. On this view rebels could expect to acquire rights only if their activities became sufficiently disruptive of international intercourse; success in this direction would thus depend largely on nuisance value which in turn is likely to be determined by chance factors such as the type of war and its location.

At this point the first of two major objections to this view may be raised. The criteria developed by Hall must be dependent on the nature of the military struggle

1 Hall, op. cit., p.39; see also R.H. Dana's commentary in H. Wheaton, Elements of International Law, ed. Dana in 1866 (Oxford, 1936), pp.29-32n. Chapter IV below deals with intervention in civil strife as a form of self-defence.

2 Hall, op. cit., p.40.
and on the prevailing conception of national interests. Both of these factors have been subject to overwhelming changes in the twentieth century. On the first score, it appears that there are now few civil conflicts which can be conducted in total isolation from the rest of the world. More often than not rebels are sufficiently well equipped to make an attempt on the seat of government; they are not likely to be confined to a particular area by limitations of transport and communications. The capture of territory, moreover, has tended to become less important in post-1945 civil wars than mobility or speed of operations, except in the case of regions attempting secession from the parent state. Even here, however, the scale of operations is unlikely to be on such a small scale — militarily and geographically — that outside states remain unaffected. Those events which are isolated from the rest of the world may in fact be something less than struggles for the control of a country or part of a country.

Furthermore, the political isolation of civil conflicts has tended to diminish as states have defined their interests increasingly in terms of the character of the government adopted by fellow states. This is a phenomenon not confined to the three great ideological powers but one which has suffused the policies of many lesser nations. Consider, for example the goals of anti-colonialism, socialism, democracy or national independence. All these signify a concern on the part of outside powers with internal political struggles, a concern which may easily be translated into interests to be defended or promoted as a matter of state policy. These interests clearly differ from those conceived to be important in the second half of the nineteenth and early part of the twentieth century. While it might have been possible to achieve some sort of consensus as to when a threat to, say, trading interests was sufficient to justify recognition, it is unlikely that states today would find it easy to
agree that their ideologically defined interests were unaffected by any civil conflict in which the character of the country's government was at stake. It is unrealistic, therefore, to propose that as a matter of principle the status of rebel movements should be related to the interests of outside states and that interests should therefore be the operative factor in any decision for or against intervention. Nor has it been the practice of states to determine their policy toward civil conflicts solely according to what is conceived to be defence of their interests; there has also been a place for other sorts of rules to govern such behaviour.

The second major objection to the position based on the protection of interests is that it does not always correspond with the degree of progress made by the rebels towards creating a new government. Certainly, there may be cases where the correspondence is great but the approach based on the achievements of a rebel community appears sounder and more in line with the practice of states. In the first place, the interests of outside states can only be interpreted by those states themselves. This might be feasible if such interests were limited and clearly defined but this has clearly not been the case in recent years. There is consequently no common starting-point from which a number of states can approach a given civil conflict; indeed the criterion of interests makes for starting-points which are not only diverse but also antagonistic. If, on the other hand, it is accepted that the question at issue is the degree of success of the insurgents in a certain direction, then there is an agreed set of facts (or, if they are disputed, at least an agreement on the sort of facts that would be relevant) and a more or less

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1 See, for example, T.C. Chen, *The International Law of Recognition* (London, 1951), ch. xxi where this question is related to the dispute between declaratory and constitutive theories of recognition.
agreed set of criteria to be applied. In the second place, there is due to a rebel movement as a matter of justice and of order some acknowledgement of what it has been able to achieve, even though some argue that strictly speaking it cannot acquire by its own efforts the status of a subject of International law.\(^1\) Strong grounds for such an acknowledgement can be found in the argument that the creation of an effectively, if not permanently, independent political unit may be seen as an act of self-determination on the part of those involved. The factual element of the situation, in other words, may embody a normative principle which is by some standards worthy of support. Considerations of order may also come into play in that

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\text{the application of international law to a situation of domestic war arises from the desire and the necessity to regulate, for the orderly conduct of all parties concerned, the belligerents as well as neutrals.}^2
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Nevertheless, much will still depend on the various criteria which have been proposed for judging the status of a rebel movement with a view to recognizing it as a belligerent. The arguments in favour of accepting the position won by a rebel movement may be nullified by ill-chosen or ineffective criteria.

Until recent years there has been general agreement on the conditions which must be fulfilled by a rebel community before recognition of its belligerent status is justified. Even those who maintain the interest of outside states to be a legally relevant factor do not ignore other conditions. Thus Lauterpacht defines three elements which must be present in a civil conflict if belligerency is to be acknowledged:

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first, there must exist within the State an armed conflict of a general (as distinguished from a purely local) character; secondly, the insurgents must occupy and administer a substantial portion of national territory; thirdly, they must conduct the hostilities in accordance with the rules of war and through organized armed forces acting under a responsible authority.¹

It follows that to grant recognition of belligerency in the absence of these conditions or even in the anticipation of their being fulfilled constitutes an international wrong against the legitimate government, though not one amounting to a declaration of war.² Taken together these conditions are a requirement that the rebel community should resemble a state in appearance and in function. The fact that armed hostilities are conducted on a general scale signifies two things: firstly, that the insurgents are in reality seeking to gain control of the powers of government either of the whole state or of a region large enough to form a viable state in itself; secondly, that the rebel community - like an established state - is capable of maintaining a military organization and of performing the task of physically protecting its members. Another function of a regular state is contained in the requirement of administrative capacity which in practice may mean anything from primitive military government to sophisticated administration that includes taxation, economic regulation, social services and so on. Finally, there is the condition that a rebel community behave like a state - and a law-abiding one at that - in its military activities; it amounts to a demand that the insurgents conform to that limited part of international law which is relevant to them in their existing circumstances.

¹ Recognition in International Law, p.176.
² loc. cit.
In general it seems correct to say that the traditional international law relating to civil conflicts imposes close restrictions on the granting of privileges or assistance of any sort to insurgents. In a world where such restrictions are frequently and blatantly ignored by a large number of states it is natural to conclude that the old law has lost its relevance. In part, this must be put down to the rigidity which it displays on these matters despite the various changes it has undergone in the course of its development. With one exception, the condition of belligerency is the only intermediate category of civil conflict that is envisaged between small-scale revolts and coups on the one hand and regular international war on the other; it is a category, moreover, which lies very close to the latter end of the spectrum. The single exception referred to is the status deriving from a 'recognition of insurgency'. While some writers argue that this is a distinct grade of recognition which gives rise to a formal status, it is in reality an extremely vague and indefinite condition. Insurgency does not involve definite rights and obligations (in contrast to belligerency) but derives from whatever specific rights have been conceded in a particular instance of civil conflict. In this context recognition requires no formal act or declaration, but means simply that a state is acknowledging the fact of insurrection and is dealing with it in the way considered most appropriate. The condition of insurgency thus seems to be relevant to any case of civil conflict in which outside powers become involved. Inevitably, this makes it a redundant concept for

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2 Lauterpacht, Recognition in International Law, pp.270-1.
3 Chen, International Law of Recognition, p.399.
it is so broad in scope that it can offer nothing to the regulation of civil war situations by international law.

The weakness of international law in this field is due in part also to the nature of the criteria that are supposed to determine the behaviour of outside states in the event of a civil conflict. As far as the incumbents are concerned the relevant criteria are both factual and normative. No external assistance may be given to those opposing an incumbent government strong enough to put down any revolts directed against it. An incumbent, moreover, is presumed to be the legitimate government of a country and consequently entitled to invite outside states to assist it in maintaining its position. As far as the insurgents are concerned these criteria all relate to the factual character of their efforts, whether, for example, they disrupt the interests of other powers or approximate to the creation of a sovereign state. Nor would it be a useful enterprise to undertake an exhaustive classification of civil conflicts and to propose standards of behaviour based on each category. For this is to overlook the importance which states nowadays attach to evaluating the contending claims of the parties involved in a civil conflict, a situation which traditional international law sought to avoid (and to some extent did avoid). It has already been suggested that states in the present era view their interests in large measure in terms of the political arrangements adopted by other states and that they are more liable to become involved in civil conflicts on account of their growing capacity to influence events in other countries, whether intentionally or unintentionally. Political factors, it is clear, must occupy some place in any rules which might be applied to civil war situations.

The manner in which normative elements might be introduced has already been hinted at in the suggestion that the efforts of an insurgent group could be taken as in some respects an exercise of the right of self-determination.
Exercise of this right might be defined in a way that excludes the participation of outsiders, but the situation is different if a civil conflict is seen as a struggle for the right of self-determination i.e. as an effort by a community to put itself in a position where it can make its own political choices. In that situation it may be argued that outside states are free, or even obliged, to assist the rebel group. This view, however, must be based on the assumption that the community seeking self-determination is entitled to it while their antagonists are not. It is an assumption likely to be contentious, being strongly held by one side and equally strongly denied by the other. For international society in general such a dispute is essentially one about which side should constitute the state rather than one about which faction should form the government to rule over both of them.

If, for example, in a colonial situation the claims of the subject people to self-determination are accepted by the international community, then that people may be said to have a case for some kind of recognition. Their position is basically that of possessing the rights which a state normally has to independence and self-government while lacking the external characteristics such as a government and territory. Acknowledgement of this status is thus an extension forward in time of the usual process of recognition. But since recognition precedes the achievement by the rebel community of the physical features of a state (and to some extent actually promotes them), there is an element of choice in deciding whether or not to treat a community in this way. It is a choice between acceptance of the incumbent regime on the one hand and recognition of a potential state on the other. It is a broader choice than that in the case of recognition of belligerency where the determining factor is the actual performance of a given rebel group.
Selection of the sort of group to be recognized as a state or potential state tends to be simple in theory but obscure in practice. Consider, for instance, Soviet concepts about the right of peoples or nations to be independent whatever their situation, whether one of colonial subjection or internal oppression. It is easy to claim that the Soviet state applies the principle of self-determination to all peoples, above all those in the colonial and dependent countries.

In contrast to the bourgeois reformist interpretation, the principle of the self-determination of nations is understood by the Soviet Government to embrace the right of nations to secede and form an independent state. In its new form the principle is thus directed against any form of national oppression or forcible annexation.¹

But there is obviously considerable discretion in determining which groups will in practice be treated as forming a nation or a people. Most Soviet writers maintain that certain conditions must be fulfilled if a nation is to have any recognized status at all. These conditions are far short of those required for a recognition of belligerency in traditional international law but once satisfied they are held sufficient to make the group concerned a full subject of international law. This school of Soviet thought is, in the sense suggested earlier, a development of traditional approaches:

There is also the problem of the inclusion of nations among the subjects of International Law. In practice, this question arises after a nation has acquired the characteristics of a State having formed some organ (national committee, etc.) which at first acts in the name of the nation. When such organs

¹ G. Tunkin, 'The Soviet Union and International Law', International Affairs (Moscow), (November 1959), p.43. See also F.I. Kozhevnikov (ed.), International Law (Moscow, n.d.), p.141.
exist, a nation fighting for its independence and at the stage of establishing its own State, is as a rule a subject of International Law.¹

The example is given of the Polish and Czech peoples in 1917-8, a time when they were still some way from possessing the attributes usually required of sovereign states. Nevertheless, the emphasis here is clearly on at least partial fulfilment of the traditional qualities of a state and on the imminent fulfilment of the remaining ones.

A more recent school of thought, however, seeks to dispense with even these minimal conditions.² Essentially, their position is that every nation is naturally in possession of the quality of sovereignty. This 'national sovereignty' is the 'sum total of those inalienable rights of a given human group which stamp it as a nation' and it entails all the rights of a full subject of international law.³ It is independent of the capacity for self-government which may in reality be totally lacking and it can never be lost, only destroyed by an act of genocide against the nation concerned. While this is only a minority view in the Soviet Union, it is a radical break with the traditional line of development. For it ignores all the factual criteria by which sovereignty is normally assessed and even remains silent on the defining characteristics of a nation. Consequently, any social group is in theory capable of being defined as a nation and, equally significantly, any existing sovereign state is open to the claim that it is not a nation and therefore lacks sovereignty. This doctrine, in other words, does not involve recognition in any sense of the

¹ Kozhevnikov (ed.), op. cit., p.90.


³ ibid. p.69.
word but rather the attribution of certain qualities to undefined entities in a subjective fashion. The potential for disruption in the attempt to transfer the basic ordering concept of sovereignty from states to nations in this way needs no elaboration.¹

In conclusion, one can say that the granting of some form of recognition to a rebel movement serves a number of useful functions in international society. Firstly, it does permit an insurgent group to receive certain outside assistance if it has achieved some measure of success. International law has sought to express this condition in fairly precise terms and for this reason the present section has been much concerned with legal questions. But rules need not be formal law in order to regulate state behaviour and this section has also been intended to illustrate the common assumptions which underlie state policies on the matter of recognition and which contribute to the particular formulations of international law. Thus the development of the notion that the legitimacy of a government could not only be embodied in the person of the rightful successor to a throne but also derive from the de facto establishment of a state-like entity has signified important changes in international society. In particular, it has meant that states have been prepared to accept as legitimate changes within members of that society that have not originated from the incumbent government; and there have been occasions when intervention has precipitated or accelerated changes which have been widely considered to be desirable. Greater flexibility on this score, it may seem, has been purchased at the price of increased potential for intervention in the internal affairs of sovereign states. Essentially, however,

¹ In the latter half of the 1960s, however, Soviet writing generally moved away from regarding the nation as necessarily a state. See W. Zimmerman, Soviet Perspectives on International Relations, 1956-1967 (Princeton, 1969), pp.71, 107.
it is a matter of substituting one set of rules for a rather different set in order to cope with new conditions. Order is not the same thing as rigidity; it is clear, for example, that the continued maintenance of the principle of personal legitimacy to the exclusion of other forms would have been highly dangerous in the twentieth century. The most important development, it has been suggested, relates to the recognition of the success of rebels in capturing and controlling a viable portion of territory within the parent state. This rule has been informally expanded in recent years to include rebel organizations which do not control territory in the traditional way - for example, recognition of the F.L.N. in Algeria and the N.L.F. in South Vietnam. This situation is in part the result of a change in the nature of some civil wars, a change which has not been incorporated into international law and may never be. Nevertheless, such rebel organizations may control a proportion of the population of a country without actually being able to hold permanently the territory in which they are located or even to administer them for the whole twenty-four hours of each day. The statistics published frequently at one time concerning the number of Vietcong-held villages in South Vietnam and their degree of control over the inhabitants bear testimony - regardless of their accuracy - to the possibility of rebels achieving partial success in unconventional ways. It is nonetheless possible to observe some degree of consistency in the policies of outside states which grant recognition and other forms of assistance to such organizations.

Many writers seem to lament the fact that recognition is often accorded for reasons which are
purely or largely political. But it is not the fact that political motives play a large part in such decisions that is to be regretted. States act in accord with rules out of a great variety of motives and under innumerable pressures; the important factor is not so much why they act as what they actually do. It is not as if only 'legal' motives are necessary for rules to be observed. What is true is that where political considerations come to the fore it may well follow that the prevailing international rules are largely ignored. Even in cases where recognition is given that would normally be excluded by the traditional or commonly accepted standards, however, there is frequently some acknowledgement that certain rules of recognition are still relevant. They may be different rules but they indicate a wish to regulate the emergence of new sovereign states or changes of government within states. Moreover, one of the most important (and possibly most effective) methods of changing rules is to challenge them by deeds. The question is whether the changes advocated can be seen as a development of existing rules or as a move towards their overthrow. In the case of recognition of rebel movements there generally remains a clear factor of development despite the fact that action of this kind may also serve a number of other purposes.

1 Raymond Aron, for example, points out that 'the FLN, established in Cairo or Tunis, was recognized by most governments of the Arab nations, though it exercised no regular authority over any portion of the Algerian territory. In a heterogeneous system, recognition is a means of diplomatic or military action. It aims at morally reinforcing improvised or revolutionary organizations. The recognition of the FLN was a proclamation of sympathy for the Nationalist Algerian camp, the affirmation that French policy was condemned and the rebel action sanctified by the principle of self-determination'. Peace and War, p.121.

2 Some of these principles are discussed in chapter VI.
CHAPTER IV : SELF-DEFENCE AND INTERVENTION IN CIVIL STRIFE

The institution of self-defence is common to all views of international society. It is accepted as a fundamental right of states by both natural law and positivist approaches to the relations between states. The right of self-defence is above all one which must be exercised by the individual state and in this one of the actions it may take is to intervene in civil strife.\(^1\)

The purpose of this chapter will therefore be to examine the ways in which intervention in an internal conflict can properly be regarded as an exercise of the right of self-defence. Intervention which exceeds the proper limits clearly undermines international order, unless it can be shown to be in accord with other objectives of international society more fundamental than the protection of individual members.\(^2\)

While the right of self-defence must be taken as a given of international society, its nature and dimensions are by no means self-evident. Indeed, intervention in civil strife has for at least two hundred years been one of

\(^1\) Acts of self-defence are also important to a state in civil conflict and to its allies as a procedure for controlling intervention - see Part Three.

\(^2\) Mill saw the distinction between intervention out of self-interest and intervention in self-defence as a moral one: 'But of all attitudes which a nation can take up on the subject of intervention, the meanest and worst is to profess that it interferes only when it can serve its own objects by it'. It was obvious to Mill, however, that such a posture on England's part misleadingly concealed the genuine concerns of her rulers: 'The thought they have in their minds, is not the interest of England, but her security. What they would say, is, that they are ready to act when England's safety is threatened, or any of her interests hostilely or unfairly endangered'. 'A Few Words on Non-Intervention', in Falk (ed.), Vietnam War and International Law, pp.27, 27-8.
the international activities most often questioned as a legitimate means of self-defence; it has also been equally vigorously upheld as such and has contributed to clarification of the idea of self-defence. The simplest case of self-defence is that of a state whose territory, citizens or property are endangered by the existence of a conflict within another country; this idea of self-protection may at times be extended to cover principles of government if these seem to be jeopardized by antagonistic principles brought to prominence by civil strife elsewhere. The defence of a state, however, is a complex task and such an elementary form of self-protection is unlikely to prove adequate in any international system. The idea of defence has thus come to be extended in a number of ways both generally and with regard to civil conflict. Firstly, it may be extended forwards in time to the point of preventing the outbreak of civil strife altogether. This clearly falls under a broader heading than intervention as defined here although it does have a bearing on the problem. Secondly, defence may require anticipation of particular outcomes of a civil conflict in terms of the policies that the winning faction would pursue. A faction that was committed to military expansion, for example, would constitute a potential danger to neighbouring countries. Thirdly, certain outcomes of a civil conflict might upset the existing distribution of power or make its maintenance more difficult; again, the ideological confrontation of great powers may lead them to place great importance on the favourable outcome of civil conflicts. Since states do in fact seek security, indeed self-preservation, through maintaining a balance of power and in some cases through the advancement of ideological objectives, they do have some claim to intervention as self-defence. A final section will consider the merits of intervention in collective defence.
A: Protective Intervention

A civil conflict may affect an outside state in a way that arouses its concern and possibly leads it to intervene. What is activated in these circumstances is the instinct of self-defence or self-preservation, a desire inherent in all states to protect their territory, their assets and their nationals. Since some of a country's citizens and assets may be located in a nation where civil war breaks out, the possibility of foreign lives and property being endangered immediately arises. A civil conflict where the struggle for power lasts for any length of time tends to destroy the whole political basis of the existing legal system, while strife which involves widespread armed conflict removes the physical conditions of order and security. In such a situation states feel the need to take defensive measures in respect of their citizens and property in order to guarantee them that element of law and order which is considered minimal.

Assets may be narrowly or widely defined, from the extreme of referring only to government property, such as embassies or ships, to the other extreme of including all the private trading and commercial assets that their individual citizens may possess. What a government seeks to protect in practice, of course, will depend in part on what it is capable of protecting; it may indeed be quite incapable of doing anything. It is not to be denied, however, that pressure to take action in such circumstances can still as a rule be found within states whether or not they decide to act. Nor does it detract from this view that states have many times used the protection of nationals and property to justify intervention for basically political purposes.

Intervention which is for the purpose of protecting nationals and property does not in the first instance entail taking sides in the dispute. It may be possible to conduct an operation to evacuate nationals and protect
property in such a way that neither of the factions is unduly or unnecessarily favoured. Less simple, however, is a civil war situation in which life and property can only be effectively guaranteed through cessation of the conflict. The same is often true of the defence of a state's territory (including, by extension, ships on the high seas) if this is affected by fighting which spills over a border or onto the high seas as a result of hot pursuit, blockades and the like. The fighting may also create disturbances within the neighbouring state on account of popular feelings or necessitate close supervision of traffic moving near and across the borders. In the event that an end must be made to the conflict itself, what is required is the imposition of an outcome on one side and possibly on both sides. The motive of self-defence which initially makes no reference to the issues involved in a civil war may thus lead to intervention of a sort which does in fact settle issues. Even if the apparently impartial criterion of supporting the side which can restore law and order most easily is followed, the result is still the same. For this reason the purpose of self-defence is easily denied by critics of an act of intervention; at the same time, of course, self-defence is not always the sole motivation of an intervening state.

1 The whole range of concerns is illustrated in President McKinley's Special Message of 11 April 1898 on the occasion of American intervention in the war in Cuba: 'The present condition of affairs in Cuba is a constant menace to our peace, and entails upon this government an enormous expense. With such a conflict waged for years in an island so near us and with which our people have such trade and business relations; when the lives and liberty of our citizens are in constant danger and their property destroyed and themselves ruined; where our trading vessels are liable to seizure and are seized at our very door by war-ships of a foreign nation, the expeditions of filibustering that we are powerless to prevent altogether, and the irritating questions and entanglements thus arising - all these and others that I need not mention, with the resulting strained relations, are a constant menace to our peace, and compel us to keep on a semi-war footing with a nation with which we are at peace'. Cited by Thomas and Thomas, Non-Intervention, pp.22-23.
'Peoples, as states, like individuals may be judged to injure one another merely by their coexistence in the state of nature (i.e., while independent of external laws). If this is the case, it is clear that the right of a state to protect itself against injury must be restricted in some way for fear of permitting any deprivation or inconvenience to serve as a valid reason for taking counter-measures. The need for limitations of this kind would seem to be even greater in the event of self-defence based on the threat created in the course of a civil conflict. For a divided state is particularly vulnerable to outside interference and has not the strength of a united state to check any tendency on the part of other states to abuse the right of self-defence. Moreover, there is some difficulty in saying that one state threatens another when the former is divided and it is only one of the parties that is causing the threat; alternatively, if it is the conflict itself that is creating a danger, there can be no question of a hostile animus providing grounds for self-defence. Nevertheless, the existence of a civil conflict can harm another state and it would be impossible to deny the latter any right to look after its own interests. The question is whether, if at all, such a right can extend to intervention in civil conflict in the sense of actions designed to alter the relations between a rebel group and the incumbent government.

First of all, it is necessary to mention some of the criteria usually associated with the exercise of the right of self-defence. They will not be considered at length but will be relevant to all of the subsequent discussion. Six major criteria may be listed: (a) proportionality requires that counter-measures correspond in some way to the magnitude of the threat.

1 Kant, *Perpetual Peace*, p.16.
itself; (b) comparability demands that the methods used in response do not exceed those used in the threat such that only a forcible threat may be met with force and a non-forcible one may be met only by non-forcible methods; (c) the threat may be merely repelled or its underlying causes may be removed in order to provide varying degrees of security in the future, a condition which is primarily one of objectives rather than of methods; (d) self-defence may be permitted in response only to illegal acts or to legal and illegal acts provided that in the latter case they do constitute a genuine threat; (e) the location of the defensive measures may be a criterion of limitation, depending on whether they take place on a country's own territory or across an international frontier; (f) the directness of the threat is a condition which refers to its imminence in point of time or to the directness of its operation (an indirect threat, for example, would be one posed by political principles which by informal propagation undermine another state's system of government). All these criteria are relevant to the exercise of self-defence but this is not to say that all may be expected to find application in each case. The important thing is the extent to which states, in considering intervention in civil strife as a form of self-defence, bear in mind at least some of these conditions as factors which ought to govern their behaviour.

The classic case of intervention in civil strife as an act of self-defence arises when a condition of anarchy in one state leads to hostilities spilling over a frontier or to the endangering of the property or the lives of citizens of another country. Such threats may create 'a necessity of self-defence, instant, overwhelming, leaving no choice of means and no moment for deliberation'.

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1 One of the widely accepted conditions formulated by the American Secretary of State, Daniel Webster, in respect of the Caroline incident of 1837; the other condition was that the act of self-defence involve 'nothing unreasonable or excessive'. See J.L. Brierly, The Law of Nations, sixth edition (London, 1963), pp.405-6.
This is a rather narrow definition of the circumstances in which self-defence may be undertaken and there are strong arguments for widening them; nevertheless, if they are fulfilled, the right of self-defence cannot be denied. There remains the problem, however, whether the defence of territory, nationals or property justifies intervention in civil strife, an act which may alter the course of the war and thereby the future political life of the country. In some circumstances, it may be argued that the property and assets of a country - and possibly the security of its citizens abroad - are not proper objects of protection.¹ The right of a state to engage in civil conflict without interference may have some priority over the right of an outside state to defend those of its components threatened by hostilities abroad. Certainly the usual practice of states intervening in these circumstances is to stress an intention not to affect the course of the civil war, a goal which may indeed be feasible where the lives of nationals are concerned. For these latter are unlikely to be of any value to either faction, whereas commercial assets may be. If Britain and France, for example, had intervened in the Nigerian civil war to protect oil installations owned by companies of their nationality, this would inevitably have made an important difference to the relative strengths of the two sides. On the other hand, it is evident that the right to protect frontiers against incursions, whatever the effects of this on the civil conflict, remains unchallenged, at least to the point of passive protection on the state’s own territory.

The situation is somewhat different in the case of threats which arise as the result of deliberate actions by the parties to a civil conflict. A frequent instance is the crossing of international frontiers by insurgents or incumbents as a manoeuvre in order to retreat to a

¹ On the extent to which the protection of nationals falls under the concept of self-defence in international law see Bowett, *Self-Defence in International Law*, ch.v.
relatively secure area, to re-group or to obtain supplies. It is undertaken as a matter of deliberate policy though a threat to the country into which the incursion has been made is not necessarily (and frequently is not) intended. The knowledge that such an incursion may be taken as a threat, however, is significant in that it allows one to assume that the action is seen by the party taking it as a calculated risk. Certain advantages are sought but at the risk of inviting retaliation. Any response by the threatened state which sought to deal with the situation would thus not seem to be unwarranted interference in a civil conflict even if it significantly harmed the cause of the party which had posed the threat. Indeed, one may conceive of a duty on the part of states not to allow either or both of the factions in a civil conflict to make advantageous use of their territory for this in itself may amount to intervention. Even mere toleration of such activity may be governed by this consideration, while active encouragement of it certainly will constitute intervention.

A minor instance of deliberate threat to an outside state is the seizure of its nationals to serve as hostages or for similar purposes. Again, intervention to the detriment of the faction concerned seems to have stronger justification than intervention to protect nationals who are incidentally threatened in the course of a civil conflict. The question of protecting property involves rather different considerations. Assets of this sort, it has been suggested, could play an important part in deciding the outcome of a civil conflict so that even their deliberate capture or destruction by either faction are insufficient to justify intervention. This view is strengthened by the fairly widely accepted rules relating to the expropriation of foreign property in normal times. The incumbents may in time of war have a strong claim to be acting out of necessity, while the insurgents are fighting to acquire the rights of the
incumbents and may in fact do so. Certainly, compensation of some sort may be in order for the state concerned but this is far from allowing a right of intervention in the conflict itself.

The idea that the political and social principles adopted by a rebel group within one country may also threaten established regimes elsewhere is an old one. The monarchs who formed the Holy Alliance in 1815 were concerned to maintain their internal power against upheaval from below; their fundamental beliefs amounted to 'a social rather than a political theory in the sense that it dealt more with conflict between the strata of the society of Europe than with relations among the members of the states-system'. The circular despatch of the three powers from Troppau on the occasion of the insurrection in Naples indicated the importance which was attached to counter-revolutionary intervention:

the powers have exercised an incontestable right in occupying themselves with taking in common measures of security against states in which the overthrow of the government by a revolt, even could it be considered only as a dangerous example, must have for its consequence a hostile attitude against all constitutions and legitimate governments.

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1 On the legal question of responsibility for acts of insurgents see Lauterpacht, Recognition in International Law, pp.247-50.


The active propagation of revolt in other countries, it may be noted, simply made the exercise of this right 'more urgently necessary'; the possible contagion of revolution was deemed sufficient to create the right. Typically accompanying such a view was the notion of a transnational conspiracy directed against legitimate rule - Metternich, for example, believed that one had its centre in Paris - so that defence against such a Hydra demanded forceful action wherever it raised a head. The concern of the monarchs was not only with the fate of the principle of legitimacy in each country but also with the indirect and elusive potential effects elsewhere of a victory by anti-monarchical doctrines. The world has seen nothing quite like it since. Certainly, there has been fear of revolutionary principles and suspicion of subversive international conspiracies but they have derived primarily from concern with the interventionary behaviour of a particular state and/or the adverse effects on the distribution of power. The threat seen in contagious social and political beliefs seems to have diminished as many states have grown more confident of controlling their domestic circumstances.

It is possible to criticize this doctrine of contagion from two general standpoints. The first looks to the merits of each particular case, finding principles that are preferable to monarchical legitimacy (or whatever). There were some, for example, who opposed the Holy Alliance on the grounds that it prevented the development of liberal constitutionalism or the emergence of suppressed nations. It might have been added that if some countries were harmed by such principles then this was all to the good; they deserved whatever fate befell them, having - it was implied - little or no right to protect themselves.¹

¹ 'A state which can be ruined in this wise, must either be tottering, or out of touch with higher civilization, or the ideas and danger-laden system which has gained recognition in the state from which the danger threatens must have truth in them'. Heiburg, Das Prinzip der Nichtintervention (1842), cited by Stowell, Intervention in International Law, p.386n.
The second line of attack which is more important here applies to the doctrine of contagion certain criteria of self-defence and finds it lacking in several respects. Thus Castlereagh objected to the Troppau Protocol as a dangerous interpretation of the principle of self-defence. His circular of 19 January 1821 stressed the right of a state to protect its interests but maintained that these were not automatically touched upon by any revolution:

> it should be clearly understood that no government can be more prepared than the British government is to uphold the right of any state or states to interfere, where their own immediate security or essential interests are seriously endangered by the internal transactions of another state. But as they regard the assumption of such right as only to be justified by the strongest necessity, and to be limited and regulated thereby, they cannot admit that this right can receive a general and indiscriminate application to all revolutionary movements, without reference to their immediate bearing upon some particular state or states....

Castlereagh could conceive of a threat created by revolutionary principles alone but demanded evidence of its directness on the rare occasions that one did arise; if this could be shown, he was prepared to sanction intervention. By contrast, Canning found it impossible to accept that a conflict physically confined to a single state could pose a threat by virtue of ideas alone. He was one of the first of many to point out that intervention based on supposed contagion of principles tends to lack hard evidence for the allegations made.  

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1 Cited by Westlake, op. cit., p.125.

2 In a forthright despatch to the British Ambassador in Paris on 21 March 1823 concerning French intervention against an insurrection in Spain Canning wrote: 'No proof was produced to His Majesty's plenipotentiary of the existence of any design on the part of the Spanish government to invade the territory of France, of any attempt to introduce disaffection among her soldiery, or of any project to undermine her political institutions; and so long as the struggles and disturbances of Spain should be confined within the circle of her own territory, they could not be admitted by the British government to afford any plea for foreign interference'. Cited ibid., p.126.
almost certainly have permitted intervention if a threat could have been shown to exist but it should be pointed out that, by other standards of limitation, intervention in such a case could be considered to exceed the requirements of self-defence. In fact, both Castlereagh and Canning were agreed that a genuine threat was more likely to arise in the event of a revolutionary movement attempting to spread its principles by more direct methods. The doctrine of contagion, in short, could not properly call on the right of self-defence save in exceptional circumstances.

B: Preventive Intervention

It is a quite different situation, however, when a revolutionary movement threatens to spread its principles by force of arms. This was a point on which all statesmen were able to agree, whether committed to monarchical rule or not. Thus Canning, after his tirade against the doctrine of contagion, naturally supported a right of self-defence in these circumstances:

If the end of the last and the beginning of the present century saw all Europe combined against France, it was not on account of the internal changes which France thought necessary for her own political and civil reformation, but because she attempted to propagate first her principles, and afterwards her dominion, by the sword.¹

Although taking a different route, Metternich could reach the same conclusion. He argued that a revolutionary movement was likely to lead to aggression, especially when it produced anarchy in a large state:

L'anarchie consommée dans un grand État le conduit toujours à la guerre intestine ou à la guerre extérieure, et souvent aux deux fléaux à la fois.²

Intervention in a civil conflict could thus be justified by an extension of the right of self-defence forward in time in order to anticipate a threat in the event of a revolutionary victory. Attention is focused on the possible

¹ loc. cit.

international consequences of a civil conflict, in particular the potential for acts such as armed invasion or active subversion. True, a Metternich would have ulterior purposes in advocating intervention in these circumstances which a Canning would not share but such differences could be ignored when aggression was at issue. In fact, of course, there was much scope for differing judgements on the actual potential for threats in each case, a disagreement which reflected contrasting views on the dangers of revolution.

There is much to be said for this interpretation of the right of self-defence and it has not been without support in the post-1945 world. It does not, admittedly, measure up to the criterion of instant and overwhelming necessity proposed in the Caroline case but the danger envisaged, if permitted to eventuate, would satisfy the criterion. For what is feared is a threat, direct or indirect, which may place in jeopardy a state's territorial integrity or political independence. In the event a proportionate and comparable response might amount to total war and would certainly include intervention (for intervention in civil war is surely appropriate to meet the threat of indirect aggression - in the sense of intervention in civil war). It is only logical and practical to anticipate such an occurrence, especially in view of the fact that later action may prove far more costly and possibly ineffective. Preventive intervention, moreover, anticipates a manifestly illegal act and it must needs be taken on the territory of the state which is the potential source of danger. Arguments of this kind have been frequently heard from the United States which has sought to depict the consequences of a communist victory in certain civil wars as aggression and intervention elsewhere. The attempts of the Castro regime to subvert the governments of a number of Latin American countries after 1959, for example, provided a justification for
having intervened earlier in the civil war, an undertaking which, as far as is known, remained hypothetical. ¹

Preventive intervention does, of course, do more than repel a threat, it seeks to remove a potential danger altogether. Here lies the central objection to it as an exercise of self-defence. The danger can never be demonstrated with certainty since it is a future event; and if after intervention has been undertaken the threat fails to materialize, nothing is proved since this was the very purpose of the intervention. The question resolves itself into the degrees of certainty a state must possess about the prospect of its being attacked. Clearly, it would be absurd to deny a right of self-defence when only a small doubt existed; it would be equally unwise to permit such a right when only flimsy evidence of a threat could be produced. This problem is common to all situations of self-defence (and has become acute in the age of nuclear missiles) but certain considerations apply specifically to civil strife. For a civil conflict is itself a source of uncertainty, being fought to decide whether incumbents or rebels will rule the country, and even if the latter do win out there is still doubt as to their intentions with regard to aggression. The uncertainty lies in the situation itself; no general guide-lines can be offered without serious qualification.

On the one hand, there is the assertion that a civil war is a debilitating process in which the participants are absorbed with internal matters. Thus Cobden wrote of Revolutionary France:

¹ It also provided a justification for later attempts to initiate a civil conflict in Cuba, but this is a different matter.
Great as was at that time the dread of French principles, no foreign power felt any fear of the physical force of France; for everybody shared the opinion of Burke, that that country had reduced itself to a state of abject weakness by its revolutionary excesses.¹

On the other hand, there are the views that foreign conquest provides a solution for domestic quarrels or that certain types of revolutionary movement are by their very nature committed to expansion - this was widely held of the Bolsheviks in the period 1917-20 and few can doubt that their victory in the civil war did lead to efforts against non-communist countries at a later date. It may well be true that certain revolutionary movements turn out to be aggressive and interventionist (tendencies which, incidentally, may be increased by the attempts of outsiders to prevent their coming to power). The right of self-defence in these circumstances seems clear. Yet the fact that what is at issue here is the character of a potential member of international society indicates that the society as a whole should have some concern with the situation. If a prospective regime is committed to breaking the fundamental rules of intercourse between states, then this is a threat to all states and ought accordingly to be met by them and not simply by those states which fear that they will be directly involved. Of course, these latter may act on behalf of international society since they have the strongest motivations to do so. It is clear, however, that intervention of this kind needs to be judged by the standards of international society and not by the criteria of self-defence. For while ideological issues easily cloud the concept of self-defence, particularly in any extended form, they are a little less likely to intrude into discussion of the basic norms of international society. If this does occur, however, any disagreement will be focused on these norms rather than on irreconcilable ideological issues. Thus

¹ '1793 and 1853' (1853), Political Writings, p.292.
it may at least be agreed that if certain types of regime are to be branded as aggressive this can properly be done only with a measure of assent from international society. The effect is not to reduce the protection accorded to states but to remove certain actions from the scope of self-defence and place them in an international rather than a national context.

C: Intervention and the International System

If a certain distribution of power is essential to the security of a state, intervention in a civil conflict which threatens to alter that distribution may be justifiable as an act of self-defence. In considering this question it is necessary, first of all, to ask how the defence of a state can relate to the distribution of power and in what ways civil strife might disturb this situation. Attention must be given both to the nature of the international system itself and to the conceptions that states hold about it; the important factors, it is suggested, are thus not only power in the traditional sense of military capacity but also the ideological outlook of the major wielders of that capacity. An instructive comparison may be made between nineteenth century Europe and the post-war world. The former exemplifies a balance of power system in which there were several states of comparable strength. Any increase in the power of one state was likely to be of concern to the others for the margin of acceptable changes was so much the less on account of their initial similarity. Thus the Turkish Empire was a problem for the European system because of its 'sickness', its internal instability, which repeatedly offered opportunities for accretions of power through intervention to the alarm of other countries.

1 See chapter V.
Constant attention needed to be given not simply to one major relationship of power but to the whole mechanism. At the same time, these calculations were influenced by the attitudes of states toward such political questions as nationalism, constitutionalism and monarchical government. The character of states was likely to have some bearing on their general strength - depending, for example, on whether or not they retained control over subject nationalities - and on the prospects of forming alliances - the autocratic rulers, for instance, seemed to maintain a special relationship amongst themselves. But these factors do not seem to have been overriding ones; in cases of necessity they were generally subordinated to the requirements of the balance of power. Thus the sympathy that existed at times between Kaiser, Tsar and Emperor did not mean that Germany, Russia and Austria-Hungary were not concerned about each other's power and policies. Equally, British attitudes toward nationalism and constitutionalism did not lead that country to ignore the dictates of prudence and balance. Civil strife, in short, had a potential significance which it was by and large not allowed to realize.

The loose bipolar structure that has characterized the world since 1945 presents a number of contrasts. Most importantly, the emergence of the two superpowers has made it unlikely that the outcome of a single internal conflict could seriously disturb the central balance between them (ruling out the possibility of one or both of the polar powers collapsing into civil strife of some duration). The Communist victory in the leading power of the Asian region in 1949 and Castro's success in the American hemisphere did not destroy the global strength of the U.S. Even the establishment of Soviet missiles in Cuba which was in some sense a consequence of that country's move to communism may not have proved unacceptable as far as the central balance was concerned; today Soviet missile-carrying submarines probably come even closer to the American mainland. The
only other state apart from Cuba to defect from a multilateral Western alliance as a result of civil conflict was Iraq in 1958; in this case the United States, despite early fears, recognized General Kassim's government within two weeks.¹ The outcome of a particular conflict, it would seem, will not in itself disturb the balance between the two leading powers; the preponderance of strength enjoyed by each over the rest of the world has been so great as to be virtually unassailable. This is not to say that maintenance of the central balance does not require constant attention and effort but that it is not to be upset by a single civil conflict, even in a country such as Cuba or Czechoslovakia.

At the same time, however, it is evident that the superpowers do manifest intense concern with the course and outcome of many internal conflicts. Three main reasons for this may be discerned, each of which may be related to the goal of maintaining the distribution of power in the international system and hence to the principle of self-defence. In the first place, the central balance - which prevents either side from gaining hegemony and ensures a more or less stable condition of peace between them - is in certain ways dependent on events taking place within the other members of the system. Secondly, the result of one conflict may be taken as a precedent for future conflicts elsewhere; this fear is usually associated with a belief that a hostile state has been involved in the conflict and that it will subsequently promote strife in other countries. These two concerns relate to the balance of power chiefly in the sense of relative military strengths but a third factor must also be considered. This is the ideological confrontation between the Soviet Union and the United States which has profoundly affected their notions about the international system and has provided pressures for action on the part of both powers. Such ideas and forces cannot be ignored in considering the nature of self-defence in the contemporary world.

¹ Eisenhower, Waging Peace, pp.269-70, 286.
The conflicts in China, Iraq and Cuba which moved those countries away from alignment with the United States did not cause the central balance to collapse but they did make the position of the U.S. that much more uncomfortable. For the strength of either superpower is not a thing apart which can be placed in invulnerable underground silos or in submarines scattered around the oceans. It depends on their economic and technological capacities, on their political and military decisions and on their international alliances and relationships. A threat to any of these makes the task of maintaining their power relative to each other that much more difficult. A civil conflict which threatens to add weight to one side of the balance - perhaps by transferring it from one to the other, perhaps by moving it from a position of neutrality, perhaps by weaning it away from one side - must enter into this reckoning. Measures by the other to achieve a counter-balancing increase in strength may involve a heavy opportunity-cost. Intervention may thus be necessary in order to protect, if not the central balance itself, at least the elements which assist in its maintenance. Moreover, there are likely to be several other states which find shelter under the overarching balance between the superpowers and which consider its support a matter of self-defence.\(^1\)

The balance of power may be more gravely threatened by a series of unfavourable changes in the status quo rather than simply one. The outcomes of a number of internal conflicts may be such as to bring this about. Of course, these events might be quite independent of one another, resulting from purely internal factors; but the fact remains that they may be of benefit to one of the superpowers and that a threat may be perceived by the other. Intervention to prevent such changes may thus be an act of self-defence.

\(^1\) The nature of collective defence in this context is discussed in the following section.
although there is no hostile intent in the origins of these conflicts. What is frequently the case, however, is that another is believed - with varying degrees of truth - to have instigated or encouraged a particular conflict in order to secure changes favourable to itself. And if it has been able to do this in one case, then it may well seek to repeat the endeavour. The external promotion of civil strife may thus be feared as a subtle and progressive means of upsetting the balance of power, requiring intervention in the conflict (or conflicts) as a form of self-defence. The question of which side to support will be determined automatically, regardless of considerations of the propriety of the intervention and regardless of local political factors.

This fear is by no means a new one among states. In December 1791, for example, Edmund Burke drew attention to the proselytizing and therefore dangerous spirit of the French revolutionaries. At all times greatest concern has naturally been aroused by the advent of revolutionary governments which proclaim the overthrow of the existing order, a concern which is naturally intensified when such a government achieves some success in this direction. Thus the regime of Bela Kun in Hungary in 1919 was regarded by the Allies as a communist advance which had to be repulsed by all possible means; the Big Four disagreed over how to overthrow Kun but were united in considering

1 'Dreadful, indeed, will be their hostility, if they should be able to carry it on according to the example of their modes of introducing liberty. They have shown a perfect model of their whole design, very complete, though in little'. This referred to the conquest of Venaissin and the city of Avignon, but none were to be spared: 'As to the greater nations, they do not aim at making a direct conquest of them, but by disturbing them through a propagation of their principles, they hope to weaken, as they will weaken them, and to keep them in perpetual alarm and agitation, and thus render all their efforts against them utterly impracticable, whilst they extend the dominion of their sovereign anarchy on all sides'. 'Thoughts on French Affairs', reprinted with Reflections on the Revolution in France (London, 1967), p.327, 307.
'Soviet Hungary, presently coached and prospectively supported by Soviet Russia, a dangerous center for the political subversion of East-Central Europe'. The policy of subversive intervention, however, is not the sole prerogative of revolutionary governments and it may be employed by a regime of any character which is set on expansion. To Hitler and Mussolini in the 1930s the promotion of revolt in other countries was a means of strengthening their position either by securing a friendly regime or by facilitating armed conquest at a later time. The dictators' support for Franco was seen by many as an activity which had to be stopped before it could be pursued more widely. Thus in a memorandum of 7 January 1937 the British Foreign Secretary Eden argued that failure to act over Spain would lead to pressure being put on Memel, Danzig and Czechoslovakia:

It is therefore my conviction that unless we cry a halt in Spain, we shall have trouble this year in one or other of the danger points I have referred to. ... It is to be remembered that in the language of the Nazi Party any adventure is a minor adventure .... It is only by showing them that these dangerous distinctions are false that we can hope to avert a greater calamity.

Eden's concern was shared, though expressed in different terms, by the Soviet Union. In a statement to the Non-Intervention Committee on 28 October 1936 Maisky, the Russian ambassador to Britain, depicted the conflict in Spain as 'a great duel between the forces of peace and the forces of war' and warned that:

if ... success goes to the rebel generals ... then not only will Spain suffer internal disaster, but the whole outlook in Europe will be blackened in the last degree, because the victory of the rebels would mean such a tremendous encouragement to all the forces of aggression, hatred, and destruction in Europe.


2 Text in Lord Avon, Facing the Dictators, p.434.

Common to all these attitudes is the notion that certain forms of international behaviour, in particular the instigation and promotion of civil strife, are unacceptable because they threaten to permit one or two states to upset the existing balance. The response is therefore to demonstrate in a given case that success can and will be denied or to punish the wrong-doer in a way that will deter him and others from similar activity in the future. To achieve these goals intervention may be called for; it will have as its purpose not simply the victory of one side but also the dissuasion and deterrence of the other intervening power. For this reason self-defence under such circumstances is likely to be a particularly complex activity.¹

This has been evident in the post-war world in which the United States and some of her allies have manifested an almost continuous concern with subversive intervention. The reason for this is essentially that the Soviet Union and Communist China, first together then separately, appear to have developed a policy of intervention which is systematic and geographically extensive to an unprecedented degree. The facts of the matter are less important for present purposes than the existence of deep concerns about the effects which international communism might produce if permitted to operate unchecked. From time to time the United States has been moved to declare its opposition to the establishment of communist regimes through the instigation and promotion of civil strife. Generally these declarations have claimed that certain international behaviour is in itself a threat to international peace and that if allowed to succeed its cumulative effects would be disastrous. Thus President Truman undertook to help the Greek government against the communist rebels who were being assisted by neighbouring communist countries because he believed that 'it must be the policy of the United States to support free peoples

¹ The goals of dissuasion and deterrence in this context are discussed more fully in Chapter VII.
who are resisting attempted subjugation by armed minorities or by outside pressures'. Sweeping as it was, he considered this pledge

no more than a frank recognition that totalitarian regimes imposed on free peoples, by direct or indirect aggression, undermine the foundations of international peace and hence the security of the United States.

The consequences of the defeat of the Greek government were also stressed:

It is necessary only to glance at a map to realize that the survival and integrity of the Greek nation are of grave importance in a much wider situation. If Greece should fall under the control of an armed minority, the effect upon its neighbour, Turkey, would be immediate and serious. Confusion and disorder might well spread throughout the entire Middle East.¹

Support for the Greek government was manifestly an urgent matter of defending the United States' position in the world and hence of defending itself.

The Truman Doctrine had other important features, in particular its statement of the cold war confrontation in ideological terms. The Eisenhower Doctrine, formulated in a joint resolution of the U.S. Congress and signed by the President on 9 March 1957, was less exercised by the ideological purity of the Middle Eastern countries it sought to protect. The United States proposed to assist in 'the maintenance of national independence' for this was regarded as 'vital to the national interest and world peace'. The character of the regimes to be supported was ignored. Accordingly, the President was authorized, as he found necessary, 'to use armed forces to assist any such nation or group of such nations requesting assistance against armed aggression from any country controlled by international

The first application of the Doctrine - to the civil conflict in Lebanon in 1958 - demonstrated that its terms would be widely interpreted. Part of the reason for this was the fear that the existing order in the Middle East would collapse as a result of the activities of the United Arab Republic which was also believed to have inspired the coup in Iraq. The aim of protecting the existing distribution of power against a series of changes can thus give rise to actions in self-defence - or believed to be in self-defence - which are remote from the country intervening and which must ignore local circumstances in preference to wider considerations.

Another area of the world which has prompted American concern about the use of subversive methods and their effects is South East Asia. As early as April 1954 President Eisenhower likened the countries of this region to a row of dominoes, implying that no-one should be allowed to push the first one over (in this case Vietnam) and that if it was pushed the whole row would very soon fall. This concern about Vietnam in 1954 was repeated over Laos in 1960-61 and again over South Vietnam throughout the Johnson Administration. Only on the first occasion did U.S. forces not become involved at some point in the conflict. The strength with which this concern has been felt, however, derives not only from a belief in the efficacy of the methods of subversive intervention but also

1 ibid., vol. XXXVI (25 March 1957), p.481. The preamble of the resolution as first proposed demonstrated the overriding concern with methods of subversive intervention: 'the peace of the world and the security of the United States are endangered as long as international Communism and the nations it controls seek by threat of military action, use of economic pressure, internal subversion, or other means to attempt to bring under their domination peoples now free and independent'. Ibid., (28 January 1957), p.128.

2 Eisenhower, Waging Peace, p.270.

3 ibid., p.607; Hilsman, To Move a Nation, p.129.
from assessments of the internal situation of the countries seen to be threatened. The 'domino theory', as it is sometimes called, rests both on the possibility of instigating and promoting civil strife from outside and on the potential for civil strife within the countries concerned. The American conception of a country's internal vulnerability to civil strife, defined as it is in terms of economic underdevelopment, makes the threat of subversive intervention on the part of a hostile power urgent and extensive. It should not be thought, however, that threats of this nature are perceived by the United States alone. A People's Daily editorial on 16 April 1965 described Chinese fears:

If the U.S. aggressors, instead of being driven out, are allowed to hang on in south Viet Nam, then U.S. imperialism will still more unscrupulously push forward its plot to subjugate its victims one by one, more furiously suppress the national-liberation movement in Asia, Africa and Latin America, launch 'special wars' everywhere and more truculently commit aggression and intervention in the new-emerging independent countries in Asia and Africa.1

Instead of economic conditions permitting subversive intervention hostile to the West, China envisages the equally widespread factor of struggle for national liberation provoking the United States into support for reactionary governments. The Chinese also see intervention in civil strife as a matter of self-defence. The problem is not so much to decide which one of these is in the right and which in the wrong on this question (both may be right) as to develop acceptable and accepted criteria for determining the claim of self-defence.

It is clear that threats to international alliances and relationships or threats to the existing distribution of power arising from internal conflicts are distinct from direct threats to the territory, government,

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1 Reprinted in Peking Review, 23 April 1965, p.16.
citizens or property of a state. They are threats not to its attributes or elements but to its security. This is a condition enjoyable in varying degrees but which can never be absolute; in defending their security, therefore, states will require a large measure of discretion in determining for themselves what constitutes adequate or necessary security. It is clear that conceptions about defence are also likely to be influenced by ideological views of the world for these provide standards by which the hostility of actual or potential changes can be measured. This is far from saying that such threats are not real or that they are insignificant, but they are diffuse and to some extent uncertain. The need to abandon an alliance following an internal conflict, for instance, does not necessarily involve clear and obvious dangers to the state concerned; moreover, while such a conflict is still in progress the threat remains only a potential one which cannot easily be assessed. Thus one of the main limits on a defensive response is immediately lost since the threat involves no certain and direct objective which can be simply denied or frustrated. It becomes a matter of removing the source of the threat altogether by intervention or of accepting the consequences of non-intervention. The decision to intervene is made that much more difficult because the nature of the threat is not easily demonstrated.\footnote{This fact has led some, such as Cobden, to dismiss the theory of the balance of power as a 'mere chimera - a creation of the politician's brain - a phantasm, without definite form or tangible existence'. \textit{Political Writings}, p.202.}

Moreover, since the threat is not made in physical terms there is little possibility of a response being made only in comparable terms. There is a non-forcible threat but it is so bound up with considerations of force that the distinction cannot apply meaningfully. Prevention of an antagonistic faction acquiring power seems feasible only through intervention against it so that
effective measures in this context almost certainly mean active participation on one side. The variable element in response is thus the level of intervention rather than a choice between intervention and some other method. Given that there are factors restricting the initial intervention, there seem to be few accepted or salient limits on the extent of subsequent actions. The main controls are to be found in considerations of prudence. Nor has international law proved to be of great relevance. A change of regime may be quite permissible in the eyes of international law but this does not guarantee that other states will not be adversely affected and will not claim a right to act in self-defence. True, international law generally condemns intervention of a subversive kind but it provides no clear or effective criteria for regulating the responses of other states. Counter-intervention may be proper in these circumstances but it must almost always take the form of intervention on the side of the group not already assisted. Again, the only clear limit to such action is victory for that faction and defeat for the other.

In that it is equated with the idea of self-defence, therefore, the pursuit of security in terms of the structure of the international system permits wide scope for intervention in civil strife. While certain rules may be said to govern defence of territory, government, nationals and property in the context of civil war, the maintenance of a state's security as a form of self-defence seems scarcely susceptible to regulation, particularly when such issues are determined partly by ideological pressures. The much-remarked growth of interdependence in international relations has served to extend the narrow notion of self-defence which might be thought to refer only to the immediate protection of definable and easily identifiable things. If an element of order is to be found in the pursuit of security, it is not likely to be in the extended - and, it seems, infinitely extensible - notion of self-defence. The

1 See Chapter VII.
possibility of the concept of collective defence providing some sort of order in this context will be considered in the following section.

Ideology has helped to make systems of government a currency of international dealings and civil conflicts into one of the market-places. This phenomenon has been most marked in the post-1945 era but it cannot be concluded that older currencies have therefore been superseded. On the contrary, the ideological confrontation has added to the complexity of states' concerns about the distribution of power. A change in the existing distribution may be seen not only as a threat to the structure of the international system but also as objectionable on ideological grounds. In many cases it may be difficult, if not impossible, to disentangle these concerns. For ideological beliefs may themselves constitute a form of power both domestically and internationally; and situations of civil strife provide one arena where that sort of power can be exercised and can be won and lost. The contemporary ideological conflict is certainly in some ways a conflict of and about power, but only at the cost of severe distortion can it be treated as that and nothing more. This would be to lose sight of the particular dynamics of ideology which account in part for the way that states perceive and react to events abroad.

Intervention in civil strife which is intended to assist a particular faction on account of its ideological commitment is not in itself defensive. On the contrary, there are many political principles which appear to be aggressive or expansionist. But an important defensive element does enter into the pursuit of political principles when there are two comprehensive systems of political beliefs contending against each other. Thus if an internal conflict is being fought over rival forms of government one or both of which can be identified with the ideology of another state, the outcome is immediately an international issue - as well as internal - in that two
outside states are brought into opposition. In the event of one power pursuing a certain doctrine through intervention in civil strife there are, by contrast, no distinct and antagonistic outside forces; certainly, the affair may become an international one between the intervening state and a faction of the divided state but this situation should be distinguished from that where rival outside powers are involved more or less automatically on account of their ideologies. True, one or both of these powers may be harbouring aggressive (or at least non-defensive) designs, but insofar as neither feels it can afford to lose out in the conflict their concerns are genuinely defensive. The more countries are divided by antagonistic ideologies, the more likely it is that changes within other states favouring one country at the expense of the other will be regarded as dangerous and as requiring action in self-defence.

Ideological confrontation, of course, is not peculiar to the twentieth century, although the last fifty years have undoubtedly seen an enormous growth in the tendency of states to view the world in ideological terms. The religious struggles of the sixteenth and seventeenth centuries in Europe, which were not without political implications, aroused similar passions and produced intervention on a comparable scale to that of recent years. Nor have communist and democratic ideologies been the only ones in contention during the twentieth century. German and Italian participation in the Spanish Civil War represented a challenge by totalitarianism to constitutional, if not democratic, government. The present confrontation between communist and democratic ideologies (the latter being less systematic than the former but almost as comprehensive) is, however, the first to exist on a truly global scale. It becomes even more important in view of the large number of states in the contemporary system which are experiencing rapid and extensive internal change. For communism it is a basic tenet that socialist forms of government will win out over capitalism in the long
run, but this also puts a premium on victory in particular conflicts and especially on the maintenance of victories already gained. The ideology of democracy, on the other hand, is less insistent on the inevitability of its progress yet it can be as determined as communism on the need to prevent regression. The democratic belief is that civil conflict is important, in the first place, to the citizens of the country concerned and, secondly, to the security of democratic societies in that the victory of anti-democratic forces in any situation is likely to endanger those societies. It is worth looking in some detail at the communist view of internal conflict since it is an ideology which in its original form at least interpreted such conflict as essentially a local manifestation of a worldwide conflict between social classes.

The 'founding fathers' of communism, Marx and Engels, maintained that as a matter of fact the proletariat of the world had no country, no fatherland. In order to win political power, it had first to rebel against the state in which it was located, for this institution was the immediate instrument of its oppression. But the capture of political power remained essentially transnational rather than national in a number of ways. Firstly, political revolution came as the momentous climax of underlying changes in material conditions, in particular the state of technology and the 'social relations' of production; these factors were worldwide though only in Europe had they reached their historically most advanced stage. Secondly, the entire proletariat of the world was held to be united.

1 'History is developing in such a way that the level in the capitalist vessel will be dropping while the socialist vessel will be filling up'. Krushchev, Pravda, 4 June 1960, cited by Modelski, The Communist International System (Princeton, 1960), p.1.

2 See also Chapter VI, section C.

3 Manifesto of the Communist Party (Moscow edition, n.d.), p.84.
by common interests that were independent of nationality.\footnote{ibid., p.72.} The proletarian movement was seen as 'self-conscious, independent movement of the immense majority, in the interest of the immense majority'.\footnote{ibid., p.69.} In the ultimate analysis, therefore, the international system would not simply be improved but would be transformed altogether into a situation of world proletarian cooperation; each civil conflict was part of this inevitable process.

The thesis of class conflict has remained at the centre of communist ideology through all its adaptations by Lenin and Stalin and their successors. The cause of colonial liberation, espoused by the Soviet Union from the earliest days of the Revolution, was seen in terms of the global confrontation of classes. Lenin interpreted imperialism as the inevitable extension of advanced capitalist development, 'the monopoly stage of capitalism' which was characterized by the 'monopolist possession of the territory of the world, which has been completely divided up'.\footnote{Imperialism, The Highest Stage of Capitalism (mid-1917) in Selected Works (3 vols., Moscow, 1963).vol. I, p.745.} Stalin sought to develop and apply this view of Lenin's:

\begin{quote}
under imperialism there must necessarily ensue a coalition between the proletarian revolution in Europe and the colonial revolution in the East, this leading to the formation of a united world-front of revolution against the world-front of imperialism.\footnote{Foundations of Leninism (1924), text in The Strategy and Tactics of World Communism, U.S. House of Reps. Committee on Foreign Affairs (Washington, 1948), pp.90-1.}
\end{quote}

The liberation of colonial territories was thus expected to be a severe blow to capitalism; the 1928 Programme of the Communist International defined 'wars of national
liberation, or colonial revolutions' as one of the constituent processes of the 'international proletarian revolution'. This theme never died out in communist thinking but regained its lost prominence after World War II when the Soviet Union and the United States confronted each other as the two most powerful states in the world. The onset of the cold war in 1946-7 has many causes but the important consequence to note is that the Soviet Union formally included among its allies the liberation movements in the colonies:

This has placed the rear of the capitalist system in jeopardy. The peoples of the colonies no longer wish to live in the old way. The ruling classes of the metropolitan countries can no longer govern the colonies in the old lines....The anti-imperialist camp is backed by the labour and democratic movement and by the fraternal Communist parties in all countries, by the fighters for national liberation in the colonies and dependencies.

Subsequently, Moscow sent instructions to the Communist Parties of South East Asia concerning the actions they were expected to take. Soviet policy met with varying degrees of success (and failure) but there is no doubt that these conflicts were seen as manifestations of a worldwide and transnational confrontation. Each was important for the gain or loss that stood to be made on behalf of communism. Communist ideology, in short, predisposes a state to see internal strife as in many ways transnational. Moreover, since the state has become an instrument of communism, it is inevitable that such conflicts which are initially between classes should also become international.


2 Zhdanov, address at the founding conference of the Cominform, September 1947; text in Strategy and Tactics, pp.214, 217.

D: Collective Defence

Intervention in civil strife by or on behalf of a group of states has generally been regarded, other things being equal, as enjoying greater legitimacy than intervention by one state alone. Thus Metternich always believed that an act of intervention was best carried out in concert rather than by an individual state. It is a belief which has not lost its force in recent years. Certainly, there are elements of Realpolitik present in that the greater the number of powers participating in an intervention the higher their chances of success on all fronts, but there are to be found as well notions of an authority to intervene which are separate from considerations of power. Whence does this authority derive?

One basis for collective rights is to be found in the concept of security. It has been argued above that the security of states depends in part on their international relationships and that these may be proper objects of protection. The states involved in these relationships may combine to give formal expression to the interdependence of their security by, for example, entering a defensive alliance. A collective arrangement of this kind has an important quality which is not possessed by the concept of individual security, namely the advance specification by international agreement of the areas to be treated as security interests. True, member states may have other interests outside the alliance area but these, it is suggested, do not have as great a claim to protection as those within it. This phenomenon is evident in multilateral alliances such as NATO or SEATO in that civil conflict in one of their number which perhaps threatened to remove it from the organization could be interpreted as

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1 'Une considération qui à nos yeux a la plus haute valeur, c'est celle de la différence immense qu'offrira toujours, dans son point de départ et dans ses conséquences, tout secours prêté à un Etat par une puissance voisine agissant d'après une impulsion particulière ou des calculs isolés et celui qui serait l'effet d'une solidarité avouée par les puissances'. Mémoires, vol. V, p.56, cited by Holbraad, Concert of Europe, pp.49-50.
undermining the collective security of other members. This is the justification underlying SEATO's Committee of Security Experts which makes recommendations to Council Representatives on questions of subversion from within as well as from without.\(^1\)

The phenomenon is most apparent in the great power practice of carving out spheres of influence which are in essence lop-sided alliances. They do not simply seek to exclude the influence of other powers but also endeavour to establish for themselves a widely accepted priority of concern which may on occasions justify intervention. Again, the possible replacement of a friendly regime by a hostile one within such a sphere of influence creates a certain prerogative of intervention which would not be present were the state concerned outside the area. Thus the geographical boundaries drawn by alliances and spheres of influence provide limits of a kind to defensive action, not only for their own members but also for those states outside which accept the rights created by such arrangements. The fact that an area of security is proclaimed in advance reduces the force of the argument that acts of self-defence cannot properly be undertaken hundreds or even thousands of miles away from a state's own territory,\(^2\) but at the same time limits on such acts are imposed by the need to generate widespread acceptance of these security areas.

\(^1\) Its terms of reference require that the Committee 'shall identify, assess and exchange information on the nature and extent of the threat of Communist subversion, internal and external, to the Treaty Area'. Cited by G. Modelski, 'SEATO: Its Function and Organization', in Modelski (ed.), SEATO: Six Studies (Melbourne, 1962), p.32.

\(^2\) An editorial in International Affairs (Moscow) commented on the British and U.S. landings in Jordan and Lebanon: 'As for "self-defence", how can this be the case when the Powers landing the aggression are situated thousands of miles from the area into which they have sent their troops?' (August 1958), p.16. The measures which a friendly state may properly take in defending another against subversive intervention are discussed in chapter VIII, section C.
The fact that a number of countries have found it possible to form an alliance of some kind does indicate that they are at least tolerably well-disposed (perhaps by dint of necessity) toward one another and that they are of some importance to each other's security. A government which is already hostile or indifferent towards its neighbours will neither form an element in their security nor consider joining an alliance. However, there may be an important difference between an indifferent government and a hostile one; this difference may be treated by neighbouring countries as a matter of security. Accordingly, they may attempt to establish their case in advance and thereby develop a certain prerogative in respect of that country. The Manila Treaty, for example, designated Cambodia, Laos and Vietnam (South) as territories of importance to the peace and security of the area though it did not go as far as to assert a right of intervention in civil conflict not inspired from outside. While the principle of advance specification of interests is present, however, it is not reinforced by agreement of the countries concerned. That element of collective action is accordingly lost and there remains simply the element of agreement among the members of the alliance or group of powers.

There is in theory no inherent limit on the area of common security which states may designate. In this case, as in the case of a collective defence arrangement, however, the states involved must reach a consensus as to what their common defence includes. This need does place some practical limits on their claims, limits which have also found some support in international law. Thus Bowett argues that a treaty alone is not sufficient to demonstrate a real interdependence of defence although this may be asserted by the fiction of 'an attack against one is an attack against all'. Bowett points to the situation in domestic law where self-defence may be exercised on behalf of another person who is in 'proximate

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1 Self-Defence in International Law, p.235.
relationship'. The parallel in international relations seems to be in those states which are geographically close to each other and which are also sufficiently friendly to form an arrangement for common defence. Those arguments derive primarily from the context of an armed attack (widely defined to include military aid to rebels) but they may also apply to a situation of purely internal conflict. For if the loss of a friendly regime through external action is a proper matter for collective defence, then such a loss through civil strife may constitute a comparable threat. In practice, intervention in collective defence is usually accompanied by charges of prior hostile interference in the country concerned n.b. Warsaw Pact intervention in Hungary in 1956 and Western intervention in the Lebanon in 1958. In some cases, of course, these charges may be true but there is some reason to suppose that their purpose is essentially to give an added legitimacy to a necessary act of self-defence. Thus collective intervention in the event of a purely domestic conflict may possess a certain validity in itself even though its purposes are denounced by others as illegitimate.

1 ibid., pp.201-2.

2 Bowett maintains that even this situation does not necessarily afford an adequate basis for collective exercise of the right of self-defence. Ibid., p.237.
CHAPTER V: INTERNATIONAL SOCIETY AND INTERVENTION IN CIVIL STRIFE

It is conceivable that the international community itself may possess certain rights of intervention in civil strife which are not enjoyed by individual states. This right would be clearly distinguishable from a simple aggregate of the rights of self-defence held by each state or of the claims of each to have their sovereignty respected. Indeed, it may be the case that a right vested in the international community takes priority over the rights of individual states to defend themselves and to enjoy undisturbed sovereignty. The first task, therefore, is to ascertain whether such a right can be said to exist at all and, if so, to inquire into its nature and origins. The second task is to show how this right - which up to this point has remained an abstraction - can be exercised in practice. Three major examples will be considered: intervention for humanitarian purposes, United Nations intervention, and intervention to uphold primary international rules. A final section will look at the rights which regional groupings, as partial international communities, can be said to enjoy regarding intervention in civil strife among their members.

A: The Authority of International Society.

In theory, the authority of international society might originate in any of three ways. It might derive, firstly, from some authority which exists above states; secondly, from the individuals who constitute the population of states; or thirdly, from the relations between states themselves. The validity of each of these sources will be examined in turn, bearing in mind the possibility that whatever authority does exist may derive from more than one source.

(i) The 'civitas maxima'. Christian Wolff postulated the existence of a civitas maxima, a society of which states were members in the same way that individuals
were members of the state (or civitas).\textsuperscript{1} It was a fiction designed to explain the presence among nations of rules which could be seen to amount to something more than the necessary rules imposed by a state of nature. While it would be wrong to regard Wolff's notion of a civitas maxima as an intellectual antecedent to supranational organization and world government,\textsuperscript{2} it does warrant attention as a possible origin of an international right of intervention. If there is an authority, however nominal, over individual states, then those representing that authority are entitled to coerce others on the same basis that government officials are entitled to coerce individual citizens in domestic society. However, since this international authority is a fictional rather than a working political institution, it must remain rather static and artificial in its nature and functions. Once posited, it cannot change naturally, except in accordance with the same 'scientific method' by which it was originally deduced. For Wolff the purpose of the civitas maxima was the promotion of the common good of states as such and international rules were designed for this end. The abstract definition of a state was thus the sole and essential content of the principles by which the civitas maxima could undertake intervention.

A more fundamental objection to a concept such as the civitas maxima, however, is that it finds no correspondence in the actual behaviour and attitudes of states. Nor did it do so in Wolff's time. Certainly, great powers have at times set themselves up as arbiters of the international system but their sway over lesser states has not amounted to an authority transcending all states. Certainly, states have banded together to form near-universal organizations but these enjoy no powers over and above those extended to them by a political consensus

\textsuperscript{1} Jus Gentium, Prolegomena, sections 7-10.

of their members. On the other hand, the mere fact that no supranational government has been established does not in itself demolish Wolff's conception for it may be that such an authority could exist in supernatural form. But what is destructive of Wolff's fiction is the fact that no state believes it or accepts it as a working hypothesis; it is an abstraction with no reference point in the real world. In practice, this view of international society did not prove popular either with theorists or with practitioners partly, one suspects, because of its presentation but more importantly because the notion of civitas maxima seemed 'neither reasonable nor well enough founded to deduce therefrom the rules of a Law of Nations at once universal in character, and necessarily accepted by sovereign States'.

(ii) The Community of Mankind. The natural community of mankind is frequently held to impose certain obligations on man in his behaviour toward his fellow creatures; these obligations are natural and necessary by virtue of the fact that man is a social animal whose needs can only be satisfied by some degree of mutual cooperation. The creation of civil societies may have been necessary to the survival and prosperity of individuals, it is held, but this does not relieve man of his primary

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1 This conception permeated the political ideas of medieval and early modern Europe in that rulers were held to be bound by the laws of Christendom. They held their position by virtue of those laws which, however, also imposed duties on them toward their subjects, duties which it was the responsibility of all rulers to see fulfilled. Thus the author of Vindiciae contra Tyrannos, writing in the late sixteenth century, maintained that since there was but a single church 'so is she recommended and given in charge to all Christian princes in general, and to every one of them in particular ... Insomuch that if a prince who has undertaken the care of a portion of the church, as that of Germany and England, and, notwithstanding neglect and forsake another part that is oppressed, and which he might succour, he doubtless abandons the church'. Reprinted in A Defence of Liberty Against Tyrants, ed. H.J. Laski (London, 1924), p.217.

obligations. Indeed, states provide a powerful instrument for carrying out these duties. All this, however, does not mean that states as such are under an obligation to do anything. For if the community of mankind has an authority it is over individuals as such. They may happen to be politicians or diplomats or soldiers, they may be in public positions which give them greater power to do good or evil, but their obligations to mankind derive not from these offices but from their being individuals. Certainly, political leaders may be invested with authority by their followers and perhaps owe special obligations toward this particular group of people, but again this says nothing about their duty to mankind as a whole. Fulfilment of this duty may or may not be consistent with other obligations they have undertaken, but it is required of them essentially as individuals. Only by an absurd personification of the state - absurd because the state lacks altogether the intrinsically human qualities which make for a conception of human brotherhood - can it be invested with the same rights and duties as an individual. Nevertheless, it will be surprising if this strength of human sentiment is found to have no impact at all on the society of states which is after all manifested in the words and actions of individuals.

(iii) International Society. If the body of states derives no collective authority either from a superior power or from mankind itself, we must look for such authority among states themselves. This requires a complex and sophisticated notion of international society and one is available, Wight maintains, in the mainstream of Western thinking about international relations.\(^1\) Its essence is that while men are the ultimate members of this society, states are the immediate members; it is the states which act as the chief instruments of human action and which are able to create rules for their common benefit (although this ability may not always be used to the full). Now

\(^1\) 'Western Values in International Relations', in Butterfield, Wight (eds.), Diplomatic Investigations, pp. 95-102.
this society may be seen to contain elements of both previous conceptions. On the one hand, there are rules which bind states as much as if they had been handed down by a superior authority. A state in other words, is not the final arbiter of its rights and duties but must accept — and does in practice accept — that its behaviour is in certain circumstances governed by something wider than itself which may be termed the international community. On the other hand, states do display a concern for the fate of individuals regardless of their nationality and they have retained the institution of humanitarian intervention as a means of carrying this concern into practice. It is not the community of mankind which is the immediate foundation of this institution, however, but the fact that states have incorporated it into their society.

This right of humanitarian intervention is open to all states but it is one which has not received clear articulation. Its basis, forms and proper limits will therefore be examined in some detail. In an organization such as the U.N., by contrast, it is possible to discern a slightly more formal process whereby actions, including intervention in civil strife, are authorized by international society. The nature and limits of this authority also require elaboration.

The fact that international society has certain rules binding on its members means not only that states are obliged to obey them but also that they are obliged to protect these rules against attempts to overthrow them. We are talking here of the more fundamental rules, in particular that requiring respect for sovereignty, not of the thousand and one lesser rules of international conduct which are breached, challenged, changed or rejected with great frequency. From the duty upon all states to uphold basic principles may be deduced a right to act against those who seek to reject them either in toto or in sufficient degree to threaten the order which they are designed to achieve in international society. Such a threat is often associated in practice with the ambitions of a revolutionary
movement fighting to gain control of a particular state. An announced intention to ignore the basic rules of international intercourse may thus arouse the collective concern of other states and be a signal for intervention on their part against such a movement. This situation may in fact resemble the case of a rebel faction which is threatening to spread its principles by force of arms and against which one or more outside states believe they may intervene in legitimate self-defence. But here it is the territory and independence of other states that is being threatened rather than the bases of international society in which all states may be said to have a legitimate stake.

Before going on to consider the three instances of intervention in civil strife which, it has been argued, are founded on the authority of international society as a whole, some clarification is in order on the question of who is to carry out such intervention. Only in the case of United Nations action is it likely to be literally collective intervention in the sense of being conducted directly on behalf of the body of international society. In other cases intervention is undertaken by individual states or by a group of states which are acting with the authorization of the others. Difficulties arise here, of course, in deciding whether such action was properly authorized, if at all. For states are apt to claim - with varying degrees of self-deception - that their actions are justified by virtue of their being for the common good.\(^1\) Since international society's right of intervention remains constantly present, it is always open to states to act

\(^1\) An old but illustrious example is to be found in the United States' justification for its encouragement of the secession of Panama from Colombia: 'By the rules of right and justice universally recognized among men and which are the law of nations, the sovereignty of Colombia over the Isthmus of Panama was qualified and limited by the right of the other civilised nations of the earth to have the canal constructed across the Isthmus and to have it maintained for their free and unobstructed passage'. Address by Elihu Root, 22 February 1904, cited by Stowell, *Intervention in International Law*, p.287n.
first and claim authorization after the event. *Ex post facto* justification, therefore, is not out of the question but it does make judgement of the issue more difficult than in the case of approval given in advance.

**B: Humanitarian Intervention**

Two kinds of objectives are generally considered to fall under the heading of humanitarian intervention: the first kind relates to the physical and mental suffering of individuals, the second to the inhumanity of those rulers who cause unnecessary suffering among their subjects. Concern with the inhumanity of man appears to precede concern for human suffering pure and simple as a motive for intervention. It can only arise where strong feelings exist about the duties of rulers. As long as temporal authority was believed to derive from divine sources, kings and princes were held responsible for carrying out God's will on earth. They could be punished for evils committed against their subjects whose suffering, however, was primarily important for the wrongdoing that it indicated.

By the nineteenth century the idea of Christendom still survived, though decreased in vigour, in terms of a family of civilized states. Thus for some, such as Stratford de Redcliffe, the Concert of Europe was a potential instrument for correcting Turkey's administration of her Christian subjects.¹ At the same time, however, there was growing concern about the fate of persecuted subjects in other countries for their own sake. In 1827, for instance, the preamble to the Treaty of London, by which France, Britain and Russia agreed to intervene in support of the Greek insurgents, referred, albeit as a secondary motive, to 'the sentiment of humanity and interest in the repose of Europe'.² The rest of the century saw a considerable

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¹ Holbraad, *Concert of Europe*, pp.246-7.

² Cited by Wight, 'Western Values in International Relations', in Butterfield, Wight (eds.), *Diplomatic Investigations*, p.119.
number of cases of intervention in civil strife for reasons of humanity and even more numerous expressions of concern at human suffering which did not lead to intervention.

In the period since World War I humanitarian intervention to correct the delinquency of rulers seems to have disappeared altogether and to have been replaced by intervention on account of human suffering. The reason for this is essentially that the common standards for judging a ruler or a regime have been lost. In part, this is due to the inclusion in international society of nations from a variety of civilizations. In part, also, it is because the standards for judging the treatment of individuals in a society have become basically a political rather than a humanitarian matter. The relationship of the individual to society is now generally believed to reflect the conscious adoption of a political system by a people; rulers no longer receive their mandate from God but from the citizenry itself which cannot be presumed to be inflicting injury upon itself. Thus what was once a form of humanitarian intervention must now have a political motivation. Today, therefore, humanitarian intervention is characterized by a concern for the plight of individuals without reference to the political circumstances.

Whence, it may be asked, do states derive the right to concern themselves with the fate of individuals in other countries who are not their own nationals? It may be argued that this concern is not proper and cannot be so since human suffering is outside the cognizance of international society except in so far as that society has competence to demand certain minimum standards of its members.\(^1\) In practice, of course, humanitarian intervention is usually tolerated, even welcomed, but this, according to some, strikes at one of the cardinal principles of

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\(^1\) See, for example, Hall, *Treatise on International Law*, p.342.
international law. The dispute between those who interpret the right of humanitarian intervention narrowly and those who give it a more liberal interpretation does not indicate a lack of concern with the fate of individuals on the part of the former. It is a question of how this well-being is best achieved. Is it through the prevention of international conflict by means of an international law based on the strict paramountcy of the sovereign state and enforcement of the principle that each state is solely responsible for affairs within its borders? Or can deviation from this position be permitted in necessary or urgent cases or when moral feelings are outraged?

The arguments for the latter view are considerable. It is founded, first of all, on a simple appeal to the feelings of men for their fellow creatures, an appeal which postulates an overriding duty of man toward man. Mazzini, for example, argued that if 'some glaring wrong' is done even in an independent nation 'other nations are not absolved from all concern in the matter simply because there may interpose between them and the scene of the wrong, seas, tracts of continent, and traditional diplomatic courtesies'.

But the appeal to the community of man does not, as we have seen, automatically apply to the community of states. It is only because states have in fact taken up this appeal, at least in certain limited circumstances, that it has acquired international validity. An expression of this acceptance can be found in the notion of trusteeship i.e. the idea that it is right to do for someone what he himself is not in a position to do on account of his status or condition. Thus if individual citizens are unable or forbidden to protect themselves against oppression, then others - including outside states - are entitled to

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1 ibid., p.343.

2 'Non-Intervention' (1851), Life and Writings, vol. VI, p.307.
intervene in order to provide protection.\textsuperscript{1}

In the second place, it may be argued not that human happiness depends on international peace but that respect for human rights is itself a major ingredient in peaceful international relations and that where those rights are disregarded peace cannot long be maintained. In the words of Ali Mazrui humanity is 'a more fundamental moral concept than peace' since the importance of peace must derive from the importance of 'the dignity and worth of the human person'.\textsuperscript{2} By this standard Chinese territorial aggrandizement is less important and less dangerous than South Africa's apartheid policy for the latter is by its very nature a human and emotional issue of the highest order.\textsuperscript{3} At the United Nations African and Asian nations have claimed that South Africa's internal policies constitute a threat to international peace and security in that they create repugnance and antagonism among the rest of mankind. It is only realistic, the argument concludes, to acknowledge the powerful feelings that can be aroused over such issues and to permit states to express their righteous indignation in practical ways.

They also claim to be realists, however, who argue that international peace must take precedence over the rights of individuals. Their view is based on an analysis of international relations which suggests that in the long

\textsuperscript{1} Grotius, who maintained that as a rule citizens were forbidden to take up arms even in cases of extreme need, nevertheless acknowledged that 'whenever the check imposed upon some action arises from the person concerned and not the action itself, then what is refused to one may be permitted to another on his behalf, provided that the matter is such that the one may therein be of service to the other....The restriction, in fact, which prevents a subject from resisting does not arise from a cause which is identical in the case of a subject and of one who is not a subject, but from the personal condition which is not transferred to others'. De Jure Belli ac Pacis, book II, ch. xxv, section 8 (3).

\textsuperscript{2} Pax Africana, p.137.

\textsuperscript{3} loc. cit.
run conflict between states is more destructive of human values (and human life) than the maintenance of principles which grant states greater freedom in the treatment of their citizens but which limit the potential for international conflict. Jessup puts the matter bluntly: 'the interest of the world community in peace is greater than the assertion of an individual or group of individuals that his or their rights are being disregarded'.

Certainly, this is a position closer to the traditional notions on which international society has rested for a number of centuries and it is one which has been reinforced in the post-1945 world by the massive increase in the destructive powers of war. Moreover, those African nations which Mazrui believes to proclaim the sovereignty of man over the state have in practice moved with caution. Concern for the integrity of the state as such was strongly in evidence, for example, in the reactions of many of them to Biafra's successful humanitarian appeals during the Nigerian civil war.

Firm conclusions about the extent to which international society can tolerate intervention for humanitarian purposes cannot be reached without further empirical study beyond the scope of this thesis; but the presumption must be that the sovereign state should take priority over the individual as it has done in the past and that any actions which deviate from this position must be shown to be more productive of human happiness than inaction in both the short and the long run. The burden of proof that this is the case thus lies with the state undertaking humanitarian intervention. For the protection of the

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2 As Kaye Whiteman pointed out in 1968, 'the more head of feeling is raised in Europe, much of it genuinely humanitarian in inspiration, the more suspicions are going to be aroused in Africa over the whole affair, and the more other African states are going to place their weight behind Nigeria'. 'The O.A.U. and the Nigerian Issue', World Today (November 1968), p.450.
ultimate members of international society i.e. mankind, requires in both theory and practice protection of the immediate members. Indeed, the institution of humanitarian intervention itself depends on the society of states so that while it is well established in international practice it must also pay due regard to the fundamental rules and purposes of the international community. Before considering the proper limits of such intervention, however, some mention must be made of the forms which it may take.

Humanitarian intervention, pure and simple, may take two forms. The first is designed to alleviate or remove whatever suffering is being caused by a civil war. Yet even the most disinterested actions are almost certain to favour one side more than the other unless relief can be shared between the sides with the wisdom of a Solomon. When governments are conducting humanitarian operations what generally happens is that the political consequences of their actions are simply ignored or, on occasions, surreptitiously welcomed. The Nigerian Civil War saw a number of countries whose political sympathies lay with the Federal Government pressing strongly for food and medical supplies to be made available to Biafra in spite of the fact that this would most likely prolong the war. President Johnson's appeal of 11 July 1968 illustrates these conflicting pressures. He called upon 'all those having responsibility' to permit relief food supplies to reach Biafra, declaring that 'We do not believe innocent persons should be made the victims of political manoeuvring'. Neither the United States nor Britain, however, was prepared to go as far as to intervene officially without the permission of the

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1 The attitude of the British Foreign Secretary, Eden, after the bombing of Guernica in the course of the Spanish Civil War is typical in this regard: 'The Basque Government told us that they wanted to evacuate women, children and the sick, and asked us to give naval protection for the operation....Despite his [Franco's] protests, the British and French navies both gave protection to this humanitarian operation. Our Ambassador's comment, that by removing useless mouths from Bilbao, the British Government had prolonged the city's resistance, had also some truth in it'. Facing the Dictators, p.444.

Federal Government. Nevertheless, the judgement had been made that it was more important to save lives which were being lost at that very moment than to refrain from saving them in the expectation (rather than in the certainty) that in the long run fewer lives would be lost by not intervening. It was not simply a moral calculus, discounting future lives against present, the lives of soldiers against those of civilians, the lives of the more guilty against those of the less guilty; for there was an urgent moral imperative to save human life which was restrained only partly by the uncertainty of the moral calculus and the belief that the Nigerians must be free - at least within certain limits - to resolve their own affairs.

The second form of humanitarian intervention seeks to remove or decrease the causes of suffering in a civil war. The possible remedies vary widely in scope according to the extent of relief that is sought. The minimum aim is to prevent unnecessary violence by the forces of each side against civilians and against each other, necessity in this case being interpreted as military - and perhaps more broadly as political - necessity. On the broader scale the whole conduct of one or both of the sides may be condemned by outside states. Thus the Nigerian Government was accused of using starvation as a weapon of war and with attempting genocide against the Ibo people. Intervention to prevent such policies - whether or not they are in fact being pursued - falls not far short of imposing a settlement on both sides or of crippling the effort of one side. Such action resembles intervention to correct the wrongs of a ruler but differs essentially in that it derives from a concern with the fate of individuals or, more precisely, of non-political groups of individuals (such as racial, tribal or religious groups). While the post-1945 era has seen few, if any, cases of forcible intervention in civil strife for such purposes, it has been characterized by a high level of verbal activity against 'international crimes' of this nature. It is almost impossible to assess accurately the extent to which this activity has in fact modified the policies of states.
The most extreme of such demands is that a conflict should be brought to a halt altogether. It is not unusual for states simply to wish to see an end to fighting which they regard as futile and destructive for both sides. The right of mediation in civil conflicts is long-established and based on a genuine concern for the welfare of others. This concern is strongest in the case of a protracted war in which both sides seem incapable of winning or of surrendering and in the case of a war which could be settled through the good offices of a third party. The mechanisms of settlement are delicate for, again, they may easily lead to unintended benefits for one side. This is notably true of a war in which the contending factions are using vastly different modes of combat as when a guerrilla force is facing a conventionally-armed government.\textsuperscript{1} This is not to say that satisfactory methods of settlement are never to be found or that side-effects of the sort described necessarily deter states from undertaking humanitarian intervention. But it is apparent that even the purest of motives do not inevitably produce purely humanitarian effects. Some restrictions must therefore be placed either on the nature of the activity itself or on the circumstances in which it may be undertaken.

The right of states to offer their good offices to the factions in a civil war with the intention of promoting a settlement of differences either by mediation or by facilitating direct negotiations is sufficiently well established to require no elaboration. Since it depends on

\textsuperscript{1} Draper describes the one-sided effect of a cease-fire in a situation such as South Vietnam: 'The relatively compact, traditionally organized American military forces could easily be regrouped and supplied during a cease-fire; their morale was likely to rise in the absence of combat. The Vietcong guerrillas were by their very nature difficult to coordinate...their morale was bound to fall in the absence of combat'. \textit{Abuse of Power}, p.205.
the acquiescence of both sides it is in a sense invited by the incumbent while at the same time granting a degree of recognition to the insurgents that is at least tacitly approved by the legitimate government. Moreover, as long as the outcome is determined essentially by the two factions, there can be no valid claim that the country's right to manage its own affairs has been infringed. Good offices, in other words, are interventionary only in that they seek to facilitate the change in the relationship between factions from one of conflict to one of conciliation. In some instances, however, the change in the relationship will be to the detriment of one side or the other. The important question then becomes one of determining the circumstances under which humanitarian principles might be imposed.

A number of writers have argued that the nature of the civil war itself may provide adequate grounds for intervention. Their case rests on the proposition that the conduct of the war has either got out of control or has never been in the control of the factions. The latter situation might obtain, for instance, in the event of warfare in an uncivilized community where the laws of combat which are generally considered appropriate to large-scale conflicts are either unknown or ignored. Thus J.S. Mill suggested that a barbarian country had very limited rights as against a civilized community:

> barbarians have no rights as a nation, except a right to such treatment as may, at the earliest possible period, fit them for becoming one. The only moral laws for the relation between a civilized and a barbarous government, are the universal rules of morality between man and man.1

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1 'A Few Words on Non-Intervention", in Falk (ed.), Vietnam War and International Law, p.33. Stowell also seems to accept a right of intervention in uncivilized warfare for humanitarian purposes. Intervention in International Law, p.126.
The implication is clear that feuds between barbarians are a proper object of humanitarian intervention regardless of political considerations, and indeed that the rights of the contending factions are almost solely of a humanitarian nature. In practice such intervention was — virtually by definition — undertaken by a stronger power against a weaker so that the likelihood of prolonged conflict resulting was minimal. Uncivilized countries, moreover, were clearly defined, at least in the eyes of the intervening states, and there was little prospect of their ever becoming strong enough to retaliate. The past tense is used in this connection since none of these factors seem to be relevant to the contemporary world. No state today would accept a description as 'uncivilized' and international society in general has dropped the distinction between civilized and uncivilized nations (replacing it, one might add, by distinctions which are more political and materialist).

The second situation — in which control over the conduct of a civil war has been lost by the participants — is not one that has become outmoded. The exceptional circumstance when Mill found intervention to be justified is still important today:

A case requiring consideration is that of protracted civil war, in which the contending parties are so equally balanced that there is no probability of a speedy issue; or if there is, the victorious side cannot hope to keep down the vanquished but by severities repugnant to humanity, and injurious to the welfare of the country.¹

Mill placed two conditions on such intervention: firstly, the concurrence of neighbouring countries in the undertaking; and secondly, the imposition of a solution 'on equitable terms of compromise'.² Stowell adopts a similar position in

¹ op. cit., p.35.
² loc. cit.
requiring agreement among 'the executive of the directing powers, acting in concert or separately as mandatories' but proposes 'such measures as seem best calculated to reëstablish order and to secure respect for international law throughout the land'. The condition of agreement among outside powers which is common to both Mill and Stowell seems designed to prevent individual states from abusing the right of humanitarian intervention by furthering its particular ends. It assumes that collectively agreed action either will not abuse the right or will abuse it in such a way that all concerned will condone the action, whether willingly or reluctantly. To say that humanitarian intervention is humanitarian regardless of whether it is conducted by one state alone or by many is simply a truism; the important question is whether as a matter of fact states do abuse this right and whether the extent of this abuse negates the whole value of allowing intervention for such purposes. Certainly, humanitarian goals have on occasion served as a pretext for less altruistic activity but pretexts of some description will always be found when necessary, and there seems little sense in forbidding a generally desirable activity in order to stop the misuse of its name. One suspects that the requirement of agreement is in fact unnecessarily restrictive. States do experience strong humanitarian concerns at times and it seems unlikely that they would hold back from some action which they believed necessary to reduce human suffering simply for want of agreement. Moreover, states considering genuinely humanitarian intervention are not likely to ignore the possible side-effects if these threaten to be dangerous in any way; their good intentions may be assumed to apply to more than just those whose suffering has aroused concern.

1 Intervention in International Law, p.350.
The potential for injury to the rights of the state divided by civil strife seems far greater where the second conditions of Mill and Stowell are concerned. This is not to say that such injury must therefore be avoided, merely that it is more likely to prove necessary. For an equitable compromise is precisely what the contending factions have been unable to agree upon and there is little reason to believe that a solution which outsiders judge to be fair and equitable will be any more acceptable to both parties. Again, the establishment of law and order in a country implies an outcome which restores any effective government without considering the attitudes of the contending factions. The central question here is again whether limits are in fact observed by states setting out on humanitarian intervention with goals of this nature in mind. On this score the presumption is perhaps the other way i.e. states will tend to go beyond purely humanitarian goals and into the political arena when they attempt to impose a settlement or to establish law and order. This is by no means always undesirable but it would be wise on the part of international society to demand to know in advance what other goals were being pursued or were likely to ensue even if not deliberately pursued. They may involve acceptable or unacceptable principles but in either case it is in the interests of most, if not all, to be clear on what political issues are at stake.

Where the regulation of humanitarian intervention might be expected to be more precise is in the matter of minimizing unnecessary suffering through military action and of alleviating suffering that has already been caused. The reduction of unnecessary suffering is the more problematical. There are explicit and technical rules applying to international war which are widely considered

1 This experience has befallen the United Nations - see the following section.
relevant, though not as formal obligations, to civil conflicts of certain dimensions. Intended to achieve the maximum reduction in human suffering with the least impairment of military effectiveness, such rules are generally precise in their requirements. But it is another question whether both sides will consider them appropriate. A guerrilla movement, for example, is unlikely to wear a uniform or recognition badges as the Hague Rules require. The direct alleviation of suffering is a clearly-defined medical and social task. It is likely to affect the course of a conflict only in so far as it takes over functions that would otherwise have to be performed by one side or the other; moreover, such a consequence, if it is more than marginal, can easily be offset by comparable assistance to both sides rather than one. Humanitarian intervention of this kind, where the limits are relatively clear, appears least likely to raise objections from the parties to conflict or from international society.

C: United Nations Intervention

The legal restrictions that have been placed on intervention in internal affairs are directed essentially at the behaviour of states:

As a matter both of history and of principle the prohibition of intervention must be regarded primarily as a restriction which International Law imposes upon States for the protection of other members of the international community. For this reason the notion and the prohibition of intervention cannot accurately extend to collective action undertaken in the general interest of States or for the collective enforcement of International Law.¹

Before the establishment of the United Nations, which was originally intended to have a measure of armed force at its disposal, it was suggested that action taken by it would not constitute intervention of the kind undertaken by

individual states and that a more appropriate term in these circumstances would be 'law enforcement'. Given that the international community does hold special rights of intervention in the affairs of states, two important questions need to be asked. Firstly, how are these rights manifested in the workings of the United Nations; secondly, to what sort of purposes might such authority be put by the organization?

There is general agreement that intervention is unquestionably proper when 'the whole body of civilized states have concurred in authorizing it'. However, it cannot be an explicit act of concurrence alone which creates the right of intervention for international society. In the first place, as we have seen, individual states may take up this right on behalf of the community and receive due approval after the event. The right, in other words, exists before states concur in its exercise. Secondly, the right of the international community to intervene in internal affairs depends on the acceptance by states that they have a common interest which transcends their particular interests and which is manifested in the fact that they are bound by international rules. This community interest is not established by an explicit, once-for-all act; indeed, states have never attempted to make the sort of pronouncement that would be required. Nor is it persuasive to argue that this community interest (and the rights and duties flowing from it) derives solely from informal or tacit assent to international rules. For these rules must be made definitive at some stage by the positive actions of states. The fiction of implicit consent, moreover, breaks down in the case of a state which rejects the bulk of international rules and yet remains bound by them. Clearly,

2 Hall, Treatise on International Law, p.344.
an additional factor is necessary to establish the community interest. It is to be found in the notion of political consensus. If there are enough states with sufficient political weight to secure acceptance of their views for a certain period of time, rights and duties may accordingly be established.\(^1\) States are bound by the history of their activities and the expectations which these have created, and it is evident that in international society in particular each member will not carry equal weight in the formation of the community interest.

From this it is clear that a simple voting majority in the United Nations cannot necessarily be taken as an expression of the authority of the international community which all states are obliged to respect. Equally, the failure of a measure to obtain a majority of votes on a particular occasion does not always mean that it thereby loses any binding power which it may have had. Certainly, a majority of this kind may provide an excellent indication of the extent to which states are bound by the provision concerned but a numerical majority does not in itself possess an arbitrary and unlimited power to authorize whatever it wishes. The manner in which the U.N. Congo operation received its authorization is a relevant example. For the most part it did enjoy numerical majorities in the General Assembly but these were shifting and unstable; ad hoc political groupings were formed to overcome the at times vehement opposition of leading powers, while little attempt was made to specify the precise standing of the operation. Moreover, many of its actions in the Congo itself were undertaken on the initiative of the personnel in the field. These considerations, however, do not detract from the legitimacy which the U.N. action derived from the

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\(^1\) Rosalyn Higgins suggests that there has developed a notion of 'international concern' to designate situations (apart from threats to and breaches of the peace) in which members of the United Nations may properly take an interest. The Development of International Law through the Political Organs of the United Nations (London, 1963), pp.77-81.
political consensus behind it and from its actual role in furthering the goals of the community as a whole. Insofar as these conditions were absent, however, the operation did lack international authority. It is important not to lose sight of such a possibility for international society is founded on the sovereignty of its members and it cannot properly undertake to disregard the sovereignty of one of them, even though an international organization, except in pursuit of its fundamental purposes.

Intervention by an international organization such as the United Nations also raises the question of its conformity with the operating rules of the organization. The problem need not delay us here, except to note that the rules of the U.N. do not necessarily coincide with the rules of international society. Thus the U.N. Charter is primarily concerned with the maintenance of 'international peace and security' (Article 1, para. 1) and with facilitating measures to deal with 'any threat to the peace, breach of the peace or act of aggression' (Article 39). It has been argued that if the international repercussions of a civil conflict endanger international peace the Charter permits the U.N. to take action.\(^1\) Even if the Charter were not interpreted in this way, international society still possesses a right to intervene in civil conflicts. In such a case the U.N. may simply serve as a convenient instrument of the community. The General Assembly Resolution of 19 September 1960 can be seen in this light when it called upon

\(^1\) The view put by the British representative in the Security Council on 11 August 1950 on the question of Korea has in fact found increasing acceptance: 'a civil war in certain circumstances might well, under Article 39 of the Charter, constitute a "threat to the peace" or even a "breach of the peace", and if the Security Council so decided, there would be nothing whatever to prevent its taking any action it liked in order to put an end to the incident, even if it should involve two or more portions of the same international entity'. Cited by Miller, World Order and Local Disorder, p. 29.
all states to refrain from the direct and indirect
 provision of arms or other materials of war and
 military personnel and other assistance for military
 purposes in the Congo during the period of military
 assistance through the United Nations, except upon
 the request of the United Nations through the
 Secretary-General. ¹

The U.N. thus claimed a monopoly of intervention on the basis
not of its original Charter but of the international community
acting through the organization.

It remains now to consider those purposes relating
to the internal political arrangements of a country for which
international society might use its authority to intervene
in civil strife. It is clear that in an ideologically
divided world, intervention to secure a particular form of
government is unlikely to be in accord with common rules.
The closest that international society has come to this is
in its opposition to colonial rule which does not, however,
go as far as prescribing particular forms of government to
take its place. Nevertheless, there have been occasions
when community intervention has been undertaken with
objectives which, while not being avowedly political,
inevitably involved major political consequences. ²

These are cases where anarchy has prevailed (or threatened to
prevail) in a country and where the object has been to create

¹ Resolution 1474 (E.S.-IV), 863rd Plenary Meeting.

² There are those who maintain that since U.N. intervention
depends in practice on an invitation from the legitimate
government it must not obstruct the purposes of that
government: 'The United Nations need not go to the
assistance of any country which invites its intervention but
once it does so it owes an obligation to the government
and the people of that country not to interfere in such a
way as to prevent the legitimate government from fulfilling
its mandate. In other words, it is impossible for the U.N.
at one and the same time to preserve law and order and to be
neutral between the legal authorities and the law-breakers'.
Kwame Nkrumah, 23 September 1960, cited by Miller,
World Order and Local Disorder, pp.84-5.
some form of political authority which can maintain law and order. This is going further than purely humanitarian purposes for it requires the making of political decisions e.g. selecting the party which is believed best able to restore order, a choice which must take into account the nature of that order. It remains an open question whether the U.N. will take a path involving the pursuit of political principles or whether it will have no option but to refrain from such objectives. The answer will depend on the international community's acceptance or rejection of some of the principles at present competing for endorsement by the society of states.

D: Intervention in Defence of International Rules

Governments which have come to power through revolution have frequently been met by hostility on the part of the existing members of international society. There are two fundamental reasons for such a reception. Firstly, there is the concern that a revolution constitutes a challenge to domestic order in other countries. The doctrines of revolutionary France, for example, were feared by many of the governments of Europe, but it was her conduct on the international scene that aroused greatest hostility. This indicates the second reason for condemning a revolutionary regime, in particular one that seeks to spread its principles by active intervention in the affairs of other countries. For international society cannot accept a state which displays an intention to act on principles fundamentally hostile to the existing order. The French declaration of war against Austria in April 1792 came as a culmination of international revolutionary activities and helped the formation of a general coalition in Europe that lasted, albeit uncertainly, from 1793 to 1795. The French Revolution, however, was probably the last occasion that

1 See chapter VI.
brought the international community to near-unanimity in opposing both the internal political principles of a revolutionary government as well as its international behaviour. After the settlement of 1815 the powers of Europe came to disagree on the former question, the Holy Alliance maintaining a vigorous opposition to internal political and social change, the more liberal powers concerning themselves with the foreign policy of states rather than their internal constitution. This disagreement began to take on the appearance of an ideological confrontation as conflict deepened between those who were prepared to accept change and those who were determined to prevent it. Since that time the international community has been unable to unite on the question of the form of government which states should adopt but has based its opposition to revolutionary governments primarily on their external behaviour.

While the Soviet regime established by the Revolution of October 1917 still evoked protests from other states about its political principles, intervention in the ensuing civil war by the major powers found its strongest justification in the Bolshevik rejection of the traditional canons of international behaviour. 'The first acts of government...were acts of propaganda only thinly disguised as legislative activity,' Grzybowski argues, citing Trotsky's description of them as 'the program of the Party uttered in the language of power' and therefore 'means of propaganda rather than acts of administration'. Foreign policy was viewed in the same light. Acceptance of the Treaty of Brest-Litovsk was explained as a fleeting concession to the old international order, necessitated by extreme circumstances and undertaken only after tortured discussion. In particular,

Article II of the Treaty which stated that 'the contracting parties will refrain from agitation or propaganda against the government or military institutions of the other party' appeared quite contrary to Bolshevik principles and practice. Such restrictions, however, were not only ignored but the whole basis of obligation which they presupposed was rejected by an appeal to the justice of world revolution. Ioffe, who was Soviet plenipotentiary in Berlin in 1918 and himself fostered subversive activities there, maintained that

The whole significance of the Russian revolution was that it represented the vanguard of the world socialist revolution, and that it could be victorious only as a world revolution. Therefore, it was clear from the start that this paragraph [Article II] could not be adhered to. For the Russian revolutionaries who had been accustomed for scores of years to revolutionary work in spite of all shackles, the way out was clear: What could not be done openly and legally had to be done conspiratorially and illegally.

To the charge that such activity constituted unwarranted interference in the internal affairs of other states, Karl Radek replied by rejecting any such principle: 'This principle of non-intervention was the principle which guided legitimist Europe after the Congress of Vienna, while in the struggle for liberation, international Communists all along advocated the energetic intervention in the affairs of the whole world'. In the face of this challenge which was

2 For details see Mayer, Politics and Diplomacy of Peacemaking, p.236; Carr, op. cit., pp.85-7.
4 Open letter to Scheidemann, November 1918, cited by Mayer, op. cit., p.20.
not restricted merely to words the rest of international society could not remain passive.

Russia was excluded from the comity of nations on account of her transgressions; intervention against the Bolshevik government could thus be justified as an attempt to remove a regime that had taken the Russian state outside the international pale and to replace it by one of more orthodox character. The prevailing attitude was expressed by the U.S. Secretary of State, Colby, in a Note to the Italian Ambassador on 10 August 1920:

the existing regime in Russia is based upon the negation of every principle of honor and good faith, and every usage and convention, underlying the whole structure of international law; the negation, in short, of every principle upon which it is possible to base harmonious and trustful relations, whether of nations or of individuals. The responsible leaders of the regime have frequently and openly boasted that they are willing to sign agreements and undertakings with foreign Powers while not having the slightest intention of observing such undertakings or carrying out such agreements.¹

In the event the Bolsheviks retained power in the civil war despite the Allied interventions which reached a peak in 1919. As the time of greatest danger began to pass the regime was able to make contacts with other governments in an effort to strengthen its own position. From 1920 onwards treaties were concluded with several neighbouring states, all containing clauses which prohibited the contracting parties from assisting in any way organizations or groups whose object was to attack the other party or which claimed to rule all or part of the territory of the other party.²

¹ Text in Eudin, Fisher, op. cit., p.68.
Clearly, these agreements were designed to restrict outside attempts to overthrow the Soviet regime but they nevertheless indicate a realization that certain benefits could be secured by retreating from an out and out revolutionary policy. Diplomatic relations did not return completely to normal as the Soviet Government continued to support the activities of the Third International. Even so, some need was felt to stress the separateness of these two strands of policy, however disingenuous the argument might appear. International society, partly by design, partly by its very nature, thus compelled the Soviet government to adhere to at least some of the rules of respectability. Certainly, the revolutionary ambition had not been abandoned but it had ceased to be the single, determining motive of Soviet policy. The lesson to be drawn is that the society of states is prepared to assert a right of intervention against a party that demonstrates a total opposition to its fundamental rules.

E: Regional Intervention

The differences between a multilateral alliance, a sphere of influence and a region are not necessarily clear-cut in practice. The states of the American hemisphere, for example, are linked by alliance, they are under the dominating influence of the United States and they form a region or, some would maintain, two regions - North America

1 Litvinov's reply to Curzon's Note alleging Soviet violations of the Anglo-Russian Treaty is typical: 'The mere facts of the Third International having for obvious reasons chosen Russia as the seat of its executive committee as the only land which allows full freedom to the spreading of communist ideas and personal freedom to Communists, and of some of the members of the Russian Government in their individual capacity belonging to the executive committee, give no...justification for identifying the Third International with the Russian Government'. Degras, op. cit., p.258.
and Latin America. For present purposes a region will be regarded as a group of nations linked by bonds which are not simply inter-governmental arrangements e.g. by the sharing of certain political values, experience of a common history, possession of a common culture or outlook.¹ The existence of such bonds does not, of course, rule out the possibility of additional international arrangements. As to the membership of a region this tends to be largely self-defining: those states are members which believe themselves to have more in common with other states in the region than with states outside it. Nor need membership be treated as a definite, all-embracing and exclusive status. The Arab countries of North Africa, for example, feel at one with black African states over their shared experience of colonialism, their non-white colour and their economic underdevelopment. Thus it was possible for them to see the civil war in the Congo as one between fellow Africans, an attitude which was not rejected by black Africans.² At the same time they enjoy strong religious and cultural ties with the Arab states of the Middle East and can claim to be at home in both regions.

Now this suggests a distinctive quality of a region, namely that its members may be capable of developing certain international norms amongst themselves. Such norms, of course, need not be shared by the rest of international society and may in fact clash with those of the larger community. Thus African states claim rights to act against white regimes on that continent and American states make comparable claims against communist governments; at the same time these rights are largely denied to outsiders.

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¹ A geographical criterion of proximity is sometimes suggested which would, for example, exclude the British Commonwealth; this criterion will be used here but does not seem as crucial as in the case of collective defence arrangements.

² Mazrui, Pax Africana, p.124.
In such cases the regional groups are demanding an exclusive jurisdiction primarily on account of the fact that they exist as a community. If international society as a whole enjoys a certain competence regarding the character of its members, then there is strong reason to allow smaller and probably more homogeneous international societies in the form of regions to exercise a similar competence. A multilateral alliance or a sphere of influence, by contrast, could not make such a claim. A region, however, may also be able to argue a case for acting in defence of its particular values against alien intrusion. It is not so much that their security is at stake but that qualities of domestic and international political life are threatened. The claims of a region to exercise jurisdiction over internal conflicts within its members may therefore be expected to manifest themselves in two ways: firstly, in an attempt to deny the authority of outside states to intervene, and secondly, in the development of arguments for intervention by the regional powers themselves.

It has been the African continent which has most strongly manifested the distinctive qualities of a region although these have also been in evidence among the American countries and in the Arab Middle East. The new states of Africa have sought to develop a number of principles expressing opposition to non-African involvement in the continent. Mazrui identifies a 'general fear of factionalism' which constantly recurs in African political attitudes, receiving expression in the one-party state, in the mystique of a classless society, in the denigration of tribalism and in the frequent adoption of socialism.\(^1\) For division is generally associated by Africans with colonialism as a tactic exploited by the imperialists in order first to

\(^1\) ibid., pp.212-3.
conquer and then to rule. Open conflict is thus the traditional and ultimate reason for outside intervention and it is this that anti-factionalism seeks to avoid. On occasions, of course, conflicts do erupt within African states, the attempted secession of Katanga from the Congo being a prime example. There was no possibility of an African force being used to intervene and Lumumba's invitation to the U.N. had to be approved for want of a better alternative. Nkrumah, however, was one who saw that it could turn out to be as bad as the worst alternative: unless at this juncture the United Nations acts in full consultation with the African states and in accordance with the needs of Africa, the same results will flow from the United Nations' intervention in the Congo as flowed from the intervention of the great powers in African affairs.2

Certainly, there was disagreement between African states over the issue of Katanga but the exclusion of outsiders was a common aim; if the U.N. force in the Congo had to be tolerated, it was at least a body over which Africans could hope to exercise some form of control through their numbers in the organization itself.

Another significant feature of the Congo episode was the reaction among Africans to Tshombe's use of white mercenary soldiers both after 1960 and in 1964-5. There are, on the one hand, certain advantages in employing mercenaries: they take orders from their paymaster, the local government or the rebel organization, which troops sent in by another country may not do; their services may be bought in the same way as arms or training facilities are purchased abroad but without the risk of dependence on any particular country; and, if there is fighting to be done, mercenaries have the advantage of being strangers who

1 ibid., p.213; Zartman, International Relations in the New Africa, p.93.

2 Address to the General Assembly, 7 March 1961, cited by Mazrui, op. cit., p.204.
will leave at the end of the war and will not be responsible for the peace as well. On the other hand, white mercenaries represent un-African, indeed anti-African, principles. Even as employees of Africans they stand for outside intrusion in African affairs and many of them, moreover, came from South Africa, Rhodesia and Belgium, the very countries which maintain the last colonial regimes on the continent. Hence Nkrumah's impassioned letter to Tshombe on 12 August 1960:

you have assembled in your support the foremost advocates of imperialism and colonialism in Africa and the most determined opponents of African freedom. How can you, as an African do this?

It was not that white soldiers threatened the security of African states but that they endangered African values, in particular those of anti-colonialism which ought not to be compromised in any way. Intervention by outsiders of any description was to be contrasted to intervention among Africans themselves. While U.S. military support for Tshombe in 1964, justified by that country as aid at the request of a legitimate government, could be condemned as 'outside' interference, the more radical states such as Ghana and Algeria took the view that their own intervention was permissible as a matter between Africans. In this way levels of intervention are established and that among Africans is regarded as more acceptable than that undertaken by outsiders.

If intervention within a region is more valid than intervention from outside, then intervention by the region as a whole will be even more legitimate. In the Americas intervention in civil conflict has almost invariably been conducted by the United States as the dominant power in the area, but the landing of marines in the Dominican Republic

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1 ibid., pp.205-7.
2 Cited ibid., p.38.
3 Miller, World Order and Local Disorder, p.114.
in April 1965 was followed by an attempt to enlist the authority of the O.A.S. On 6 May the Organization voted (by the narrowest of margins) to despatch an inter-American force to the country headed by a Brazilian General who, nominally at least, took command of 22,000 U.S. troops and some 1700 troops from Latin American countries.\(^1\) It was intended to make the operation appear more like a regional one than simply the action of a great power intervening in its sphere of influence. The African 'ambition to be his own policeman',\(^2\) on the other hand, has been a little more realistic. While the Congolese strife saw no African soldiers operating independently of the U.N., there was a step in this direction after the East African mutinies in January 1964. First the Tanganyika Army and then in quick succession the Kenya and Uganda Armies rebelled. The only recourse for the governments of these countries was to invite British troops to quell the mutineers, a move made first by Uganda and Kenya and then with great reluctance by President Nyerere.\(^3\) The Tanganyikan President felt a great sense of humiliation at having to use British troops and promptly called on the O.A.U. for assistance. In the event a Nigerian battalion was sent to replace the British force and remained there until September. The ability of a regional organization to arrange for the despatch of troops in the event of civil strife and the general support for its actions evinced in this case may foreshadow a willingness to intervene in future conflicts in order to protect African values, especially if they are threatened from outside the continent.

There is a certain urgency felt by African countries to develop their own capacity for intervention in civil conflicts. The return of European troops always contains the

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1 James, *Politics of Peace-Keeping*, p.240.
threat of involving the United States or the Soviet Union should the conflict become unmanageable. The dangers were strongly sensed by many African states in the course of the Nigerian civil war. Among those lending assistance to Biafra were Portugal and France, a fact which led even moderate African leaders such as President Keita of Mali to denounce the 'imperialist' attempt to divide Nigeria.

The principle of secession was widely condemned while a careful watch was kept on the policies of those governments which were supporting Lagos, such as Britain, the U.S. and the Soviet Union. After an initial period of maintaining that the war was a purely Nigerian affair the O.A.U. came round to the view that it was necessarily an African affair and felt that it was entitled to promote moves for a settlement. However, the African states could not hope to meet the military needs of Lagos (or Biafra for that matter) which remained dependent on outside supplies. This points up a weakness of regional groups in dealing with their own affairs: if there is no great or middle power among them, they are likely to lack the resources to act effectively; if there is such a power, it will be in a position to decide for itself when its capacity will be employed. At the present time the African region is seeking to declare external intervention illegitimate while lacking to a considerable degree the ability to provide an adequate substitute.

The development of regional principles of intervention is fraught with difficulties. There are the practical problems of limiting internal disorder and hence the opportunity for intervention from outside the region, and of generating a capacity to undertake intra-regional

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1 Zartman, *International Relations in the New Africa*, p.94. Zartman also points out, however, that this threat may deter some states from resorting to conflict in the first place.

intervention. Even more important, however, is the maintenance of agreed principles concerning the use of such a capacity. In the Americas the U.S. is strong enough to ensure an almost unanimous anti-communism and to set standards for the Latin American countries. The Arab countries, on the other hand, have been divided by the divergent forces of Ba'ath socialism, Nasser-style revolutionism and traditional monarchy. Africa has enjoyed a limited unity in the 1960s but there are doubts about its durability. For the heart of the matter has been anti-colonialism; all those regimes which took over from the European colonists enjoyed a legitimacy by virtue of that very fact itself. This legitimacy has been extended, perhaps unnaturally, by the cult of opposition to the remaining colonial-type regimes of Portugal, Rhodesia and South Africa. Even if anti-colonialism does not lose its force in the near future, a divergence among African States is still likely to emerge. Mazrui suggests that five principles of legitimacy are applied to governments by African states of which two relate to racial issues. Clearly, there is scope for disagreement, especially as states develop the national unity and strength for which they are presently striving. In this event regional intervention in civil strife may be ruled out of the question for want of agreement rather than want of ability.

Finally, it is necessary to mention the relationship between regional principles of intervention and the norms of international society as a whole. Article 52 of the United Nations Charter does encourage regional arrangements for dealing with disputes but Article 53 sees them as instruments of the Security Council rather than as independent

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1 A resolution of the Punta del Este Conference in January 1962 defined communism as 'incompatible with the principles of the Inter-American system'. Text in H.M. Pachter, Collision Course (New York, 1963), p.164.

agencies acting according to their own rules. It is clear, however, that conflicts are liable to arise between the principles adopted by regional groupings and those of the U.N. One manifestation of this has been the United States' preference for describing action in the American hemisphere as 'collective self-defence' which according to Article 51 is subject only to the subsequent control of the Security Council.\(^1\) Whatever the terminology, the fact is that regional groups do take action independently of the rest of international society. There is frequently some clash with community standards but this is reduced in importance partly by the limited geographical extent and partly also by the fact that a consensus of several states is behind it.

It is sometimes suggested that intervention by a region ranks above national intervention but below U.N. intervention on a scale of legitimacy.\(^2\) While this view has an obvious element of truth, it does seem to place an undue emphasis on numbers without making full allowance for the factors of interest and concern on the part of outside states. States which form regions tend to feel more involved in a conflict within one of their number than extra-regional powers and it is natural that they should claim and be given a greater say in events.\(^3\) A potential clash between regional and universal organizations exists, for example, in the South African situation where extensive and effective opposition to the incumbent government might give

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\(^1\) Claude, Swords into Plowshares, pp.108-9.


\(^3\) Similarly, even genuinely democratic societies do not work by numbers alone; the accepted existence of pressure groups of all kinds ensures that particular interests receive due attention.
rise to differences of approach. Thus the U.N. might seek to isolate the conflict in order to limit international violence while the O.A.U. might seek to intensify and extend it in order to ensure rebel victory. Both organizations, of course, may have the same ultimate goal and it would be desirable were both to agree on methods. But a question of priority might arise and the interests of the African region could not be nullified simply by greater numbers. The African states are committed to the overthrow of colonial-type regimes, they must at present live with the white-minority governments and they are seeking the 'liberation' of black South Africans. In this case, as in others, the interests of the region may appear to conflict with the interests of international society at large. Yet the ability and determination of a particular group of states to manage affairs amongst themselves may provide the best guarantee of preventing the entanglement of outside powers. At the same time, it is possible that certain standards may be adopted by the rest of international society as a result of policies pursued by states in regional groups. Interplay between the interests of states who are most closely bound up with a conflict and the interests of the community in general seems more likely to produce satisfactory results than a demand that the former be subordinate to the latter.

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2 Rules regarding the expropriation of foreign assets, for example, have been changed by the actions of many African and Asian states. See R. Higgins, *Conflict of Interests* (London, 1965), pp. 55-8.
CHAPTER VI: INTERVENTION IN CIVIL STRIFE AND POLITICAL PRINCIPLES

Most states, and especially the more important ones, have some ideas about the sort of social and political conditions they would like to see exist in other states. They have, in other words, various principles or goals by which life in another country might be ordered; and one occasion for promoting these is the outbreak of civil strife when the potential for change is high. It is obvious that not all such principles are objects of amicable agreement between states although one may expect that some will be more productive of accord than others. At the very least one can assume that objections will be raised by the particular incumbent or insurgent to whose detriment the principle in question is being applied; thus intervention against colonial regimes may be generally approved by outside states but it is not likely to be welcomed by the colonists. At the other extreme is intervention designed to spread the ideology of one of the superpowers which tends to be the subject of bitter dispute both within the war-torn country and in international society.

Intervention in civil strife to promote political principles of whatever description may or may not be in accord with the fundamental rules of international society. Thus the sovereignty of the divided state may be respected in that assistance is invited by the incumbent government or by a properly recognized rebel movement; it is equally possible that the intervention will fail to satisfy either of these conditions. In practice it may be observed that principles of this kind do tend to be offered as the sole justification more often in cases of subversive intervention than in cases where the incumbent is supported; the reason is simply that political goals which favour the government in power are likely to be formally endorsed by an official invitation. Again, a genuine element of self-defence may
be present as when an outside state intervenes in order to maintain its security and must perforce assist the cause of one side rather than the other. This possibility is particularly important in the contemporary world when intervention by one of the ideological powers may be in part defensive against another. It is not possible in present circumstances, however, for intervention in support of a political principle to be properly authorized by the international community as such. In some circumstances international society may be entitled to disregard a state's sovereignty but this right does not extend to the imposition of political principles. It is clear in the case of, say, humanitarian intervention but there is no manifest consensus between states today concerning the proper political arrangements for a state. If the international community does at some point achieve such agreement, then intervention for purposes relating to the internal politics of a state may enjoy a long-unknown authority. Today the closest approach to this status has been made by the principle of anti-colonialism; its success in this direction, however, has been rather exceptional, being due, as will be argued in the following section, in large part to its multi-faceted nature. Intervention in pursuit of political principles, then, remains essentially a national and particular endeavour.

It is true, also, that intervention of this kind has behind it strong motive forces, whether it is for the more contentious objectives of an ideology or for the less contentious goals of anti-colonialism. This must be taken as a fact of international life and it is of little value here to inquire whether these pressures result from a selfish national interest or from genuinely altruistic concerns. Such criteria are of little relevance for the purpose of judging their relationship to international order. What is more useful is an examination not of the reasons for the existence of these political principles nor
of their substantive content but of their import for international order. In what way do they clash with the basic rules of international society? Do they have any claims at all to legitimacy? How widely or narrowly might they be applied? How contentious are they in international politics? How do they fare in practice?

A: Anti-colonialism

One major political force that has emerged in the post-war period is anti-colonialism. Already in 1945 'a widespread attack upon the very existence of the colonial system had gathered momentum' and the 'nonwhite world had found its voice and begun to assert its interests'.¹ One immediate effect was the Declaration Regarding Non-Self-Governing Territories, incorporated into the United Nations Charter as Chapter XI; it stated that the interests of the inhabitants of these territories were to be regarded as paramount and that promotion of their well-being was a 'sacred trust'. These ideas were progressively interpreted as meaning that colonial territories must be granted independence, preferably sooner rather than later, a conclusion which received formal expression in the U.N. Declaration on the Granting of Independence to Colonial Countries and Peoples, passed by an overwhelming vote in the General Assembly (89 to none, 9 abstentions) in December 1960. The vast majority of states were clearly opposed to the retention of colonial territories on anything other than a transitory basis. The opposition to colonialism has been fostered and developed not only in the General Assembly which proved an important arena for badgering the colonial powers and for pressing the U.N. into organized activity against colonial rule, but also in the colonial territories themselves (some resorting to armed revolt), in the states which were first to achieve independence, in some of the

¹ Claude, Swords into Plowshares, p.329.
imperial powers where public opinion moved away from the imperialist outlook, and in some of the interested bystanders such as the Latin American and the communist countries.

In Africa those anti-colonial movements actively engaged in warfare were strongly in favour of the view that violence was a legitimate instrument for furthering the independence of African countries. At the first All-African Peoples Conference in Accra in December 1958 it was the Algerians who argued the case for general support of armed insurrection while the majority of black Africans favoured what the Conference Chairman, Tom Mboya, described as 'non-violent positive actions'.\textsuperscript{1} The debate produced a compromise resolution which recommended force only in response to force and which was indeterminate on the nature of the support to be given to anti-colonial movements:

\begin{quote}
the All-African Peoples Conference in Accra declares its full support to all fighters for freedom in Africa, to all those who resort to peaceful means of nonviolence and civil disobedience as well as to all those who are compelled to retaliate against violence to attain national independence and freedom for the people.\textsuperscript{2}
\end{quote}

Only five years later resolutions of the founding conference of the Organization of African Unity were of a totally different character. The Heads of State set up a committee to co-ordinate assistance to liberation movements and to manage a Special Fund for that purpose; another resolution offered sanctuary and training for rebels in the territory of the independent states; and it was also decided to assist the liberation movements by facilitating the transit of material aid through the formation of groups of volunteers.\textsuperscript{3} A variety of reasons can be found for this change of attitude. Some relate to the growing prospect of success

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\textsuperscript{1} Cited by Mazrui, \textit{Pax Africana}, p.208.
\textsuperscript{2} loc. cit.
\textsuperscript{3} 25 May 1963, text ibid., pp.230-3.
\end{flushright}
which forcible methods then appeared to offer. Others relate to the increasing acceptance of decolonization as a desirable goal and a consequent impatience with less effective methods.

The anti-colonial principle, it is clear, has an important measure of international consensus behind it. But this consensus relates in the first place to the duties of the colonial powers. They are obliged to prepare their territories for independence and to relinquish control at the earliest appropriate time. While there is much disagreement, of course, over what the capacity for self-government entails in practice,¹ no doubt exists that independence must be accorded at some stage. Now anti-colonialism in this sense has no immediate bearing on the political arrangements that are considered proper for the colony; it is a rule of international politics rather than a principle of internal politics, requiring simply the forsaking of overseas possessions by certain European and other white countries. It is in this form that anti-colonialism is accepted by the vast majority of countries, although they tend to disagree about the urgency of the matter.

For some, however, this obligation on colonial powers has not seemed satisfactory, chiefly because it does not permit immediate and effective measures to achieve the goals envisaged. Accordingly, established international rules have sometimes been called upon to justify more forceful action. Thus it has been argued that the possession of colonies amounts to permanent aggression, an idea which first received concrete expression in the Indian seizure of Goa from Portugal in 1961. It takes as its starting-point the manner in which colonial territories were originally acquired. The first question concerns the status of the

territories subjugated by the powers: were they in any sense sovereign states or were they beyond the pale of contemporary law? Alexandrowicz argues that it was the practice of European states before the nineteenth century to treat the rulers of certain Asian countries as independent sovereigns with whom treaties — chiefly concerning trade and the position of traders — were concluded on a footing of equality.\(^1\) It follows that these countries were members of the Family of Nations and that their subsequent reduction to colonial status amounted to a serious infringement of the rights accorded to them by that Family. This raises the question whether such actions constituted aggression or whether they could be considered in any way legitimate. The weight of the argument strongly suggests that the acquisition of colonies was not an international wrong by the standards of the time.

Firstly, different rules applied in the past concerning lawful and unlawful reasons for waging war, including wars of conquest. The establishment of colonial dependencies was certainly accepted by the majority of European states and although they were not the only members of the Family of Nations (according to Alexandrowicz's argument) they were the most numerous and influential. Nineteenth century Europe, moreover, arrogated to itself the right to determine the content of international law and it became established positivist doctrine that the decision to resort to war was the political prerogative of states and not subject to legal regulation. Secondly, even if it is admitted that the seizure of colonies was unjust or illegal by standards prevailing at the time, such actions may have acquired a legitimacy by virtue of their effectiveness. Indeed, international law must contain some provision whereby

illegal actions, if successful and permanent in their effects, are acknowledged and granted some measure of protection; the reason is that no rules can ignore developments in the real world without losing their relevance and without encouraging disorder. Successful aggression, in short, ceases to be aggression if it is left undisturbed. The notion of 'permanent aggression', however, rests on a totally different interpretation of these two points. It asserts, firstly, that aggression in the sense of illegitimate attack did occur and, secondly, that the permanent state of affairs achieved by it did not become legitimate with time but, on the contrary, remained an instance of aggression. Mazrui, it is worth noting, attempts to distinguish between the illegitimacy of disturbing sovereignty which has been acquired as a result of aggression and the legitimacy of that sovereignty itself. The rule that conquests must be left undisturbed, he argues, does not mean that the rule of the conqueror is necessarily legitimate. This would be a convenient distinction in many ways, allowing subject countries to resist the ruling power but forbidding outside states to intervene in any conflict that might result, but it seems neither logical nor practical. Logically, sovereignty implies a capacity to rule over the citizens of a country as well as a right to freedom from outside interference. If sovereignty is recognized internal and external aspects must be accepted together, otherwise it is something less than sovereignty that is at issue; international society cannot tolerate a definition of sovereignty that includes the a priori illegitimacy of government. On the practical level, it seems unlikely that states will refrain from assisting rebel causes which are widely accepted as being just not only in terms of what they seek to achieve but also in terms of past wrongs which are to be righted. Restraint will be especially unlikely on the

1 Pax Africana, p.28.
part of those very countries which have campaigned for acceptance of this view of colonialism in order to further their anti-colonial activities. The inconsistencies inherent in such a situation are illustrated by the case of Southern Rhodesia where many African states assert that Britain still has a 'colonial sovereignty' over the country and therefore remains responsible for it yet at the same time regard as proper any attempt to overthrow the established government.

We are thus in a position where colonial rule over what were formerly sovereign states or something like them can be treated as legitimate or, more doubtfully, as illegitimate and aggressive. But what is the position with regard to colonial territories which have never in their existence come anywhere near the condition of sovereignty? Can one logically expect that their present status will differ in any significant way from that of states which enjoyed sovereignty prior to colonial subjection? Assuming that aggression is a wrong committed by one state against another, there can, of course, be no foundation to the claim that colonies of this kind were acquired by aggressive actions. Certainly, it would have occurred to no-one, colonizer or colonized, to use the term 'aggression' or its equivalent in this context. In fact, most colonies in Africa, America and Oceania were originally far less than independent sovereign states though not to the point of being terra nullius. While some local tribes and peoples were capable of negotiating with the white man and concluding meaningful agreements with him, this was not done on a basis of equality, much less of sovereign equality. 'Unequal' agreements and protectorates became common instruments of colonial domination and on occasions supremacy was established by military force alone. If these were not international crimes, it follows that there is no question of their being permanently criminal. It is not on the grounds of an original wrong perpetrated by the
colonialists, therefore, that these colonies can claim their independence. This conclusion, moreover, is consistent with the view that colonies which happen to have been original states but which now precisely resemble other colonies also have no rights on account of ancient aggressions.

Even if these anti-colonial arguments based on past events did stand up, there are still reasons for not putting them into effect. The reasons relate to the consequences likely to ensue from any attempts in this direction. For if the issue is one of aggression by the colonial power and it will not yield up its gains immediately, the obvious and natural response is a resort to force by the subject people themselves and by interested outsiders. To put right what is illegal would seem not only legal in itself but also a worthy and desirable goal. But it is an aim that tends to be blind to any limits on the means used to achieve it. In a just cause all means may come to appear justifiable and no compromise, however, reasonable, may be possible with a power permanently stigmatized as colonialisit and aggressive. Indeed, no rights at all may be conceded to the colonizing power so that it is expected to forgo even such fundamental rights as that of self-defence. Thus a double standard may be introduced into international law with obligations applying to the less favoured countries and none to the more favoured. Rules must be concerned with the behaviour of states rather than with their status, especially if it is a status involving exclusion from the law. The net effect would probably be to produce more disorderly behaviour than orderly.

Anti-colonialism, however, contains other important elements which make for greater urgency of action. Retention of colonial power has been interpreted as a denial of fundamental human freedoms and hence as a proper object of

1 Mazrui, Pax Africana, pp.35-6.
concern for the international community. Intervention against colonial regimes thus has some claim to be a form of humanitarian intervention. Also, on the African continent at least, there is a measure of regional solidarity which gives some basis for asserting a special interest in anti-colonialism. The emotional force behind it is illustrated by Ben-Bella's dramatic declaration at the Addis Ababa Summit Conference in May 1963:

Ten thousand Algerian volunteers have been waiting for a chance to go to the assistance of their brothers in arms....A ransom had to be paid for Algeria's liberation....So let us all agree to die a little, or even completely, so that the peoples still under colonial domination may be free and African unity may not be a vain word.¹

This solidarity is all the more impressive by virtue of the fact that it combines both Arabs and Negroes. But there is an important and irreducible demand in anti-colonialism concerning the political arrangements of the territories to be given independence. Sovereign status alone is not enough for this is compatible with a colonialist minority remaining in power. Provision must be made for the native majority (for such it invariably is) to take over control of political institutions. It is not in itself a demand for democracy in the sense of majority rule since the system of government that actually emerges may be one-party domination or a personal dictatorship. The essential condition is that a small number of white men do not rule over a coloured population.

Thus it makes little difference to the anti-colonialist whether a controlling white government is subordinate to an overseas power or enjoys full independence. The Unilateral Declaration of Independence by Rhodesia, for example, did not satisfy anti-colonial demands by dint of the country ceasing to be a colony of Britain. Similarly, the

¹ Cited ibid., p.111.
Republic of South Africa remains an object of anti-colonial attack on account of its internal policy of white domination. Apartheid is condemned not so much for its insistence on separate development but as an instrument of control; at the same time it serves to increase the humanitarian appeal of anti-colonial goals. It is at this point, however, that anti-colonialism is revealed to be a political principle which does not enjoy universal approval. All states acknowledge a duty to grant independence to colonial countries but a substantial number object to the view that all white minority governments are illegitimate in the eyes of international society. Certainly, some of them may disapprove of such governments or feel concern for the rights of the oppressed population but they will not go as far as condemning them in a way that would deprive them of their international rights. In practice, this crucial political element in anti-colonialism has often been satisfied in the process of granting independence from the metropolitan power but its acceptance has been considerably less than complete.

The application of anti-colonial principles has in fact proceeded without undue disturbance to international order. Decolonization in one form or another has been continuous since the end of World War II, moving at varying speeds but now undoubtedly on the point of disappearing as a major issue of international society. In some parts of the world the attitudes which favoured wars for colonial liberation do seem to have carried over to some extent into the relations between independent states. The post-1945 rebellions in South-East Asia, for example, were led by men who, accepting the rightness of armed struggle in their own countries, were likely to support the use of force against colonial regimes elsewhere. One such leader was Ho Chi Minh who achieved formal independence for North Vietnam in 1954 and who subsequently demonstrated his readiness to encourage the use of force against governments
in South Vietnam and Laos. It is important to remember, however, that Hanoi has seen the struggles in these countries as in many ways a continuation of the movement for colonial independence, although directed against the United States and its 'puppets' rather than against the French. From other points of view, of course, North Vietnamese policies seem to be motivated by the desire for aggrandizement or by communist expansionism, the anti-colonial argument being seen in both cases as largely a disguise for ulterior ambitions.

South-East Asia is, however, an exceptional area on account of the communist element, the militance of North Vietnam and the presence of ancient rivalries between the peoples of the peninsula. The African experience, by contrast, is probably more typical of the anti-colonial movement as such. There the fundamental purpose of decolonization has been the elimination of rule by alien races and not the re-drawing of political boundaries or the establishment of governments based on particular ideologies. The overriding goal of national independence carried with it a demand for the undisturbed management of political affairs, a demand still to be found in the denunciation of neo-colonialism i.e. continuation of colonial rule by indirect methods. This principle applies equally to other nations as well as one's own. It has been reinforced by the need of many states to experiment with various forms of government in order to cope with immediate problems of stability and development; few African countries have been sufficiently confident of their own political principles to seek to impose them on others. Moreover, the measure of democratic principles inherited from the British and French militated against a crusading spirit. Nor has African nationalism, despite its origins in Pan-Negroism, made a special claim for the freedom of Negro minorities in countries outside the continent. The anti-colonial movement has thus achieved its goals for the most part without giving rise to doctrines making for intervention in other non-colonial countries.
The anti-colonial movement is naturally still directed at the remaining European colonies in Africa and at a few small territories in other parts of the world. It has also been extended to include South Africa and Southern Rhodesia which are states in their own right rather than colonies. But this extension is limited and clearly defined, relying on the central fact that as a consequence of colonial occupation a small minority of white people rule a large majority of black. The goal in these cases is essentially to bring about self-government for the people as a whole and the fact that there is no overseas power ultimately responsible for the country is taken to be immaterial. Moreover, this difference between the situation of an independent state and that of a colony where sovereignty rests with a European power is one which makes intervention in the former case a less dangerous enterprise. For a civil conflict in an independent state does not automatically involve a major overseas power as do colonial wars. On the contrary, in the case of Southern Rhodesia the former colonial power is favourably disposed toward insurrection against the existing regime, while in South Africa the incumbent government would certainly receive little outside assistance in fighting a civil war. Again, it is important to note the negative goal in both these countries i.e. the elimination of governments of a clearly defined type; there are few, if any, positive prescriptions about what political arrangements are to replace them. Also, there is no question of branding a state as an aggressor or the like, to be regarded as outside all rules. It is a question rather of international society addressing itself to specific political realities and sanctioning the means for their elimination.

B: National Self-Determination and National Liberation.

The idea common to the principles of national self-determination and of national liberation is that in some circumstances at least the rights of a nation override the rights of a state. This idea has been employed as a
justification for intervention in civil strife in that it provides certain grounds for the support or even recognition of rebel movements and for the elimination of alien and colonial rule. The present section will examine this principle as a basis of intervention with a view to assessing its potential impact on international order. In general, it will be argued that the self-determination of nations is an elusive principle with a high potential for disorder and that any attempts to give it a concrete application, as in the communist policies of national liberation, are likely to be discriminatory and contentious. A marked difference will emerge between Soviet attitudes on this question and the views of Western and African countries.

It is necessary only to mention the problems of definition which underlie any doctrine based on the rights of nations. Whereas the existence of a state may be demonstrated by reference to widely agreed objective criteria, the existence of a nation is more problematic since a host of criteria, mostly imprecise and often subjective, have been considered relevant. Again, it is possible for groups of people to make themselves into a state by easily recognizable means, while the processes whereby a nation is constituted remain obscure and uncertain. Essentially, the idea of a nation is grounded on the assertion that the individual members of a community share certain characteristics of birth, behaviour or belief which distinguish them from members of other such communities. As a nation, however, they do not act together as a political entity. The claim that they should in fact form a state may clash with the existing structure of states in two main ways. Firstly, a nation may be a minority within a state or be subject to another state and seek to win or exercise its rights as a nation. Secondly, the members of a nation may be citizens of a number of states and may wish to establish a political as well as a
national unity. It will be apparent that only rarely do state boundaries coincide perfectly with the geographical limits of a nation; the principle of self-determination has thus been one of change, and civil strife and intervention sometimes the occasion of such change.

In general, states have preferred in recent years to avoid stressing the rights of nations. For what is there about a nation to give it priority as an ordering unit of human society? As to positive attributes, it would seem to possess no more intrinsic merit in this respect than, say, the family, the tribe, the church or the state itself. Certainly, it offers a basis for a common life but other entities do this, albeit on varying scales. Moreover, there is no fundamental reason why a national life should not be experienced within or even across state borders. At this point, however, the negative side of the issue becomes apparent. People may be deprived of or unable to enjoy certain rights simply by virtue of the fact that they belong to a particular nationality, the members of which form a minority in one or more states. In seeking control of the state which oppresses it or in attempting to break away from the parent state, a nation may thus be acting to protect itself. This does not, of course, amount to a right of self-defence such as the society of states grants to its members. Nevertheless, some of these efforts have received support and encouragement from outside states in the name of the national principle. Some estimate of the nature and measure of that support is therefore necessary.

Since 1945 the concern of many states has been with protection of the individual members of nations rather than encouragement of national independence as such. They have addressed themselves to the negative aspects of the question,

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1 Rupert Emerson also makes the distinction between claims put forward by peoples in this situation and those put forward by states. Self-Determination Revisited in the Era of Decolonization (Cambridge, Mass., 1964), p.38.
unlike, for example, some of the peacemakers of 1919. The latter managed to re-draw the map of Europe in such a way that only three per cent of the population lived under governments not of their own nationality; the hope was that the force of national feeling would be contained in the most effective way while allowing the liberty of the individual to flourish in the bosom of the nation. The U.N. Charter, by contrast, expresses respect for the 'principle of equal rights and self-determination of peoples' (Article 1, para.2) but it neither equates this with the principle of national self-determination nor lays it down as an absolute rule. The framers of the Charter were concerned with the destiny of the peoples then ruled by the colonial powers (despite disagreement as to the precise nature of that destiny) rather than with the rights of nations, dependent or otherwise. This is also evident in Chapter XI of the Charter which refers to 'Non-Self-Governing Territories' and to 'their inhabitants'. Thus nations were only incidentally involved if the people of a dependent territory also happened to be a nation. So far as the status of this principle is concerned, it is improbable that the founder members of the U.N. intended it to be more than a declaration of intent, a political formula which created no binding obligations on themselves and no inalienable rights for their dependencies. Subsequent resolutions of the General Assembly, in particular the 1952 Resolution on 'The Right of Peoples and Nations to Self-Determination' and the 1960 'Declaration on the Granting of Independence to Colonial Countries and Peoples', may have increased the measure of obligation on the colonial powers but they have not licensed the formation of states by any group of people which is considered to be a nation.1 Despite

claims and arguments to the contrary, international society has not granted either in theory or in practice the same rights to nations as to states.¹

The new states have been generally reluctant to accord nations - if tribal, ethnic and linguistic groups can be equated with the essentially European concept of 'nation' - anything which might amount to a right to independence and hence a right to resist state authority and to receive external support. Although their anti-colonial arguments have more than once moved in this direction, their purpose has been clear in practice. 'The principle of self-determination', the Kenyan delegation to the Addis Ababa conference argued, 'has relevance where the foreign domination is the issue. It has no relevance where the issue is territorial disintegration by dissident citizens'.² Both the communist doctrine of national liberation and the liberal notions of national self-determination have made little impact on African and Asian thinking on colonial questions. The reasons for this are partly historical, but the most significant factor seems to be that the scope of these principles is too broad, too indiscriminate to provide a useful weapon in the anti-colonial armoury. Self-determination, in short, is applied only to the freeing of

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¹ The 1969 session of the Special Committee on the Principles of International Law concerning Friendly Relations and Co-operation among States which discussed the principle of self-determination of peoples saw a divergence between those who maintained that rights inhered in the nation itself and those who, like the U.K. and U.S. delegates, argued that it was the state which had the duty to respect and possibly to implement the principle. G.A.O.R., XXIV, Supplement No.19, A/7619. In fact, the debate was largely about colonial territories rather than about nations as such and this distorted much of the argument.

subject territories from colonial rule; after that point the national principle receives no further support and is in fact broadly condemned.

The reasons for this are evident, particularly in the case of African states. Many of them have large minority groups which could be accorded collective rights only at the risk of breaking up the existing state structure. Nigeria fought a long and bitter civil war to prevent the culturally and linguistically distinct Ibo people from maintaining any claim to run their own affairs. Other African states were at first reluctant even to discuss the war, regarding it as a matter for the Federal Government alone. Only four African countries went so far as to recognize Biafra. However the causes of the war were seen, most states regarded Nigeria as an example to be avoided and the Biafran claim to self-determination as one to be discouraged. The sole African state which has a completely homogeneous population is Somalia, a fact which causes unease in those countries with Somali minorities. To permit tribal minorities to secede, however, or even to grant them special privileges, would set a dangerous precedent. It would also bear an unfortunate resemblance to the practice of colonialists in distinguishing between individuals according to their race.

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1 A meeting of Heads of State at Kinshasa on 11-14 September 1967 took a clear stand on the sanctity of the status quo: 'The Assembly, condemning every act of secession in any member-State, recognizing that this is an internal matter to be solved by the Nigerians themselves, and reaffirming its faith and confidence in the Federal Government of Nigeria ... resolves to send to the Federal Government of Nigeria an advisory mission consisting of six Heads of State in order to assure him of the Assembly's desire to safeguard the territorial integrity, unity, and peace of Nigeria'. Text in Keesing's Contemporary Archives, vol. XVI (1967-68), p.22281.


What can be done is to guarantee equality of rights to individuals of all races and tribes thus removing the negative argument for self-determination, namely that minority groups must protect themselves. It is also a policy that is consistent with the view of anti-colonialism as a struggle for the rights of the individual.1

The Soviet Union has been a vocal supporter of national liberation in the post-war world, especially in the 1960s. Its concept of a nation, however, has been far from precise so that wars of national liberation have come to mean anything from the Korean War or the conflict in Vietnam to the armed struggles of colonial territories for independence. There is no attempt to define a common factor in all such cases except the assertion that the rights of a nation are at stake. The Soviet position thus coincides at times with the anti-colonial movement, at times with the breakaway of minority groups, at times with the forcible reunification of peoples claimed to belong to the same nation. In practice, the Soviet Union is by no means consistent in supporting causes of this nature. The reason for this is not simply the absence of a comprehensive definition of a nation which only needs to be applied rigorously but rather the function that national liberation must serve in the communist interpretation of the world.

When the new Soviet Republic first had the opportunity to look at the situation of its neighbours in the Middle East and Asia, it was after national minorities within Russia had been incorporated into the Russian state (as were, for example, the Ukraine, Byelorussia, Georgia, Armenia and Azerbaijan). For those outside the Soviet Union the crucial distinction which Lenin proposed was that

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1 The Kenyan delegation at Addis Ababa in 1963 dismissed Pan-Somalism as a 'tribalistic doctrine and declared its remedy for Somalis settled in Kenya: 'If they do not want to live with us in Kenya, they are perfectly free to leave us and our territory....This is the only way they can legally exercise their right of self-determination'. Cited ibid., p.12.
between 'the oppressed, dependent and subject nations and the oppressing, exploiting and sovereign nations'\(^1\). It was clear that the former would be candidates for Soviet support even, Lenin suggested, if this meant the Communist International forming a temporary alliance with 'bourgeois-democratic' movements in order to remove imperialist control.\(^2\) Debate at the Congress led to the substitution of the term 'national-revolutionary' in order to make it clear that help would be given to bourgeois liberation movements only when they are genuinely revolutionary, and when their exponents do not hinder our work of educating and organizing in a revolutionary spirit the peasantry and the masses of the exploited.\(^3\)

In other words the primary task of the Communist International was to liberate those nations and colonies controlled by Western imperialism while maintaining the possibility of communist leadership; national and colonial questions were above all to be seen in the light of the confrontation between capitalism and communism. At the Twelfth Party Congress in 1923 Stalin put the matter more bluntly:

> It should be borne in mind that besides the right of nations to self-determination there is also the right of the working class to consolidate its power, and to this latter right the right of self-determination is subordinate....the right to self-determination cannot and must not serve as an obstacle to the exercise by the working class of its right to dictatorship....\(^4\)

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1 Preliminary Draft Theses on the National and the Colonial Questions (5 June 1920, for the Second Congress of the Communist International), Selected Works, vol. III, p.423.

2 op. cit. p.427.


To all appearances this has remained the fundamental assumption of Soviet policy on national issues. It is not that there is anything unusual or reprehensible about this, but that subsequent Soviet presentation of the doctrine of national liberation has obscured its true function.

In 1947 the 'fighters for national liberation' were again included on the Soviet side in Zhdanov's two-camp thesis. Support for national liberation was recognized as a contribution to the strength of the anti-imperialist forces. After Stalin's death, however, the national liberation movement came to be accorded importance in its own right. Wars for national liberation were formally classed as just wars which receive the sympathy and support of all progressive mankind.\(^1\) Nations also enjoyed the rights of 'national sovereignty', permitting them to act as states in certain respects.\(^2\) Implementation of the principle of self-determination, moreover, became a significant contribution to world peace; thus it was claimed that the Vietnamese people, fighting to defend their national independence and their right to settle their vital national problem, the country's unification, have been making a tremendous contribution to the common cause of the people's struggle for peace, democracy and Socialism.\(^3\)

There is an echo here of the ideas of the peace-makers of 1919: if nations can be allowed to look after their own affairs, they will be able to achieve internal harmony such that foreign policy will be moderate and peaceful. The difference is that 1919 saw a genuine attempt to establish national boundaries according to objective criteria while the Soviet Union has tended to be arbitrary in selecting those

\(^1\) Kozhevnikov (ed.), *International Law*, p.402.

\(^2\) See chapter III, section D.

\(^3\) S. Sanakoyev, 'Formation and Development of Socialist International Relations, *International Affairs* (Moscow), (October 1967), p.10.
groups for which it claims the rights of a nation. Essentially, the objection to intervention based on a doctrine such as national liberation is that the occasions for it are not specified in advance and that consequently there cannot be even an opportunity for other states to agree to it. The traditional notions of national self-determination do at least attempt to clarify, however inadequately, the occasions when intervention will be considered proper.

C: Ideological Intervention

Intervention may be said to be ideological when it demonstrates a concern about the nature of the internal political arrangements of another country in terms of their relationship to a system of political beliefs held by the intervening state. In the contemporary world ideological intervention has come to imply actions by the Soviet Union, China or the United States to promote or prevent the establishment of governments according to their communist or democratic (in the minimum sense, at least, of non-communist) complexion. It should not be forgotten, however, that allies or friends of these great powers may also undertake such intervention along or, more probably, in combination with them. Now it is apparent that ideological intervention may at the same time reveal a concern with, for example, the distribution of power on the international scene as would appear to be the case with the Soviet interventions in Hungary in 1956 and Czechoslovakia in 1968; the reason is simply that in contemporary conditions the character of a regime is frequently seen to have a bearing on great power relations. The present section, however, is addressed to the nature of the principle which says that intervention for communism or for democracy (regardless of the international situation) is justified. It is concerned not with the substance of such principles, but with the implications for international order should they be applied.
The substance of an ideology is, of course, important in that it may provide a very strong motive for intervention. The belief that a particular form of government is superior to all others may appear a good reason for seeking to ensure that other countries also enjoy it. The concern of the Soviet Union to maintain communist regimes in Eastern Europe whatever domestic opposition may arise illustrates the inherent strength of ideological beliefs. For the rulers of the Soviet Union communist ideology is 'not only the rationale of their absolute power but also a source of their inner security and effectiveness'.

It is important both to them personally and to their position that the validity of Marxism be demonstrated in some way, especially at a time when it appears to be of decreasing relevance to a society where 'industrialization is accomplished and the state has shown no signs of withering away or becoming, in essence, less authoritarian'. The field where ideology can be made to prove itself is in its adoption by other countries, and particularly in its successful application by the countries of Eastern Europe. Moreover, since these countries are supposedly founded on a political system which will inevitably be adopted by all peoples, the pressure on Soviet leaders to prevent a defection from the camp is even stronger.

Here ideology is not merely a different language of politics or a disguise for 'power politics'; it is a strong and deep-seated political force, one which accounts in part for Soviet readiness to intervene in Eastern Europe. It is a force which may be deterred from leading to action or be suppressed or transformed, but it has been a feature of the Soviet state since 1917.

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2 loc. cit.

3 This theme is more fully developed by N. Jamgotch, *Soviet-East European Dialogue* (Stanford, 1968). pp.34-56.
The commitment of the United States to democratic government takes the same form as the Soviet commitment to communism although there are clearly great differences in content, in strength and in the domestic role that each ideology plays. The democratic ideology also lacks much of the internal coherence and systematic character of communism, consisting (perhaps by virtue of its very nature) of a disconnected and sometimes contradictory series of ideas about how a political system should be run. These ideas vary in their importance but many of them can and do serve as justifications for intervening in civil strife in other countries. At one time, for example, the United States was much troubled by the prospect of rebels in Latin American nations attempting to gain power for their private ends, believing this to be a perversion of good government.¹ The central political principle of democracy, however, is the free conduct of political affairs within each country. It is not simply that individuals are absolutely free to do whatever they wish, including inviting assistance from abroad, but that the whole conduct of politics should be based on the consent of at least a majority of citizens and preferably of all of them.

On this view a civil conflict, involving attempts by contending factions to impose an outcome on each other, may well amount to something other than the free conduct of political affairs. President Johnson's assessment of the disturbances in the Dominican Republic in 1965 was of this nature:

¹ On 12 March 1913 President Wilson declared that 'we can have no sympathy with those who seek to seize the power of government to advance their own personal interests or ambitions'. Cited by Thomas and Thomas, Non-Intervention, p.35. The Tobar doctrine, which was incorporated in the Central American Treaties of 1907 and 1923 and which was informally adopted by the United States, for a time laid down constitutional requirements to be fulfilled by new governments before they would be recognized. See Lauterpacht, Recognition in International Law, p.129.
The revolutionary movement took a tragic turn. Communist leaders, many of them trained in Cuba, seeing a chance to increase disorder, to gain a foothold, joined the revolution. They took increasing control. And what began as a popular democratic revolution, committed to democracy and social justice, very shortly moved and was taken over and really seized and placed into the hands of a band of Communist conspirators.¹

The charge that some of the conspirators came from abroad is not important at the moment; what is significant is the notion that a minority can frustrate the will of the majority by various methods and that this is a legitimate occasion for concern and possibly intervention on the part of outside states. It is typified in the sometimes unthinking claim that no people would freely choose a communist government. Nor should it be imagined, however, that only the democrat believes in the possibility of a distortion of the proper conduct of a country's affairs, for the communist maintains that the interests of a nation as a whole can only be served when the proletariat can act as its political vanguard. In wishing to impose political principles on other societies both go beyond the fundamental requirement of respect for sovereignty; it is another argument altogether which says that one of these forms of government is more likely to produce respect for sovereignty than the other.

The Soviet Union and Communist China believe that their respective types of communist regime represent the highest stage of historical development and that they are the only ones that can guarantee the happiness of the whole population of a country. The United States and many Western countries are less dogmatic in believing that some form of representative democracy is most likely to promote

the welfare of individual citizens. Both ideologies nevertheless appear to have unlimited application. They are in principle relevant to every country in the world, either through the defence of established systems of government or through the promotion of new systems. All three powers have at times envisaged the extension of their system to the rest of the world, including the other great powers. In the early 1950s the United States gave serious consideration to the idea of 'rolling back' communism, while China has recently predicted that the 'countryside' of the world will eventually surround and capture the 'towns'. Perhaps the most persistent doctrine along these lines has been that expounded by the Soviet Union, for the notion of a world state has permeated communist thinking since Marx. Ideological intervention thus contains no inherent limits as does intervention based on anti-colonial and, in some cases, nationality principles; these latter not only imply limited objectives but are relevant only in certain situations or to a few specified countries.

Now this absence of limits is not in itself productive of disorder. It might be the case, for example, that international society could agree on political principles to be followed by all governments and that it would undertake collective intervention to enforce them. One may question whether an international society that agreed on ideological intervention would have any need for it, but the lesson is obvious. If there are two or more ideologies competing as principles for intervention, there can be no question of these principles also acting as international rules. That this has been true of the post-war world is self-evident. What is also important about the rivalry between democratic and communist ideology as

1 E. Goodman, *The Soviet Design for a World State* (New York, 1960), discusses this theme exhaustively but with undue emphasis on its practical significance.
justifications for intervention, however, is its world-wide scope. There have been other ideological confrontations at earlier periods in history - the religious schisms in Europe of the sixteenth and seventeenth centuries, the divisions which broke up the Concert of Europe after 1815, the totalitarian challenge of the 1930s - but they have all been confined to one part of the world, albeit the most influential. The result is that a potential exists for competitive intervention in each member of international society.

Certainly, all forms of intervention are liable to infringe the norms of sovereignty but there is some case for believing that ideological intervention is more likely to do this than most. It is partly a matter of the pressing nature of ideological concerns so that intervening states tend to be less troubled by the absence of alternative legitimation such as an invitation from the incumbent government which might reconcile the action with the sovereignty of the country. It is partly also that ideological intervention generally prescribes a particular form of government or at least proscribes a range of forms, leaving relatively little freedom of choice. Intervention by the Soviet Union has tended to be of the former variety. Thus one of the justifications for the invasion of Czechoslovakia in 1968 was that the people of that country would not choose Western-type democracy of their own accord and that a communist system must therefore be secured. The socialist countries, according to a Tass statement on the day of the invasion, were 'unanimous that the support, consolidation and defence of the people's socialist gains is a common internationalist duty'. The position of the orthodox communist faction in Czechoslovakia, in other words, was to be guaranteed regardless of the demands of their opponents. This is not to say that other justifications of the Soviet intervention could not be found but that the

1 21 August 1968, text in The Times, 22 August 1968.
ideological one involved the imposition of outcomes within a very narrow range.

The United States, for its part, has shown a continual concern that other countries should not choose the communist path, though not necessarily insisting on a democratic form of government. Undoubtedly, this concern has frequently coincided with fears about the international consequences of communist victories in civil conflicts but it would be unreasonable to deny altogether a sincere commitment to non-communist forms of government as desirable in themselves. The Truman and Eisenhower doctrines did not ignore internal political questions although it may be surmised that some of this was window-dressing. The nature of American preferences is illustrated by a remark of President Kennedy's in June 1961 at a time when rival groups were struggling for control of the Dominican Republic after the assassination of Trujillo:

There are three possibilities in descending order of preference: a decent democratic regime, a continuation of the Trujillo regime or a Castro regime. We ought to aim at the first, but we really can't renounce the second until we are sure that we can avoid the third.\(^1\)

Later in the year the United States put on a show of naval force off Santo Domingo which encouraged a rising against the new would-be dictator, Ramfis Trujillo.\(^2\) In other situations where there has been a strong concern with international implications it is difficult to say whether the same response would have been made had the international element been absent. Thus in April 1965 the risk that the Dominican Republic might pass into the hands of rebels who might turn out to be communist appeared sufficient reason for President Johnson to land U.S. Marines.\(^3\)

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2 ibid., p.662.

that risk would have been acceptable had it simply been a question of internal Dominican politics alone. In any event, it is clear that justification of interventions of this kind is more likely to prove effective when based on the international issues than when expressed in ideological terms. For the international considerations are ones which can be more readily comprehended, though not necessarily publicly condoned, by other countries, even those of an opposite ideological persuasion.

Intervention which is undertaken purely and simply on account of ideological considerations is thus unlikely to command the support of international society. It is partly for this reason that Wight is able to place intervention to maintain existing governments at the bottom of the traditional moral scale. However, it is clear that states, and in particular the great powers, will see a continuing need for undertaking ideological intervention and that there will be more than a few occasions when it will be in breach of fundamental international rules. Nevertheless, it is possible that such intervention may still be controlled by various means whether or not it accords with these rules. Manifestly illegal behaviour may still be subject to limits of a kind although the development of such restrictions is likely to be that much more difficult in a world where intervention is undertaken by states holding diverse and antagonistic political principles.

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1 Below balance of power and humanitarian intervention. 'Western Values in International Relations', in Butterfield, Wight (eds.), _Diplomatic Investigations_, p.116.
The fact that there are various rules and principles relating to intervention in civil strife does not in itself tell us the full extent to which intervention actually contributes to or detracts from international order. The purposes of interventionary behaviour are nominally governed by the fundamental rules of international society but the measure of disregard for these rules is apparent in the readiness of states to rely for justification on the political principles discussed in chapter VI. What must also be considered are the procedures by which states are able to control acts of intervention on the part of others. These procedures, in so far as they are effective at all, can be used to discourage intervention which breaches basic rules and to encourage intervention which conforms with them; they can also be used, of course, to discourage intervention which in fact seeks to uphold the rules and so detract from international order. Part Three will discuss the means by which the act of intervention in civil strife can be controlled by other international activities. Control in this context does not necessarily mean the same thing as a diminution of intervention, although this is frequently the purpose of the actions concerned. It is also true that one method of control is to threaten and possibly to implement further intervention.

The methods of control are naturally many and varied but further intervention is prominent among them. It is threatened or undertaken by third states and may involve them in the conflict at a number of levels. This form of control depends on the prudential calculations of the outside states concerning the likely consequences of the initial intervention and of subsequent reactions to it. Attention must also be given to the possible responses of the divided state itself for it too enjoys a potential for expanding the scale and scope of the original conflict.
Chapter VII will deal with the most significant factors governing such calculations. A more formal type of control is discussed in chapter VIII i.e. the regulation of intervention in civil strife by specific provisions of international law. Here we are concerned not with the role of international law in determining the proper purposes of intervention, but with its function in governing acts of intervention and the responses of states to those acts. The prohibition of some types of intervention, for example, may give rise to certain rights among third states or in the injured state itself; international law may thus influence the decisions of states along with their prudential calculations. Finally, a chapter will be devoted to the possibility of control over intervention in civil strife by an international body. In this field, the activities of the United Nations have not only been directed at intervention by individual states, but have also included intervention by the organization itself.
CHAPTER VII : INFORMAL CONTROLS ON INTERVENTION IN CIVIL STRIFE

There are as many motives for seeking to control intervention in civil strife as there are for undertaking it. This chapter will be concerned with the mechanisms of control and it is important to make clear that these procedures are essentially neutral as regards international order. Whether or not their use contributes to international order will depend on the purposes of the intervention that is subjected to such control. In practice, subversive intervention has been the activity which has aroused most concern and which has experienced many efforts at control. If it is the case that this kind of intervention breaches fundamental international rules more often than not (and there are good grounds for this assumption), then the mechanisms of control will by and large promote international order. Thus the possibilities of controlling intervention which are discussed in this chapter may be necessary conditions for achieving a measure of international order.

Attention will be focused primarily on the control of subversive intervention for the reasons already mentioned, but it should not be forgotten that on some occasions states are anxious to prevent or limit the assistance given to incumbent governments. In either case, the basic problems of control are similar - how to bring another state to do something or to desist from doing something - although the particular methods may vary. The first section will examine the interrelationship between intervention in civil strife and the forms of military conflict, and especially the theory that the prevalence of intervention is a result of the nuclear stalemate between the superpowers. If the latter is in any way a cause of the former, then control of intervention will depend on policies at the highest strategic levels. In fact, it will be argued in the second section that the most important factors in
controlling intervention are to be found in the potential of civil strife to expand by stages to higher levels of external involvement and intensity of conflict. The final section, in the light of the pressures for and against expansion, will consider the prospects for deterring and constraining intervention in civil strife.

A: Intervention and Military Conflict

Subversive intervention has come to be regarded by many as a staple of international relations, an ever-present feature of international society which must be accepted because it can never be fully controlled, let alone prevented altogether. The reaction of some has been to see the cause of this state of affairs in a world-wide communist conspiracy designed to undermine the governments of the Third World and the West through the flexible and elusive techniques of subversion. Such a conviction has found adherents not only in the United States but also in France where the Army clung to it tenaciously during the Indochinese and Algerian campaigns. Soviet commentators have also been ready to denounce a comparable Western conspiracy of subversion whether against the new nations in the form of neo-colonialism or against the socialist countries by the 'new ideological subversion' which the West is alleged to consider 'more refined and camouflaged' than the old military methods. These conspiracy theories attribute to subversive intervention a strong element of design and calculation; it is not our purpose

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1 Raymond Aron observes that since only direct aggression in the sense of invasion by regular forces has been explicitly prohibited by the rules of the game, 'all other forms of aggression have been legalized, because they have been tolerated'. Peace and War, p.566.


here to test the truth of these theories but to note that were this element in fact present the task of controlling intervention would be relatively simple. Calculated threats could be directed at calculating and cautious opponents. In fact, simple observation indicates that the causes and hence the control of intervention, particularly subversive intervention, are more elusive than has been suggested.

Intervention in civil strife is frequently described as an instrument of policy in the same way as the military or diplomatic arm of states. This is especially the case with subversive intervention which tends to be contrasted favourably with the more overt use of armed force. Some of the inherent limits on a policy of subversive intervention were discussed in chapter II but it does also possess a number of advantages. The intervening state need make no overt commitment to a rebel movement. It can send material assistance covertly and in small amounts. If troops are considered necessary, unofficial 'volunteers' may go to the aid of the rebels. Alternatively, training and support may be given to exiles who may be genuine refugees from a conflict or nationals hired for the occasion. The aim behind such activities may be to promote a rebel victory at all costs, involving an ultimate threat of armed invasion; this was the situation when the Soviet Army was ranged along Czechoslovakia's borders in February 1948. It may be to promote a rebel victory within certain limits such as those evidently reached by the United States when the Cuban exile brigade failed to establish itself on the beach at the Bay of Pigs in 1961. Again, subversive intervention may be intended simply to keep a country weak and disunited by maintaining the threat of rebel victory; this, Dinerstein suggests, was the Soviet aim in encouraging the Algerian rebels in the early years of their struggle against France.¹ The least ambitious goal

¹ H.S. Dinerstein, Sino-Soviet Conflict in the Underdeveloped Countries (Santa Monica, 1964), p.12.
of subversive intervention is to extract some political concession from the government under threat; rebel victory is purely incidental in this case since assistance is given to rebels simply to maintain the pressure on the government rather than to further its overthrow. Within this range of goals states are able to move from one to another as conditions change or their ultimate ambitions are modified or expanded.¹

Commitments of this nature can be liquidated with a facility not shared by a policy involving the introduction of regular military forces. Moreover, whatever degree of control is exercised over the rebels generally remains unknown to those not directly involved although there is the possibility that it may be overestimated as well as underestimated. The responsibility of the intervening state for the original outbreak of civil strife and for its continuance is similarly obscure as are the intentions behind it. Subversive intervention thus appears to offer - in favourable conditions at least - a risk-free and economical means of pursuing a policy which can be promptly discontinued as and when necessary. Indeed, it may even prove to be the case that successful subversive intervention makes an armed invasion unnecessary.

These notions about subversive intervention are often linked with another major feature of the post-war period, namely the development of massive nuclear war capabilities by the two superpowers. The theory is that the intolerable nature of nuclear war and the serious risks of a conventional military conflict escalating to a nuclear level have prevented direct confrontations of this kind between the United States and the Soviet Union and that consequently competition between them has been diverted to

less dangerous arenas. Hans Morgenthau attributes the phenomenon to

the recognition on the part of the two superpowers, armed with a large arsenal of nuclear weapons, that a direct confrontation between them would entail unacceptable risks, for it could lead to their mutual destruction....Instead of confronting each other openly and directly, the United States and the Soviet Union have chosen to oppose and compete with each other surreptitiously through the intermediary of third parties.¹

One of the most probable forms of this competition would appear to be subversive intervention, the advantages of which were discussed in the preceding paragraphs. Essentially, such intervention permits advances to be made by small, discrete steps each of which would make a forcible response seem grossly disproportionate and incredible, especially if the threat or use of nuclear weapons were involved. The difficulties of bringing nuclear weapons or even conventional forces to bear in this situation are further compounded by the ambiguity surrounding the intentions and the precise degree of complicity and control attributable to the intervening state. Thus it is that a policy of subversive intervention seems rational and effective for a country confronting one of the major nuclear powers. China's encouragement of wars of liberation is frequently cited as the case of a state resorting to subversive intervention in order to challenge a power of great conventional and nuclear strength. The dangers of direct military clashes, in other words, appear to be a prime cause of the widespread practice of subversion.

¹ 'To Intervene or Not to Intervene', Foreign Affairs, vol.45 (April 1967), pp.427-8. President Kennedy put the argument in the following terms after his meeting with Khrushchev in Vienna in June 1961: 'We no longer have a nuclear monopoly. Their missiles, they believe, will hold off our missiles, and their troops can match our troops should we intervene in these so-called wars of liberation. Thus the local conflict they support can turn in their favour through guerillas or insurgents or subversion'. New York Times, 7 June 1961.
Additional support for this view is to be found outside the relationships directly involving one or both of the superpowers. Smaller states in Africa, Asia and the Middle East have on occasions resorted to intervention in civil strife for fear that a conventional conflict would get out of hand. The countries of Western Africa are loath to engage in any conflict that might lead to the return of colonial forces or even, if the Europeans prove unable to cope with the situation, to the involvement of the superpowers; the consequence is seen to be a preference for less overt intervention in the affairs of their neighbours. Similarly, Egypt appeared to have found a safe way of expanding her influence through intervention in the Yemeni civil war where conventional military attack would have been excessively dangerous. Clearly, it is not only the stronger powers that may be reluctant to undertake direct military action but also the weaker who fear that even with a local superiority of force they may ultimately suffer through the expansion of international conflict.

The idea that the conventional and nuclear levels of conflict can somehow cause increased conflict at a lower level, however, needs to be subjected to important qualifications. Indeed, it may prove to be the case that the extent of these criticisms necessitates abandoning the original hypothesis altogether. The first doubt concerns the assumption that animosity between the superpowers at the strategic level will perforce be diverted to other levels. In fact, the phenomenon of the arms race and of continuous technological innovation indicates that competition at this level may still continue without the actual use of nuclear weapons. The threat of nuclear force remains the basis of Soviet-American relations as the several direct armed confrontations between them - over Cuba in 1962 and recurrently in Berlin, for example - have convincingly demonstrated.

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A more important doubt is thrown on the original hypothesis by looking at the foundations of the antagonism between the central powers. Surely, this antagonism is not to be found solely or even mainly in their common possession of nuclear weapons such that all other animosity flows from this fact. On the contrary, it is the case that the United States and the Soviet Union are diametrically opposed on a wide range of political, ideological, economic and social issues and that these conflicts have led to their antagonistic nuclear postures. Thus the cold war, together with the competitive search for influence among the other nations of the world, would have come about in the total absence of nuclear weapons. These weapons undoubtedly added tensions to the Soviet-American relationship (and perhaps took some away) but they were instruments of policy rather than causes of policy. Subversive activities, indeed, antedate the emergence of the nuclear competition; the latter cannot therefore be a cause of the former. In short, it is the fundamental animosity between the superpowers that has encouraged both the resort to subversive activities and the antagonism at the strategic nuclear level.

What nuclear weapons appear to have done, in fact, is to limit the extent to which the superpowers can indulge in competition. The fear of nuclear war has tended to hold both back from risky military ventures and to deter them from pressing each other too far. The West, for example, has generally refrained from supporting counter-revolution in Eastern Europe while the communist countries have not exploited to the full their capacity to conduct subversion in both the West and the Third World. Clearly, both have found that, save in exceptional circumstances, subversive intervention as an effective means of competing with each

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1 See M. Howard, 'War as an Instrument of Policy', in Butterfield, Wight (eds.), Diplomatic Investigations, p.211.
other is not without risk and that, while the risk may be less than that involved in military confrontation, it is still far from acceptable. The notion that intervention, especially subversive intervention, is a safe policy for the superpowers clearly needs qualification, and this in turn throws further doubt on the supposition that these powers have resorted to intervention as a result of the dangers of nuclear or conventional military confrontation. The risks of intervention in civil strife are evidently real and seem to lie in the potential for expansion and escalation of the conflict.¹

It is difficult to assess the impact of the cooperation that has been evident in recent years between the two superpowers in some areas of nuclear arms control. The Test Ban Treaty, the Nuclear Non-proliferation Treaty and the Strategic Arms Limitation Talks are the most striking illustrations of a movement towards stabilization and protection of the central balance. If, on the one hand, the primary cause of this collaboration is a general lowering of political and ideological tensions, it is to be expected that this will also mean a reduction in the pressures for intervention on the part of the two powers. The atmosphere which makes cooperation possible at the strategic level will at the same time diminish the propensity of each power to see the world in ideological terms and to see all changes in terms of threats and counter-threats. Moreover, the fact that agreements have been reached and appear to be working may itself increase mutual confidence to an even greater degree. On the other hand, the existence of a stable and unchallenged central balance may remove certain of the risks attending intervention. Escalation of a conflict up to a point may remain likely, but if there is some guarantee that this point will not be passed, then it may be reached more quickly than would otherwise have been the case. American policy

¹ See the following section.
over Vietnam, for example, has amounted to a large-scale war against a member of the communist camp without a perceptible increase in the risk of a nuclear clash with the Soviet Union. The contemporary situation is thus one of paradox: intervention seems to be called for to a lesser extent but to be simultaneously more feasible as a policy. Resolution of the paradox will be decided by the relative strengths of each factor.

This line of argument becomes evident in considering the nature of a disarmed world. The abolition of conventional and nuclear forces would certainly lead to a loss of many of the restraints that now exist in the conduct of foreign policy. For there would be no risk of forcible countermeasures against states which sought to exploit the weaknesses of others. The only dangers would be offered by diplomatic or economic sanctions and by retaliatory intervention in the affairs of the offending state, and it is obvious that some major powers would be virtually invulnerable in these respects. Lesser states, however, would be liable to constant interventions since they would be hard put to take any retaliation against the stronger even with the assistance of influential allies. An unarmed world, in other words, promises to be more disorderly than an armed one. 'Nor,' as Osgood and Tucker argue, could internal war substitute for the deterrent and other nonviolent uses of regular military establishments. Reliance upon subversion, coups d'etat, and revolution as the sole instruments of military power would not only be ineffective; it would create a chaos of intervention and violence that would undermine the order within states as well as destroy the order among them.¹

The presence of military capabilities in contemporary international society, it is clear, serves important functions in the control of intervention which would be lost in a disarmed world.

The attitudes of the superpowers toward general and complete disarmament have displayed an awareness of this problem. In 1962, for example, Mikoyan pointed out to Chinese critics of Soviet disarmament policy that it would not make the national liberation struggle more difficult but rather deprive the imperialists of the means of 'resisting the revolutionary actions of the proletariat and the peasantry'. At the same time the Soviet Union must have realized that it would lose its own capacity to deter American intervention against communist or pro-Soviet regimes. It was natural for both powers to include a prohibition of subversive intervention in the draft treaties which they submitted to the Conference of the Eighteen-Nation Committee on Disarmament which opened in Geneva on 15 March 1962. These provisions were to apply from the start of the disarming process (which itself produces distinct problems) and it seemed probable that they would serve as indicators of the success or failure of disarmament. For they emphasized 'the dependence of disarmament upon a political foundation that is expected to dilute progressively the intensity of global patterns of conflict'; thus one of their functions, intended or not, was 'to clarify the ground rules in a disarming world and to identify the areas of prime disagreement that are likely to breed antagonism and crises during the course of disarmament'. If it were the case that the high levels of military forces had caused the profusion of subversive

3 ibid., p.450.
4 ibid., p.451.
intervention in the post-war world, then disarmament would also mean the disappearance of these effects. On the contrary, disarmament would have to be accompanied by a diminution of international rivalries and of the competition for influence if the possibility of subversive intervention were not to prove a serious problem.

These conclusions concerning superpower relations and intervention in civil strife also apply, though perhaps with less force, to other areas of international relations. Simply restated, they are that intervention results primarily from pressures, motives and opportunities which are independent of the levels of conventional and nuclear armaments; and that where there is danger of intervention leading to conflict at these levels there is also an inhibiting effect on the resort to such actions. On the first score, it is apparent that the more complex and political the causes of both supportive and subversive intervention, the greater will be the problems of control. Most importantly, solutions of a purely military nature do not promise to be adequate. Some of the manifold contributory causes of intervention have already been described: the domestic instability of many states; the need of many such states for external support of various kinds; the political and ideological obligations which some states feel in the matter of aiding rebel movements or governments in the event of civil strife. Most significant of all, perhaps, is the antagonism which may exist between states regardless of their relative military capacities; in these circumstances subversion may present itself as a highly appropriate means of acting against a government which is reviled. Intervention, it is clear, has its own dynamics; subversive intervention in particular is not simply an instrument of policy which is selected because it happens to be more promising than

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1 The policy of Communist China in South-East Asia, for example, displays these features and others besides.
some other instruments. To deal with intervention as if it were simply a type of policy resembling and related to conventional or nuclear weapons is therefore likely to prove difficult and precarious. Nevertheless, as the following sections show in examining the truth of this conclusion, some success may be achieved in inhibiting intervention in civil strife by making use of its potential for expansion.

B: The Expansion and Escalation of Civil Strife

Intervention, particularly subversive intervention, it has been argued, is limited in various ways by the possibility of undesirable consequences. One type of undesirable result is the expansion of a civil conflict so that more states are involved and violence extends beyond the purely internal context to the international level. Another unwanted consequence may be an escalation in the scale and forms of the conflict; it is not only that the number of combatants involved or the amount of munitions used may increase but also that increasingly destructive weapons may be employed, possibly to the point where nuclear weapons are threatened or actually used. Military escalation of this kind has been extensively dealt with by strategists and, although they have usually not given special attention to civil war situations, this topic will not be discussed here. For it seems that escalation of this sort has not proved to be a major problem of civil strife or at least that it has been subsumed under the broader problem of expansion in the former sense. The entry of outside states into a civil conflict and the crossing of international borders appear to be the more significant events and in fact they usually mean the involvement of more troops and more weapons. Except for a short analysis of the possibilities of using nuclear weapons in internal wars, therefore, this section will be confined to examining the factors working for and against the expansion of civil conflicts. It is
in states' assessment of these factors that the inhibiting effects of expansion are to be found.

The value of nuclear weapons in civil conflicts as such seems to be doubtful although they are not without their uses in the international relationships which result from the expansion or the threatened expansion of civil strife. Quite apart from the question of availability, the inhibitions on their use are strong. Frequently, there are no clear lines of demarcation between incumbent and insurgent, especially in a guerrilla-type insurgency where there are no front-lines and no large formations of troops. The insurgents, even if geographically separated from the incumbents, are also likely to be intermingled with civilians who are not participating in the war. Thus anything except very low-yield nuclear weapons will almost certainly harm non-combattants (as conventional weapons do anyway) and possibly friendly forces as well as the opponent; nuclear weapons, in addition, are liable to devastate and contaminate the very country for which the factions are fighting. Even without these difficulties the political and moral restraints on resorting to nuclear weapons appear to be heightened in civil conflicts. For there is a vast difference between forcing enemy troops to surrender through the use of nuclear weapons and compelling fellow nationals to obey one's authority. It is perhaps for such reasons that nuclear weapons have in fact never been used in civil strife and that, as far as is known, their use has never been threatened or even seriously considered.

The public attitudes of the United States, the Soviet Union and China reinforce this view. The U.S. ruled out the possibility of assisting the French with nuclear weapons at Dienbienphu and refrained from landing a rocket battery in the Lebanon in 1958. This battery had a nuclear as well as a conventional capability and might.

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have suggested an intention to use atomic weapons. The Soviet Union, in supporting the application of the rules of war to civil strife, has sought thereby to extend the alleged illegality of nuclear warfare to internal conflicts. The Chinese too have argued vigorously against the usefulness of nuclear weapons in revolutionary struggles. At the same time, however, the Chinese and Soviet arguments also indicate a fear that nuclear weapons might be used by an incumbent government against a revolutionary movement, for their arguments about the illegality and impossibility of using nuclear weapons in civil strife apply to both sides. Thus China appeared particularly concerned in the early 1960s by the American development of tactical nuclear weapons that appeared more suited to internal war and her constant reiteration of the no-first-use principle seems to have been intended, amongst other things, to raise the political cost to the U.S. of introducing such weapons into civil wars. On the one hand, therefore, strong arguments may be found against the value of nuclear weapons in this context; on the other hand, the possibility of irrational or imprudent resort to these weapons is apparently large enough to arouse the concern of a number of countries. It may even be the case that in certain conflicts nuclear weapons could be wisely and effectively used. As long as such fears exist, even if largely unfounded, they can only serve to discourage states from participating in civil strife.


The rest of this section will look at the ways in which a civil conflict can expand into something more than a struggle for power between two factions within a country. The process can be simply analysed. In the first stage external support is given to one or both of the contending parties in order to assist them in achieving their goals. The pressures making for intervention have already been described, being found principally in the demands of the two factions and in the concerns that civil strife arouses among outside states. The pressures against intervention have been found in the limitations of the act of intervention itself and in the risk of escalating and expanding the conflict. These risks enter into the calculations of both the state considering intervention and the faction which would receive assistance; since their calculations are not necessarily the same the inhibiting effect on each of them may well vary. Thus a rebel movement may be reluctant to accept certain kinds of assistance or any assistance at all from a great power for fear that another power would go to the aid of the government or that it would lose its independence of decision to the intervening state. In this first stage, therefore, the danger is already evident that what is originally a purely civil conflict may turn into a proxy war fought either between two states intervening on opposing sides or between a state directing a rebel movement in another country and the government of that country. This danger is likely to persist or to increase as the original conflict moves through subsequent phases of expansion.

In the second stage one or both of the factions take action against the state giving aid to the opposing faction. Thirdly, an outside state cooperates with the faction it supports in order to attack the outside state supporting the other side; this form of joint action may be reciprocated. Finally, the outside parties may act independently against other intervening states at which point
the original civil conflict has expanded into an international conflict between two quite different entities. Each of these stages, being defined by the identities of the parties in conflict, naturally includes a wide range of activities; external support, for instance, may mean diplomatic manoeuvres or the provision of large numbers of troops. Moreover, the stages may be closely interconnected. Thus extensive support for one of the factions may permit it to undertake operations against an outside state which would not otherwise have been possible, while the third and fourth stages are distinguished not so much by the operations actually undertaken as by the planning and intentions of the parties concerned. At each stage, however, there are certain pressures for expansion to another level and certain restraints. Controls therefore arise both from the restraints themselves and from the fear of moving to a higher level where further expansionary pressures may come into play.

The factors which might induce intervening states to turn a civil war into a proxy international war are complex and various. Some of these factors are a matter of conscious and deliberate decision on the part of the outside state, relating to its particular intentions and its strategic interests. Other factors may involve little or no choice. Thus, as the scale of a war increases and the supply of local resources diminishes, an intervening state may be unable to resist the demands of a faction for further assistance; again, a commitment to one side or another may develop to the point where it cannot be abandoned whatever the course of the conflict. These pressures are likely to be even greater in the event of two states assisting opposing sides for then the intervention tends to become competitive and limits on it more difficult to set. Some factors also will relate to the way in which states perceive civil strife, in particular the emphasis they place on the distinction between internal and international wars.
Soviet ideology, for instance, has traditionally stressed the importance of the struggle between the forces of imperialism and the forces of socialism in any war rather than the distinction between civil and international wars. The dimensions of an apparently internal conflict therefore were to be fixed not by the national boundary but by the relative strength of the socialist and imperialist camps; such a conflict was from the start a proxy war in the sense of being fought by detachments of each camp. A change in Soviet thinking came in 1961, however, when Khrushchev made a speech explicitly stressing the idea of national boundaries around internal wars:

> In modern conditions a distinction should be made between the following categories of wars: world wars, local wars, liberation wars and popular risings. This is necessary in order to work out the correct tactics with regard to these wars.

> These risings must not be identified with wars between states, with local wars, because the people in these risings are fighting for the implementation of their right to self-determination, for independent social and national development....Communists fully support such just wars and march in the front ranks of the people waging liberation struggles.¹

The Soviet Union still wished to identify itself closely with revolutionary movements and to continue to assist some of them but it was taking pains to point out that this was not the same thing as war fought on behalf of the socialist camp against the imperialist camp. This change in outlook was evidently brought about by the newly-perceived dangers in the expansion of civil conflict. The United States, too, has shown an inclination to interpret civil conflicts as wars between the Free World and Communism and hence between the U.S. on one hand and the Soviet Union or China on the other. The difference between Soviet and American views, however, is that the U.S. tends to regard the international element in civil conflict as deliberately and improperly introduced by the other side, whereas for the Soviet Union

this factor is naturally and inevitably present. In either case, it seems that few civil conflicts escape interpretation as proxy wars of some sort.

One significant limit on the assistance given to either side in a civil war would seem to be the distinction between supplying military equipment on the one hand and the despatch of regular troops on the other. Yet this limit has not been widely accepted as a significant restraint on intervening states, especially in the case of assistance to incumbent governments. Its general observance in practice has probably been more incidental than deliberate.

The reason for this seems to be that the transition from one form of assistance to another can be made very gradually in small, inconspicuous stages; the only major constraint appears to be on making a large jump from one end of the scale to the other. Thus whether assistance is given to insurgents or incumbents it is a simple step to send a small number of advisers with any military equipment that is being supplied, and it may be a necessary step to ensure that proper use can be made of the aid given. The advisers may be civilians or military personnel. Their tasks may extend to combat instruction and to advice on the conduct of operations. There were, for example, numbers of Chinese technical assistance specialists and military advisers with the Vietminh in their campaigns against the French.1 The American commitment to South Vietnam in the early 1960s grew through the despatch of more and more military assistance personnel who accompanied government troops on combat missions, flew armed helicopters and conducted small-scale bombing raids, and who numbered over 16,000 by the end of 1963.2

1 Zasloff, Role of the Sanctuary in Insurgency, p.20.

The subsequent decision to introduce ground troops specifically for the purpose of combat was therefore not a dramatic and clearly distinguishable stage in the expansion of the civil war in South Vietnam although it was to have far-reaching results. The massive American military involvement in Vietnam, however, was caused not so much by the initial introduction of troops as by the deepening political and strategic commitment to the country of which the despatch of regular forces was largely a symptom. At the end of the decade, by contrast, the United States came to adopt the policy of not sending ground troops to any of the countries of South-East Asia. President Nixon outlined his proposals for dealing with subversive intervention in the following terms on 3 November 1969:

In cases involving other types of aggression, we shall furnish military and economic assistance when requested in accordance with our treaty commitments. But we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense.1

It is a policy which might itself serve to establish as a salient limit on intervention the introduction of regular combat forces into a civil war. But the doubt remains whether this would act as a particularly useful constraint on the expansion of such conflicts.

Once there is external support for insurgents the character of a civil conflict has been changed, or rather a new feature has been added. The contest is now in part one between the incumbent government and the intervening state, a development which raises the possibility of expanding the conflict to the second stage. At one extreme the government may choose to regard support to the rebels as an act of war against itself and respond accordingly. The initiation of an international war, however, whether formally declared or not, is a serious matter at any time.

1 International Herald Tribune, 5 November 1969.
and may in this context increase the freedom of action enjoyed by the enemy state in so far as the latter may be led to increase its support for the rebels and to undertake direct action against the incumbent. The internationalization of a conflict in this way, furthermore, may attract the attention of states not immediately involved, a development which could work either to the advantage or the disadvantage of the incumbent. The repercussions of a declaration of war in these circumstances are clearly far from certain, especially in view of the fact that the rights of an incumbent in this situation are much disputed.

In practice incumbents have usually treated external support for a rebel movement as an unfriendly act which is, however, something less than an armed attack or an act of aggression. It is certainly difficult, if not impossible, for a government to ignore altogether outside support for insurgents, particularly when another state is providing an active sanctuary on its territory, allowing rebels to train and re-group there and supplying them with arms. Such a sanctuary is a symbol of the international character of the war. To the incumbents it means that an outside state is acting as an ally of the insurgents, while to the rebels an external sanctuary implies a guarantee that however they fare within the country their claim to power can be kept alive from outside. There are consequently strong military and political pressures on the incumbents to deny the insurgents the support and status they have won from abroad; at the same time the rebels will be equally concerned to retain them. The government may be able to cut off external support by actions within its national boundaries or may at least be satisfied with an attempt in this direction as was France for a number of years over Tunisian assistance to the F.L.N. In this case France was content for a while to intercept supplies that came by sea and to construct frontier barriers along the borders with Tunisia and Morocco which were effective to
a certain extent.\textsuperscript{1} Measures of this sort, however, tend to be too passive since they fail to eliminate the original source of assistance and encouragement.

The actual importance of a sanctuary will vary from case to case but it seems that the longer an incumbent is denied victory the greater the pressure to carry the conflict into the intervening state. There are good and bad reasons for doing so. On the negative side, a sanctuary may be blamed for rebel successes or government defeats for which it was not in fact responsible; in this way the government may underestimate or overlook its own deficiencies and mistakes in the desire to find a simple, once-for-all solution to its problems. In 1962, for example, President Kennedy concluded that South Vietnam (and the U.S.) would blame North Vietnamese infiltration for any misfortunes even if the flow was reduced to a minimum:

\begin{quote}
No matter what goes wrong or whose fault it really is, the argument will be that the Communists have stepped up their infiltration and we can't win unless we hit the north. Those trails are a built-in excuse for failure, and a built-in argument for escalation.\textsuperscript{2}
\end{quote}

On the positive side, an active sanctuary may be causing a great deal of harm which could only be tackled within the country at an excessive cost, whether in political, military or economic terms. In these circumstances attacks on the intervening state could be the only means of winning the war open to the incumbent; it would be faced with the task either of physically preventing assistance from reaching the rebels or of raising the costs to the intervening state sufficiently to dissuade it from continuing its policy.

\begin{enumerate}
\item P. Paret, \textit{French Revolutionary Warfare from Indochina to Algeria} (London, 1964), p.35.
\item Quoted by Hilsman, \textit{To Move a Nation}, p.439.
\end{enumerate}
The consequences of such actions can be assessed in a number of ways. The immediate objectives of the attack may be achieved or they may not. If they are achieved, the intended effects may or may not follow. Thus a sanctuary which is believed to be playing a major role in an insurgency may be destroyed without result if the belief was erroneous. Equally, a genuinely important sanctuary may be effectively attacked but lead to a stiffening of will in the intervening state and a greater subsequent level of commitment to the rebel movement. For the response of the defending government may be taken in as many ways as was the original intervention. Counter-measures tend to be just as ambiguous regarding the intentions behind them and the relationship they initiate between the states concerned may range from one of war to one of unfriendliness marked by occasional violent clashes. The problem is essentially that no clear or salient limit usually exists once an attack has been made across an international border; in the case of an outside sanctuary the only limit, unless it is geographically distinct, is the extreme one of its abandonment by the rebels and the government concerned. This uncertainty and ambiguity may also have a bearing on the willingness or reluctance of other states to involve themselves. France encountered such problems when she finally struck at Tunisia in February 1958:

The effort by the French to destroy the rebel sanctuary in Tunisia weakened the international position of the French and commensurately strengthened the bargaining position of the Algerian nationalist movement, which has always sought to have the Algerian problem "internationalized".¹

On the other hand, of course, expansion of a civil conflict may turn out to be a success for the defending government.

in terms of its direct physical results or of its less tangible effects such as an increase in the morale of its troops or greater respect from the civilian population. The possibility that this may prove to be the case undoubtedly encourages incumbents to expand a war in this way; the possibility that such expansion might eventuate itself discourages subversive intervention in the first place.

In the third stage of expansion a defending government and its ally or allies combine in order to attack an intervening state. The transition to this stage - often called collective defence - is not clearly signposted. It has been pointed out that the mere act of giving aid to a government may free some of its forces for use in attacks against the state aiding the insurgents. Also, the use to which military supplies are put by an incumbent cannot always be controlled by its ally so that the latter may unwittingly supply the means of retaliation. It is frequently the case, however, that an ally comes to the assistance of an incumbent because it believes that the insurgents are being helped from outside and that this is what must be counteracted. It will therefore tend to respond to the problem of a sanctuary in the same way as the incumbent. The actual role which the ally may play in the counter-measures ranges from participation in the planning process to the conduct of attacks with its own troops in combination with those of the incumbent. There seem to be few salient limits within this range except the crossing of an international frontier by the ally's regular forces although in military terms this may be little different from assistance rendered on the incumbent's own territory. The ally of the incumbent enters into the same uncertain relationship with the state that is supporting the rebels, a relationship which may never be clarified or may lead to the fourth stage of expansion.

The transition to the fourth stage is again difficult to define. Essentially, it involves an attack by one intervening state on another, an international war or
condition of hostility distinct in terms of its major antagonists from the original civil conflict. Yet this situation may emerge imperceptibly from a situation where an outside state is combining with a government to attack another. There are no obvious points in the scale or scope of such operations at which a combined effort becomes a particular one. Nor is a clear guide to be found in the effects of attacks by one intervening state on another; these attacks may reduce the capacity of the other to intervene or cause it to halt its intervention but they may be only incidental results. For the important element in this stage of expansion is the purpose of the attacking state, in particular whether that purpose is related solely to preventing the other state from intervening in the civil conflict. The existence of any other intentions indicates that the situation is one of international war in part if not in whole. Thus some have argued that American attacks on North Vietnam amounted to war on that state since they were designed to inflict a punishment for earlier transgressions and to discourage future support for rebels in other Asian countries (apart from South Vietnam) as well as to assist the government of the South.¹ Now the upholding of international agreements, the punishment of aggression or the maintenance of peace in the future may be laudable.

¹ On 1 March 1967 President Johnson wrote to Senator Jackson setting out three reasons for bombing North Vietnam. Two related to the sanctuary provided by the North for the Vietcong and to the infiltration into the South but a third had only an indirect connection with the war: 'We are bombing North Viet Nam because it is violating two solemn international agreements. In 1954 Hanoi agreed that North Viet Nam would not be "used for the resumption of hostilities or to further an aggressive policy". In 1962 Hanoi agreed to withdraw all its military forces from Laos; to refrain from reintroducing such forces; and not to use the territory of Laos to interfere in the internal affairs of other countries.' Text in Falk (ed.), *Vietnam War and International Law*, p.604.
and proper purposes in such a situation but they do produce a relationship between the states involved which is distinct from the one arising out of collective actions by a government and its ally against a state undertaking subversive intervention.  

Inevitably, the United States position with regard to North Vietnam remained ambiguous as long as it was attempting both to assist the South Vietnamese government against intervention by the North and to deal with North Vietnam as an aggressor and violator of international agreements. That the situation was not unequivocally resolved into one of international war stemmed largely from the fact that North Vietnam was in no position to respond directly against the United States mainland, although when it did attack American ships on the high seas in the Gulf of Tonkin in August 1964 it was charged with 'acts of deliberate aggression'.

For it is at this stage that the intervening states may feel free to attack each other as and how they choose.

C: Deterrence and Defence

The pressures for and against the expansion of civil conflicts have been considered at some length. The inhibitions on expansion appear to have been sufficiently great in most cases to prevent the conflict expanding as far as the fourth stage. The major exception has been the struggle for the control of South Vietnam the origins of which, however, are more complex than simply civil war plus outside involvement. The present section will look at the ways in which the processes of expansion and escalation can be deliberately employed either to deter a state from undertaking subversion intervention or to deter a state from coming to the assistance of an incumbent fighting a

1 For the significance of this distinction in international law see chapter VIII, section C.

2 Statement to the U.N. Security Council by Adlai Stevenson, 5 August 1964, text ibid., p.574.
civil war (whether or not the rebels are receiving external support). A deterrent effect may be achieved by a variety of activities ranging from actual participation in a civil conflict at the one extreme to the threatened use of nuclear weapons at the other. Attention will be given to the conditions under which these activities are likely to succeed or fail in their intended effect. The purpose of deterring intervention before or after the outbreak of civil strife, it should be noted, differs from the aim of deterring or preventing the occurrence of civil strife itself; this objective, though it may be wished for in some quarters, is beyond the present subject-matter.

The deterrence of subversive intervention is not a simple task but it is a possible one. The continuation of outside support for the communist rebels in Greece in the late 1940s, for example, appears to have been successfully deterred by the British and American posture in the Mediterranean. In February 1948 Stalin told visiting Yugoslav leaders:

The uprising in Greece will have to fold up.

... What, do you think that Great Britain and the United States - the United States, the most powerful state in the world - will permit you to break their line of communication in the Mediterranean? Nonsense. And we have no navy. The uprising in Greece must be stopped, and as quickly as possible.¹

The Soviet leader was clearly persuaded of the risks involved in allowing Yugoslavia, Bulagaria and Albania to maintain their active sanctuary for the Greek rebels. Stalin's precise assessment of the potential threats is not known for certain but the dangers in such a context are of two basic sorts. Firstly, there is the controlled or uncontrolled expansion of the civil conflict to the stages of counter-intervention or forcible response by the incumbent, and

¹ M. Djilas, Conversations with Stalin (Harmondsworth, 1963), pp.140-1.
possibly to subsequent stages. Secondly, there is the possibility of the defending government or, more likely, of a powerful ally responding at places and with measures not directly related to the civil conflict itself. These measures may take the form of mere diplomatic protest or they may involve massive military retaliation against the intervening state; here subversive intervention is the occasion for rather than the immediate cause of any counter-measures that are threatened. A third form of deterrent effect to be analysed in this section may be achieved by successful counter-intervention in the conflict itself so that the intervening state is deterred from supporting rebel movements in other countries at some future time. This last category differs from the preceding two in that the outside state is deterred not from intervention in the country where a civil war is being fought but from intervention elsewhere by an example of successful defence by an incumbent against externally-assisted insurgents. The possibilities of achieving deterrence in each of these ways will be considered in turn.

The dangers of expansion and military escalation present the first sort of deterrent to subversive intervention. In this the mere threat of counter-intervention on the side of the incumbent may suffice, especially when it promises to be effective and overwhelming. Thus during a tour of Hungary in 1958 Khrushchev indicated that Soviet troops would again be used to suppress any future revolts in Eastern Europe, issuing a strong warning both to potential rebels and to those states which might attempt to help them:

We declare that if a new provocation is unleashed against any socialist country, the provocateurs will have to deal with all the countries of the socialist camp. The Soviet Union is always ready to come to the aid of its friends, to give the proper rebuff to the enemies of socialism when they try to violate the peaceful labour of the peoples of the socialist countries.1

The warning implied not only that any intervention would be

repulsed but also that serious and permanent harm would be done to the anti-communist cause. The effect of this on Western decision-makers, in so far as they have considered the chances of encouraging successful revolts against communist regimes, can only have been one of deterrence.

For counter-intervention is only one of the first results that might ensue from an attempt at subversive intervention; a civil conflict always carries the potential for expansion to subsequent and more dangerous stages. Khrushchev's speech in January 1961 which distinguished world wars, local international wars and liberation wars also sought to distinguish the risks involved. Previously, Soviet doctrine had been that any small conflict could grow into world war, indeed was likely to escalate into a vastly destructive nuclear war. In the late 1950s, however, this position seriously undermined the credibility of the Soviet undertaking to support revolution in other countries for it seemed that the Russians were deterring themselves from this through their fear of nuclear war (and the Chinese were not slow to point this out). It was thus a change of posture when in 1961 Khrushchev stressed that local and liberation wars carried greatly different risks:

A small imperialist war, independent of which of the imperialists begins it, may grow into a world thermo-nuclear and rocket war. We must therefore combat both world wars and local wars. Revolutionary wars, on the other hand, were considered 'not only admissible but also inevitable'. In other words, Khrushchev was arguing that the Soviet Union would not be deterred from supporting revolution because the danger of expansion was not high (at least not any more). Yet the risk is always present that a policy of subversive intervention might lead to a local international war which on Soviet assumptions is liable to escalate rapidly into nuclear war;

1 6 January 1961, text in Floyd, Mao Against Krushchev, p.308.
and as long as that risk is present the possibility of deterrence remains. It is this very risk which, according to Communist Chinese denunciations, the Soviet Union has not been prepared to run for the sake of national liberation.

This risk has also been a focal point of the U.S. effort to discourage the Soviet Union and other communist countries from subversive intervention. The crucial problem is to indicate the seriousness with which such intervention will be treated. Thus it is maintained that indirect aggression, like all aggression, is liable to be treated in the same way as an armed attack, evoking the same sort of forcible counter-measures. This has been the force of numerous treaty relationships formed by the United States with South-East Asian, Latin American and Middle Eastern countries and of unilateral declarations such as the Truman and Eisenhower Doctrines. It need not be clear in such cases whether the United States would act simply to defend the government concerned (to the point of forcible response across a frontier) or whether it would seek to inflict punishment on the wrong-doer. The deterrent effect may indeed be greater if the response to subversive intervention is not clarified in advance while commitment to the government in question is made clear and unequivocal. This latter, of course, may be achieved not only by open treaties and by military and economic assistance in normal times but also by the more subtle processes of political commitment. In short, it would seem that the greater the commitment to a government and the greater the readiness to use armed force in its defence, the more likely is an ally to deter subversive intervention against that government.

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1 The Turkish-American Treaty of 1958, for example, affirms a common determination 'to resist aggression, direct and indirect' and provides for the use of U.S. troops in the event of such aggression against Turkey. Identical treaties exist with Iran and Pakistan. See S.J. Deitchman, Limited War and American Defense Policy (Cambridge, Mass., 1969). pp.56-7.
The deterrence of subversive intervention, however, has proved more difficult in practice than the preceding analysis might indicate. In the first place, there is the ambiguity that tends to surround any act of subversive intervention. The source of assistance to rebels may not be known with certainty, and especially the identity of the state chiefly responsible for this assistance. Thus in the course of the Algerian rebellion it was difficult to know which outside state had to be threatened in order to deter further aid to the rebels: was it only Morocco and Tunisia, or was Egypt the guiding hand, or was the Soviet Union the true instigator as many Frenchmen believed? It is not necessary, of course, to specify a particular state in advance in order to deter a certain action for the threat may be addressed to all; but it must be possible to discover who is to be punished in the event of that action taking place since collective punishment is scarcely feasible. Even when the complicity of an outside state is demonstrated, however, ambiguities remain. For the intervening state may not be completely free to abandon its policy or, if it does so, may be unable to demonstrate convincingly that it has in fact complied with the threat. It may, for example, have developed a deep commitment to a revolutionary movement which it cannot lightly relinquish. Again, it may not possess full control over the uses to which its own territory is being put by the rebels in a neighbouring country. More importantly, the state wishing to deter subversive intervention may be looking for a cessation of the internal conflict as a sign of compliance; even if the intervening state was originally responsible for the outbreak of the conflict, it is rarely in a position to call a halt once the rebellion is under way. Moreover, even the ending of all traffic across a border does not necessarily mean that all assistance has stopped since it may continue in more covert forms such as propaganda, diplomacy and the transmission of instructions. These difficulties of deterrence are to be contrasted with the situation of armed attack where the aggressor is clearly
identifiable and where the abandonment of the attack is
under the control of the latter and easily demonstrated to
the deterring state.

A second set of difficulties in deterring subversive
intervention relates to the credibility of the threat rather
than the problems involved in actually carrying it out.
Subversive intervention may be undertaken by a series of
small steps each of which appears minor and unimportant in
itself although together they amount to a serious problem
for an incumbent government; these steps, moreover, may be
easily reversible so that the level of provocation can be
lowered or raised at will. Against such tactics it is
difficult to issue a credible threat since the immediate
issue in question will appear quite out of proportion to
the response that is threatened; naturally, if the
threatened response is itself small, the deterrent effect
is accordingly less likely to be achieved. It is for this
reason that nuclear weapons have proved of little value in
deterring subversive intervention in any direct way, not
simply because they have no immediate value in civil war
itself. This impotence of the militarily strong in the
face of subversive activities tends to produce what has
been aptly called a fear of being 'nibbled to death'.

But the threat to the intervening state may be
made equally flexible and subtle. The risk to the intervener
may be presented, though usually not explicitly, as the
possibility of a series of counter-measures being taken,
each of which involves a small increase in the amount of
force being used and in the dangers inherent in the
situation. The deterring state need not be sure of coming
out on top in such a contest, indeed there may be a possibility
that it will lose out altogether. What this state must
convey to the intervening state is that an intolerable risk
to the latter does exist as long as it cannot be certain of
winning. Even if the deterring state is likely to suffer as
much as or more than the other, the risk may still be judged
unacceptable by the latter although the threat may be that much less credible. The threat in these circumstances is not of an all or nothing response, to be carried out or not carried out in specified conditions, but involves creating a risk of intolerable damage to the would-be intervener. Thus the deterring state must still demonstrate a readiness to persist either in running the existing risk of uncontrolled expansion or in raising the risks deliberately through the various stages of expansion to the point of direct confrontation with the intervening state. In either case the threat is made more credible in that something is left to chance.1 Credibility, therefore, does not depend simply on the capacity to carry out a threat safely although it may well be enhanced if this is shown to be the case. Some consideration must be given to the overall military and political relationship between the deterring state and the one to be deterred, for this may influence the credibility of the threats that are issued and in turn the decisions which each takes at various points in the initiation and expansion of the conflict.

It is convenient to discuss this aspect of deterrence along with those threats that involve responses not immediately related to the conflict concerned. For the latter type of threat, if directed at the territory of the other state, involves an instantaneous expansion to the fourth stage. Also relevant here are the calculations of the intervening state which seeks to deter counter-intervention by threats of further and more dangerous expansion. Decisions on all these questions are determined in part by the way in which states perceive their relative strengths at the levels of military conflict to which civil strife might ultimately or immediately expand.

1 For a general analysis of threats of this kind see T.C. Schelling, The Strategy of Conflict (Cambridge, Mass., 1960), ch. viii.
The deterring state, first of all, can most credibly threaten a would-be intervener with direct and immediate military action against its territory when the former has an overwhelming military preponderance (assuming the other difficulties arising in the case of subversive intervention can be solved). The smaller the margin of superiority possessed by the deterring state the more difficult it is to make the threat credible. For the action threatened cannot be shown to have a direct relevance to the interests of the state issuing it; once intervention has occurred or continues to occur deterrence has failed and the only purpose in still carrying out the threat would be to increase credibility in future situations. Thus the more credible response is to move to the next stage of expansion by counter-intervention since this both raises the risk of an ultimate confrontation between the intervening states and at the same time tackles the immediate problem which the original intervention has created. The decision to engage in counter-intervention also becomes easier the greater the margin of military superiority, although it may also be made from a position of inferiority; indeed relative military weakness may compel choice of the threat of gradual expansion rather than the threat of immediate retaliation.

It is, however, a great oversimplification to talk in terms of military superiority and inferiority and to assume that states can be certain of their relative strengths, if only because the efficacy of military capabilities can only be known when they are actually employed. Another dimension of uncertainty is added to decision-making by the fact that military capacity is a highly complex thing which may be strong in some respects but weak in others. Thus a state may be powerful in terms of conventional forces but weak in terms of nuclear capacity; it must therefore consider not only the risks involved in expansion up to the conventional level but also the further risk of escalation to the nuclear level. The Soviet Union, for instance, appears to have believed that local wars would
almost certainly escalate into global nuclear war since the United States, being inferior in conventional forces, was likely to introduce nuclear weapons at an early point in the conflict. Expansion of an internal conflict even to the level of a local war where it was apparently superior thus seemed excessively dangerous to the Soviet Union; its calculations of the risk of engaging in subversive intervention therefore depended essentially on the likelihood of local war resulting, a possibility which seems to have been considered as generally low. On the other hand, once American troops had been introduced into particular countries, the Soviet Union has displayed great circumspection. The deterring state, therefore, must not only assess the risks to itself but also have some knowledge of the way in which the intervening state is likely to assess the risks.

Now a state engaging in intervention is also concerned with calculations of this kind and an interesting example has arisen in the case of Communist China which, it might be surmised, will be interested in using its nuclear capabilities to deter states from coming to the aid of certain governments engaged in civil strife. The question is whether acquisition of nuclear weapons will increase or decrease China's ability to assist revolutionary movements by reducing the likelihood of counter-intervention or retaliation against itself; essentially the question concerns the effect of China's growing military strength in general but the presence of nuclear weapons in the equation makes for added complexity. On the one hand, it is argued that China's nuclear capability will facilitate subversive policies. It may intimidate other governments in Asia and inhibit their response against rebel movements or against the state assisting them; it may also cause an incumbent to delay requests to an ally for assistance and cause the ally to limit or even refrain from counter-intervention. In short, an increased Chinese military capability is likely to multiply the dangers inherent in those internal conflicts in
which that country is interested and to add to its willingness to raise the stakes in such a situation. Moreover, China has consistently stressed the encouraging effect which her nuclear programme is believed to have on wars of national liberation. The earlier nuclear tests were accompanied by announcements expressing general support for revolutionary struggles but these became more specific after mid-1966 in that particular conflicts were mentioned. The nuclear missile test of October 1966, for instance, was followed by a reference to the struggle in Vietnam:

China's purpose in developing nuclear weapons is precisely to oppose the nuclear monopoly and nuclear blackmail by the United States and the Soviet Union acting in collusion. The possession by the Chinese people of guided missiles and nuclear weapons is a great encouragement to the heroic Vietnamese people who are waging a war of resistance against U.S. aggression....

It seems that Chinese declaratory policy at least has become firmer with the development of nuclear weapons; if it is accompanied by a hardening of actual policy, China's ability to deter counter-intervention against the revolutionary movements she supports may also have increased.

On the other hand, the growth in China's military strength, in particular her acquisition of nuclear weapons, may impose some limitations on that country's policy. The fact that any conflict in which China engages might become a nuclear one may induce her adversary to pre-empt Chinese use of these weapons by launching an immediate nuclear attack. The Soviet Union or the United States would be favourably situated to make such an attack since both have

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1 See, for example, the first 'Detonation Statement' in *Peking Review*, 16 October 1964, pp.ii-iii. See also Hsieh, *Chinese Nuclear Detonations*, pp.6-7.

a massive nuclear arsenal dwarfing that of China as well as a measure of anti-missile protection. However remote this possibility - and it may not seem very remote to China - it is one which must be considered in assessing the risks of a harder policy. In addition the development of nuclear weapons may deprive China of whatever protection she might have received from the Soviet Union in the event of an American move against her. Nuclear weapons may also increase fears of China, especially among the nearby Asian countries, and consequently stimulate resistance rather than inhibit it. Nor, as the Chinese have made abundantly clear, is there any role for nuclear weapons in wars of liberation since the human factor is paramount. 1 This, like the insistence on the no-first-use principle, does indicate that China is aware of the dangers of expansion and escalation and that her increased strength cannot easily be exploited to further policies of intervention.

Another means of deterring subversive intervention by threats unrelated to the conflict in question deserves mention. It is the threat of responding by the same methods against governments friendly towards the intervening state or against that state itself. Such a threat was implicit in the American policy of liberation propounded in the early 1950s by John Foster Dulles who incorporated it into the Republican Party platform of 1952:

We shall again make liberty into a beacon light of hope that will penetrate the dark places. It will mark the end of the negative, futile and immoral policy of "containment" which abandons countless human beings to a despotism and godless terrorism.... The policies we espouse will revive the contagious, liberating influences which are inherent in freedom. They will inevitably set up strains and stresses within the captive world which will...mark the beginning of the end.2

1 See Lin Piao, 'Long Live the Victory of People's War', Peking Review, 3 September 1965, p.27.
2 Cited by Gerson, Dulles, pp.87-8.
Though President Eisenhower was always careful to insist that only peaceful means were intended, the policy did signify that an intolerable increase in Soviet subversion might be met by an American response in kind. The credibility of this threat was probably enhanced by the obscure operation in Iran against Mossadegh in 1953 and by the support given to an exile invasion of Guatemala in 1954.1 This posture was very different from the contemporary doctrine of massive retaliation for it promised to be a flexible and gradual means of response to what was called indirect aggression and one in which the dangers could be more easily controlled. Furthermore, it appeared to be quite credible and could be justified by pointing to the persistent Soviet use of such methods.2

While the explicit policy of liberation was later dropped by the United States there does remain an implicit threat that counter-subversion might be employed if subversive intervention by the Soviet Union or other communist countries were to reach too high a level. This was one of the lessons that could be drawn from the otherwise unsuccessful Bay of Pigs landing in 1961. In Europe the implicit threat of a like response against Eastern countries may have served to restrain Soviet subversion in the West.3 But such a policy is not without disadvantages

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2 See Dulles, op. cit., p.217 where he argues that Soviet policy forces the U.S. to resort to subversive operations and that consequently 'we cannot safely limit our response to the Communist strategy of take-over solely to those cases where we are invited in by a government still in power'.

3 A possible form of arms control has been suggested whereby one power refrains from supporting insurgents in the first country in return for the other power halting aid to rebels in a second country. There are, however, several problems in doing this once the insurgencies are under way. See M.H. Halperin, D.H. Perkins, Communist China and Arms Control (New York, 1965), pp.94 ff.
apart from the fact that the two sides may not be equally vulnerable to these tactics. Chief amongst such drawbacks is that it tends to debase the proclaimed standards of international relations. Thus Fisher argues that participation in subversive movements by the United States would remove whatever inhibitions the Communist nations now feel against engaging in subversive conduct. We would, in effect, be discarding the rules altogether because our opponents observe them less fully than we do.¹

Nor is there any guarantee that the threat, if it had to be carried out, would necessarily benefit the United States more than the Soviet Union; the credibility of the threat is thus seriously impaired. Nevertheless, the role of this kind of threat in deterring subversive intervention should not be ignored altogether, especially among countries which, like many of the new African states, are themselves internally vulnerable.

A third form of deterrent effect may result from the actual participation of outside states in a civil conflict. Thus the ally of an incumbent government may seek to demonstrate that it will go to the aid of other governments subjected to subversive intervention and that such assistance will be sufficient to ensure defeat of the rebels. In this way, it is believed, a state will be deterred from subversive intervention against other states; indeed, quite different states may be deterred from this activity by a demonstration of its consequences. One of the American purposes in South Vietnam, for instance, has been to show to North Vietnam in particular but others in general that subversive intervention will not be allowed to

succeed. The deterrent effect, however, may also work in the opposite direction. If an incumbent is receiving outside support, a third state which favours the rebel cause may intervene on its behalf; implicit in this may be a threat to assist rebel movements against other governments that are receiving outside aid. These types of threat assume an importance when intervention has occurred on both sides of a civil war and when one or both of the intervening states believe there may be another such conflict elsewhere in which the other would be likely to intervene. This purpose may not be evident at the time of the initial interventions for, as we have seen, involvement in civil strife results from a variety of concerns and may also be designed to generate threats relating to the future course of that conflict itself. But where outside states see it as relevant in some way to other possible conflicts each is likely to attempt to teach certain lessons to the other.

There is a strong suspicion, however, that states are slow or reluctant to learn such lessons, and perhaps with good reason. Ideally, the lesson needs to be clear and unambiguous. An ally coming to the defence of an incumbent must either ensure the victory of the latter or impose a cost on the state supporting the rebels sufficiently high to make a repeated effort elsewhere seem unattractive. This is only the first step, however, for next the deterring state must show that it is capable of producing the same results in another civil conflict and that it

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1 'The greatest contribution that Vietnam is making - right or wrong is beside the point - is that it is developing in the United States an ability to fight a limited war, to go to war without the necessity of arousing the public ire. In that sense, Vietnam is almost a necessity in our history, because this is the kind of war we'll most likely be facing for the next fifty years'. Secretary of Defence McNamara, cited by R.E. Osgood, 'The Reappraisal of Limited War', in Problems of Modern Strategy - I, Adelphi Paper no.54 (London, 1969), p.45n.
intends to do so should the need arise. The difficulties in satisfying both of these conditions are considerable; it should be noted, moreover, that the aim is only to prevent subversive intervention not to prevent the outbreak of internal war itself.

On the one hand, the deterring state must demonstrate its capacity to intervene successfully both in the ongoing conflict and in any future conflicts. Since the nature of the latter remains largely hypothetical no certain proof can be offered that success will be achieved there also. What is more easily demonstrated, however, is the capacity to inflict injury directly against the state engaged in subversive intervention, for while the outcome of an internal war is usually heavily dependent on uncontrollable local factors such direct responses can be made at the will of the state concerned (assuming it has the necessary capacity). This policy may not win existing or future civil wars but it may discourage a state from assisting rebels elsewhere. On the other hand, the deterring state must demonstrate an intention to respond against future subversive intervention. It may be simpler to do this by threatening direct retaliation against the intervening state, but much depends on the risks involved in launching an attack across international frontiers; what may be relatively safe against one country may be dangerous against another, while even if the same country is involved the risks can never be identical the second time. It is likely to be still more difficult to demonstrate an intention to participate in future wars if involvement in the first has incurred great costs, since the threat is then to do something which will cause injury and loss to the state carrying it out as well as to the other. The United States, for instance, eventually found it impossible to undertake to repeat elsewhere the effort it invested in defending the South Vietnamese government; France, by contrast, was quite determined to fight in Algeria immediately after her
defeat in Indochina, being convinced that both conflicts were guided by the same hand. In neither case, however, can successful deterrence of subversive intervention be said to have been achieved.

There is also the danger that the deterring state, having placed special emphasis on the role of outside support for the rebels in a particular conflict, subsequently fails either to suppress the rebellion or to inflict sufficient injury on the intervening state. Thus it may be argued that

by emphasizing the existence of large-scale North Vietnamese aid, and even direction, for the war in the South, the United States has magnified its failures unnecessarily....under present conditions of stalemate, the United States would, in retrospect, have done better to underestimate the North Vietnamese and Chinese involvement, as it has sensibly made light of Soviet involvement.1

While defence of the South Vietnamese government may have been facilitated by this policy, the effect for future conflicts may be rather to encourage support for rebel movements and deter assistance to incumbents. This is the sort of result which a state engaging in subversive intervention seeks when attempting to deter support for other governments under attack. Essentially, what must be done is either to defeat the incumbents or to impose high costs on defence so that counter-intervention will not appear an attractive proposition. In this form of deterrence the state promoting rebellion is in a favourable position compared with the one seeking to deter such support. For the former may choose to assist only those rebel movements which have a good chance of success and which require a minimum of outside assistance; the state seeking to deter this assistance must consequently prepare to do battle

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even on the most unfavourable ground. In this sense the initiative is with the state supporting rebellion. The other state is nevertheless free to assist any existing government to consolidate its position before civil strife actually erupts; this may be compared with having first innings on a pitch chosen by the opposition. But it remains true that the more difficult the defence of an incumbent, the more likely are states to be deterred from coming to the assistance of another government engaged in civil strife.

United States policy has usually shown an awareness of the difficulties involved in deterring subversive intervention against its allies and friends. The doctrines of containment and of massive retaliation were intended amongst other things to prevent the need for defence against subversive intervention from ever arising, partly by threats against the Soviet Union and other communist countries, partly by stiffening the political fibre of the nations under protection. The inadequacies of these policies in dealing with situations where internal conflicts with outside support were already under way became increasingly apparent towards the end of the 1950s and President Kennedy's term of office began a period of intense concern with America's capacity to fight and win internal wars, especially guerrilla wars. Special warfare, as it was called, required 'a whole new kind of strategy, a wholly different kind of force, and therefore a wholly new and wholly different kind of military training'. More specifically, it required troops trained and equipped for anti-guerrilla warfare and a capacity to deploy them rapidly in any country where they were needed. The fact that for various reasons these forces have failed in their

1 Address at West Point, 6 June 1962, Public Papers of the Presidents : 1962 (Washington, 1963), p.454.
immediate objective of suppressing guerrilla movements in parts of Asia does not necessarily mean that they have also failed to deter subversive intervention in other parts. By denying success for a certain period of time and at a sufficiently high cost to the insurgents the United States has demonstrated a capacity to carry out particular actions; if this capacity were combined with an evident intention to intervene against subversive intervention in the future a deterrent effect could still be achieved. Deterrence can clearly be attained where intervention in civil strife is concerned, but it is bound up with defence against intervention in a close and complex fashion.
CHAPTER VIII: LEGAL REGULATION OF INTERVENTION IN CIVIL STRIFE

International society, it was argued in Part Two, has certain basic principles whereby intervention in civil strife is forbidden in some circumstances but permitted in others. From time to time, however, states have felt the need for specific and formal prohibition of certain types of intervention. The formulation of international legal rules against some, though not all, intervention in civil strife thus serves as a distinct form of control over this kind of behaviour. The element of control achieved depends partly on the binding quality of international law and partly on the fact that a breach of international law opens the way to sanctions against the law-breaker by whichever states are concerned enough to enforce the law. In practice, the type of intervention which governments have usually sought to prohibit has not unnaturally been subversive intervention. But it should also be noted that some states have sought condemnation of certain types of intervention which support incumbents. The Soviet Union, for example, has at times denounced as aggression American assistance to governments involved in civil conflicts, especially in the case of colonial and national liberation struggles.

The legal control of intervention in civil strife is clearly subject to a number of tensions. In the first place, there is a possible tension between legal regulation of intervention and the requirements of international order. A particular legal formulation may be arrived at by some route which would permit a state to act in contravention of fundamental rules or forbid it to act in ways necessary to uphold these rules.\(^1\) There is also a

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\(^1\) For this reason many international agreements make the proviso that none of their terms shall be taken to impair the inherent rights of self-defence held by the contracting parties.
frequent element of contradiction between the policies that states actually pursue and the positions they adopt when discussing the legality or illegality of intervention in the abstract. Thus legal pronouncements governing intervention do not necessarily correspond with the reality of the situation. Partly on account of these factors, legal regulation has achieved relatively little in the way of control over intervention; this chapter will therefore look more at the difficulties of such regulation rather than examining its effectiveness. Nevertheless, legal activity is not without some success, firstly, in creating a sense of obligation among states to refrain from certain kinds of behaviour and, secondly, in clarifying the conditions under which resort to less formal means of control is likely to serve international order. The first section will therefore consider the attempt that states have made to prohibit subversive intervention, while subsequent sections will deal with the right of counter-intervention enjoyed by outside states and with the rules applicable to the responses of all kinds that may be made by third parties or by the injured state itself.

A: The Prohibition of Subversive Intervention.

The encouragement by outside states of subversive activities abroad had long been a natural concern of governments. The earliest ambassadors were received only with great suspicion for it was believed - often rightly - that they would engage in conspiracy and stir up discontent.¹ Writing in the eighteenth century, Vattel put the issue in unequivocal terms: 'It is in violation of the Law of Nations to call on subjects to revolt when they are actually obeying their sovereign, although complaining of his rule'.²

¹ See also Chapter I, section C.
This precedent of condemning the initiation of civil strife has since been followed in the treaty practice of states, not least of the Soviet Union in the 1920s, so that even before the post-war era it was an accepted point of international law. Since 1945 this doctrine has been repeated in a series of international declarations and agreements, none of them constituting a formal and universal treaty but together establishing beyond doubt the illegality of encouraging civil strife in other countries. The most important provisions are to be found in the General Assembly Essentials of Peace Resolution, 1949, the Peace Through Deeds Resolution, 1950, and the Declaration on the Inadmissibility of Intervention, 1965; in the International Law Commission Draft Declaration on Rights and Duties of States, 1949, and the Draft Code of Offences Against the Peace and Security of Mankind, 1954; and in the Charters of the Organization of American States, 1948, and of the Organization of African Unity, 1963. The fomenting of civil strife has also found its way into definitions of aggression and will be considered later from this point of view.

The clarity of the general prohibition on subversive intervention, however, tends to dissolve when removed from the level of an abstraction. It is not simply that states may wilfully distort or ignore this prohibition in determining their policies but also that there exists an underlying difficulty in legal regulation of this nature. What is forbidden is a particular kind of international activity which is condemned regardless of its purposes or effects. But for some this activity may serve as a means to desirable ends, perhaps defined in terms of political principles which are less than universally accepted, but perhaps also defined in terms of fundamental international rules. Thus the act of subversive intervention may be

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1 For the relevant parts of these documents, see Appendix.
justified as a legitimate form of self-defence or as a right deriving from the due recognition of a rebel movement.\(^1\)

This conflict arises as long as subversive intervention is defined in factual terms rather than as a legal concept tailored to exclude acts based on self-defence, on the recognition of rebels or on the authority of the international community. Clearly, a legal approach to subversive intervention is possible, but such is the disagreement among states about the correlative rights and duties that it has proved of little import in practice. If international society is to regulate intervention that disrupts its basic rules, it must first agree on those rules and on the circumstances in which the act of intervention does and does not conform to them. Simple prohibition of a defined activity is unlikely to prove adequate in the contemporary world.

Another aspect of the general prohibition of subversive intervention among states is the practice of enacting domestic legislation to prevent private citizens from engaging in activities hostile to foreign governments. United States law, for instance, provides penalties for any person who 'within the United States, knowingly begins or sets on foot or provides or prepares a means for or furnishes the money for, or takes part in, any military or naval expedition or enterprise to be carried on from thence against the territory or dominion of any foreign prince or state, or of any colony, district, or people with whom the United States is at peace'.\(^2\) Comparable provisions are to be found in the domestic laws of most other states. The responsibility of states in this field, however, is not absolute but extends only to the exercise of 'due diligence' to prevent injurious acts and, in the event of injuries

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\(^1\) At the 1969 session of the U.N. Special Committee on Principles of International Law, for instance, several states made the point that the proposed condemnation of subversive activities could not apply in the cases of colonial liberation and/or self-determination. G.A.O.R., XXIV, Supplement No. 19, A/7619, paras. 120-23.

nonetheless being committed by its citizens, to the
punishment of offenders.\(^1\)

The practical import of such laws seems to be
closely related to political considerations. In the first
place, their purpose may be not so much to fulfil obligations
under international law as to prevent individual citizens
from embarrassing their government in its relations with
other states. It does not follow that they are therefore
of no consequence but it does mean, secondly, that the
decision to prosecute under laws of this kind is not
automatic. More than once a blind eye has been turned to
subversive activities which are covertly approved by a
government. That degree of sophistication may even be
reached where neutrality laws are enforced against certain
individuals in order to divert attention from a government's
connection with other subversive activities that are being
pursued at the same time. This may, for instance, have
been the motive for the arrest and indictment of a leading
anti-Castro Cuban under United States neutrality laws
twelve days before the Bay of Pigs landing.\(^2\) Nor is it the
case that states feel bound to discourage all activities
on the part of their subjects which might in some way lead
to civil strife in other countries. For example, the
conduct of propaganda which states believe to be truthful
is not likely to be forbidden simply because it may injure
the position of certain other governments. In this area,
as in others, the legal regulation of intervention remains
subject to political realities.

B: The Right of Counter-Intervention

When one state is already intervening in a civil
conflict, other states may decide to intervene themselves.
This is frequently called counter-intervention, meaning
simply further or subsequent intervention. An action of


\(^2\) D. Wise, T.B. Ross, *The Invisible Government* (New York,
1964), p.46.
this kind may have a variety of purposes: it may be designed to offset the effects of the earlier intervention or it may seek to promote objectives of the intervening state whether these are legitimate or otherwise. A state may, of course, simultaneously attempt to counter a prior intervention and, say, to impose its political principles on the country concerned; indeed, it is difficult in practice to do one thing without the other. Whatever the purposes of counter-intervention, however, the act itself is a potential form of control over intervention in that it may deter or dissuade other states from intervening. Counter-intervention in this sense, then, is one of the informal controls discussed in chapter VII.

The right of counter-intervention, however, is a different matter; it refers to the circumstances in which intervention by a third state can be considered legitimate and to the proper purposes of this intervention. Clearly, intervention cannot be permitted solely on the grounds that some other state has already intervened in a conflict; in this case it would be permissible to act against intervention which was properly invited, which was in self-defence or which was authorized by the international community. The society of states cannot put itself in the position of allowing certain acts and their negation at one and the same time. (If this does appear to happen on some occasions, it is because there is ambiguity or dispute about what is allowable.) The right of counter-intervention for the individual state, therefore, must rest in part upon a prior infraction of one of these fundamental rules and will thus contain an element of sanction against the law-breaking state.

The fact that an intervening state has infringed certain rules, however, does not set others at liberty to intervene however and whenever they wish. Some regard must be paid to the purposes of counter-intervention which, logically, need to be confined to offsetting the effects of earlier intervention. This initial intervention, if it is not justifiable by the standards of international society, may be accounted an infringement of the sovereignty of the
divided state. Counter-intervention, therefore, must be designed to restore or uphold that sovereignty. Any goals which a state may harbour above and beyond this, require justification in the same way as any act of intervention. 

Now it may be difficult in practice for a state to demonstrate that it is concerned solely with the proper object of counter-intervention. The initial act of intervention may have deprived the legitimate government of the capacity to issue a request for counter-intervention or may have led to civil strife on a scale which throws doubt on the incumbent's legitimacy. Equally, intervention in favour of the incumbent may deny rebels the success which they would otherwise have achieved and which would have won for them certain rights. In these circumstances counter-intervention must take place without due invitation from either side but on the assumption that one could have been given in the absence of the initial intervention. Clearly, an assessment of the effect of the first intervention on the course of the war is required; at best, this is likely to be extremely difficult; at worst, it will be imprecise and prejudiced. Moreover, it cannot be assumed that counter-intervention will always require the victory of the side receiving assistance. Its true purpose is to offset external interference in the conflict which is thereby to be allowed to run its own course. Thus the side that received assistance in the first place might still emerge as victor by virtue of its own resources. States contemplating counter-intervention are entitled to resist the improper intervention of another state but they may not pass judgement on the domestic faction that received aid. The latter may have broken the laws of the country concerned but it has committed no wrong which falls in the province of international society.

1 'It is incontestable that a grave infraction [of international law] is committed when the independence of a state is improperly interfered with; and it is consequently evident that another state is at liberty to intervene in order to undo the effects of illegal intervention, and to restore the state subjected to it to freedom of action'. Hall, Treatise on International Law, p.342.
All this, of course, makes difficult demands on the state undertaking counter-intervention, demands which are not always satisfied in practice. The right of counter-intervention, if it is to contribute to the maintenance of basic international rules, must place considerable restrictions on the nature and extent of the actions permitted under it. The difficulty is that international society has a manifest need for such an institution yet its members do not easily remain within its bounds. If the immediate result is an increase in the measure of improper intervention, the longer-term effect may nevertheless be a decrease. For intervention which counters intervention, whether legitimately or otherwise, may well act as a form of control over intervention in general, bringing into play considerations of prudence and a potential for deterrence. The actual result cannot be known without an examination of the manner in which intervention is or is not controlled in international society.

Finally, the limits placed by the time factor on the right of counter-intervention require some consideration. If, for any reason, counter-intervention is permitted at one point in time, it does not necessarily follow that it will remain permissible for an indefinite period. There is the idea, for example, that counter-intervention should be limited to the time when the initial intervention is taking place. The main strength of this position is that it restricts the potential for recurrent intervention: once intervention has been completed there is no further justification for acting against it. There is a parallel in the doctrine that aggression ceases to be aggression when it is successful, that success is of the essence in international politics. This argument, however, excludes from consideration as counter-intervention both pre-emptive intervention and intervention after the event. Certainly, pre-emptive intervention belongs logically to the category of intervention in self-defence since there would otherwise
be no limit to the countering of what has not yet occurred, but there are serious disadvantages in setting a time limit to counter-intervention. Some of these were aired when the United Nations considered the question of Franco Spain in 1946. Thus the Chilean representative among others maintained that the best way to enforce the principle of non-intervention was to eliminate the results of earlier intervention by the totalitarian powers in the Civil War: 'To carry out the principle logically, we desire that Spain should succeed in wiping out the effects of this intervention'. Another significant factor is that the initial intervention may be accomplished in a short space of time, leaving no moment for counter-measures; it may, moreover, remain unknown to the outside world until it is successful or it may be discontinued as soon as it does become public. In these circumstances especially there is much to be said for extending the right of counter-intervention in time both from the point of view of law enforcement and of discouraging intervention.

It would seem desirable, however, that the right of counter-intervention should not be extended for all time. The example of Spain was a case in point for the Franco regime had governed the country for seven years, unchallenged from within or without. To permit disturbance of such a situation would be to release immense potential for disorder. Yet some latitude in counter-intervention is required and this would seem to be secured by the test of acquiescence to the original act of intervention. This criterion, would also serve to limit the number of states entitled to undertake counter-intervention. Whether or not success is achieved by the initial intervention, other states may seek to contest this action and may do so for a considerable length of time. The fact of non-acquiescence may be said to keep alive the right of counter-intervention. It is clear, however, that mere protest is not sufficient

for this is little more than an expression of opinion and actual policy may amount to acceptance of the situation. Thus the reaction of the West to the Soviet involvement in the 1948 communist coup in Czechoslovakia was to lodge diplomatic protests but at the same time to continue trading and diplomatic relations. In effect, the West has been estopped from intervening against the coup by virtue of its own actions (or inaction). The doctrine of the liberation of the Soviet satellite countries proposed by Dulles in the early 1950s may be seen in part as an attempt to maintain or, more accurately, revive the right of counter-intervention in Eastern Europe, although it proved to be more a declaration of political faith than an active attempt to contest Russian intervention in that part of the world. Naturally, resort may be made to other methods in the hope of restoring the original situation but it seems desirable that once a government has acquiesced in the initial intervention the right of counter-intervention should be lost.

The test of acquiescence as the touchstone of counter-intervention thus combines the factors of time and of effective action. A right of counter-intervention is retained as long as meaningful counter-measures are sustained. If the initial intervention is immediately successful, it may still be contested but the difficulties of counter-intervention will be that much greater; a successful intervention thus achieves a certain factual immunity which contributes to its legal and moral immunity. On the other hand, a powerful state which believes itself capable of effective counter-intervention is free to pursue this policy both during and after the first intervention. The effect of the rule of acquiescence is to permit resort to counter-intervention in those cases where

1 See Thomas and Thomas, Non-Intervention, p.287. Plamenatz points out that in such a situation individuals may be morally entitled to do what is not permitted to their governments and even what their governments forbid. On Alien Rule, p.26n.
it is most desired and most likely to be successful. The right of intervention granted by such a rule is thus more limited in practice than its abstract formulation would suggest.

C: Responses to Intervention

In the period between the world wars the initiation of civil strife and the support of rebels in other countries does not seem to have been a major concern in international relations except insofar as it was related to the expansionism of Italy and Germany. The overriding problem was generally regarded as the use of force and the threat to use force. The Covenant of the League of Nations, in particular Article 10, was clearly addressed to these questions; similar concerns were evident in the Locarno Treaty and the Briand-Kellogg Pact as well as in the attempts to define aggression at the League. Consequently, the definitions of aggression and of indirect aggression centred on military attack or the threat of attack. When in the late 1930s Mussolini and Hitler sent troops to aid General Franco's rebellion their actions were seen by many in terms of a military invasion rather than intervention. Thus the Soviet Ambassador in London, Ivan Maisky, addressed the

1 J. Stone, Aggression and World Order (Berkely, 1958) chapter ii, has a brief history of these attempts.

2 On the usage of the term 'aggression' before and after World War I see I. Brownlie, International Law and the Use of Force by States (London, 1963), pp.351-2. The term 'indirect aggression' usually signified a threat of force; in the draft Anglo-Franco-Soviet Agreement of 23 July 1939, for example, it was understood to refer to 'action accepted by the State in question under threat of force by another Power and involving the abandonment by it of its independence or neutrality'. Text in Lord Strang, Home and Abroad (London, 1956), p.314. See also A. Wolfers, Discord and Collaboration (Baltimore, 1962) p.254, for the French usage of 'agression indirecte' with reference to the growth of German power through conquests in Eastern Europe.
Non-Intervention Committee on 24 March 1937:

taking into account the magnitude of the armed forces set in motion by the Italian Government, there is every reason to describe its actions as an Italian military invasion of a foreign country, an invasion which is a flagrant case of unprovoked military aggression against another country as understood by international law and the Covenant of the League of Nations.1

The subsequent attempts by Hitler to stir up German subjects of Czechoslovakia proved to be even more closely related to military attack.

The years after 1945 saw a world-wide confrontation between the United States and the Soviet Union and their respective allies. It was a 'cold war' in which the initiation of civil strife and the external support of rebels took on an unprecedented significance for all powers concerned since these methods promised to achieve the same results as armed aggression but without the same risks or costs. In February 1946 U.S. Secretary of State Byrnes warned that 'The Charter forbids aggression, and we cannot allow aggression to be accomplished by coercion or pressure or by subterfuges such as political infiltration'.2 In the following years communism became for America synonymous with the fomenting of internal unrest and communist governments with subversive policies. But such fears were not confined to the United States alone. Soviet Russia had set up communist regimes in Eastern Europe which were potentially vulnerable to subversive intervention by the Western Powers, a fact which Secretary of State Dulles was eager to stress in the early 1950s. Indeed the Soviet Union could claim a long-established concern with subversive intervention dating back to the 1920s and to the provisions of the Note sent by Litvinov to President Roosevelt on the establishment of relations between the USSR and the U.S. in 1933.3 It was


2 Speech, 28 February 1946, Department of State Bulletin vol. XIV (10 March 1946), p.357.

with reference to this agreement that the Soviet Union objected to the United States Mutual Security Act of 1951 which appropriated $100 million for the purposes of organizing into NATO units refugees from communist countries.¹ Nor has concern with subversive activities been limited to the superpowers and their allies. The non-aligned countries have also displayed their fears and interests, in particular at the United Nations where the problem of subversion has frequently cropped up.² It is against this background that the efforts to regulate intervention through legal procedures must be seen.

Now one of the ways in which control over such activities has been sought is to equate them with aggression for this is universally acknowledged to be an inexcusable crime affecting the interests of all. At this point it matters little that states have as yet found no agreed definition of aggression; all that is necessary is that subversive intervention be accepted as one form of aggression or as in some way equivalent to it. The arguments for regarding it as such will be considered first. A widely-adopted view, exemplified in the statement by Secretary Byrnes, maintains that subversive intervention can achieve the same results as aggression and that it is therefore comparable as an instrument of policy. In this light subversive intervention appears as a means of overthrowing a government and possibly gaining control of a country. Thus President Eisenhower in a Message to Congress on 15 July 1958 attributed to the United Arab Republic a desire to 'overthrow the legally constituted Government of Lebanon and to install by violence a government which would subordinate the independence of Lebanon to the policies of the United Arab Republic'.³

² For a brief account of U.N. discussions see Higgins, Development of International Law, pp.189-95.
Although the central core of the idea of aggression has always been armed attack against a state's territory, this argument stresses the fact that there are other equally effective ways by which a state might lose its independence or its political identity.

In the second place, certain instances of subversive intervention do appear remarkably similar to armed attack although lacking the formal qualifications. This point has been repeatedly emphasized by the United States Administration with regard to the North Vietnamese policy of sending units of their regular forces into South Vietnam. A Department of State Memorandum entitled 'The Legality of United States Participation in the Defense of Vietnam', dated 4 March 1966, maintained that

Most recently, Hanoi has begun to infiltrate elements of the North Vietnamese army in increasingly larger numbers. Today, there is evidence that nine regiments of regular North Vietnamese forces are fighting in organized units in the South.

... In these circumstances, an "armed attack" is not as easily fixed by date and hour as in the case of traditional warfare. However, the infiltration of thousands of armed men clearly constitutes an "armed attack" under any reasonable definition.¹

A comparable argument was presented by Premier Khrushchev in condemning the American role in the Bay of Pigs landing in 1961:

An armed aggression has been started against Cuba. It is an open secret that the armed bands which have invaded that country have been prepared, equipped, and armed in the United States. The planes which bomb Cuban towns belong to the United States of America, the bombs which they drop have been put at their disposal by the American Government.²

It would seem logical therefore to include such acts of


subversive intervention in any definition of aggression and this is what a considerable number of states have sought to do.

Members of the United Nations first turned their attention to defining aggression in November 1950 on the initiative of the Soviet Union.¹ By the end of 1952 a novel development had emerged in the demand of a number of Latin American countries, to be followed shortly by several Asian states and the Soviet Union, for a definition which covered actions other than direct military attack. What they had in mind were those activities which could endanger the political integrity or independence of a state through economic or ideological pressure or through assistance to rebel groups. Thus the Iranian delegate to the U.N. Special Committee for Defining Aggression of 1953 sought to include as a form of aggression 'direct or indirect incitement to civil war, threats to internal security, and incitement to revolt by the supply of arms or by other means'.² Thus 'indirect aggression' as it was often called was claimed to be simply a particular type of aggression to be treated with equal gravity rather than as something related to aggression but less serious because it was 'indirect'.

The Soviet draft definition presented in 1956 illustrates the changed approach to the problem of aggression, especially when this draft is compared with that put forward

¹ See Stone, Aggression and World Order, p.46, and for a history of U.N. efforts to define aggression, chapter iii.
² Cited ibid., p.60.
by the Soviet Union in 1933.\textsuperscript{1} Then the emphasis was squarely on military action against the territory of other states and this section of the definition was substantially retained in the 1956 draft. However, a new paragraph was added which declared that state guilty of 'indirect aggression' which:

(a) Encourages subversive activity against another State (acts of terrorism, diversionary acts, etc.);
(b) Promotes the fomenting of civil war within another State;
(c) Promotes an internal upheaval in another State or a change of policy in favour of the aggressor.\textsuperscript{2}

The later draft also added paragraph 1 (f) condemning the 'support of armed bands organized in [a state's] territory which invade the territory of another State'. This provision recalled the wording of earlier Soviet treaties but took on a new relevance in the light of outside assistance to anti-colonial and national-liberation rebellions which the Soviet Union did not, of course, wish to outlaw. These Soviet proposals around which debate in both the League and the United Nations has largely centred reveal not only changing concerns but also the increased difficulties in definition that the new concerns create. Whereas direct aggression refers to military acts such as invasion or bombardment which can be relatively easily identified,

\textsuperscript{1} The earlier proposal declared as an aggressor any state that first took one of the following actions:
(a) Declaration of war against another State;
(b) The invasion by its armed forces of the territory of another State without declaration of war;
(c) Bombarding the territory of another State by its land, naval or air forces or knowingly attacking the naval or air forces of another State;
(d) The landing in, or introduction within the frontiers of another State of land, naval or air forces without the permission of the government of such a State...;
(e) The establishment of a naval blockade of the coast or ports of another State.

Text ibid., p.34.

\textsuperscript{2} Text ibid., p.201.
indirect aggression must focus on elusive political processes such as the encouragement of subversive activity or the fomenting of civil war. These concepts are not self-explanatory and their interpretation has in fact tended to remain in the province of individual states. Moreover, much of this kind of activity is scarcely distinguishable from the day-to-day policies of states which, while not at war with each other, are openly antagonistic. In these circumstances the mere advocacy of one's own form of government or social system might amount, as states have frequently charged in practice, to indirect aggression.

A further point about these Soviet definitions is that the acts specified as direct aggression may be justified if they are taken in response to a similar act by another state (or possibly in anticipation of such an act) while the acts falling under the definition of indirect aggression do not seem to have any justification at all. In other words, the Soviet draft of 1956 seeks to include all subversive intervention in its definition and to prohibit it in all circumstances; military measures, by contrast, are seen to have a definite and accepted place in international relations.

The attempt to prohibit subversive intervention by its inclusion in a definition of aggression has not been without its opponents or its genuine difficulties. In the first place, the notion of aggression has in the twentieth century come to be inextricably bound up with the moral and legal orders as well as with the political and military orders. Since aggression has in practice proved to be a disputed and elusive concept, unnecessary problems are invited by attempting to make the regulation of subversive intervention dependent upon it. Secondly, although the end

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results of aggression and subversive intervention may be identical and although they may both constitute an equal danger to international peace, the methods employed in each case differ significantly. While both may be equally serious matters, it is the particular activities constituting each that must in fact be controlled. Accordingly, Wright argues for a distinction between the two on the grounds that the remedies for each are distinct in practice and ought to be kept so. He finds support for this view in the U.N. Charter of which Articles 2 (4), 39 and 51 prohibit only the threat or use of armed force or an armed attack rather than other hostile acts such as infiltration or subversion.\(^1\) Wright is particularly concerned that the Charter should not be construed so as to permit the use of military force in response to non-military acts, however hostile they might appear. Subversive intervention, the argument concludes, is an important problem but it must be dealt with by appropriate measure.

The difficulties inherent in the question whether or not subversive intervention may be best treated as aggression (in the sense of an illegal armed attack) can be avoided in part, though not in full, by looking at the matter from another angle. This involves inquiring about the limits of self-defence on the part of the state subjected to such intervention and about the rights of third states to assist in this defence.\(^2\) Unfortunately, however, current


\(^2\) Bowett argues persuasively that while the purpose of the concept of aggression is to define the circumstances in which international peace and security are threatened, the function of the concept of self-defence is to define those situations in which the individual state may take independent action to protect itself against another state. Thus the right of self-defence still exists whether or not there is agreement upon a definition of aggression. Self-Defence in International Law, pp.256, 261.
international law on this topic is by no means clear. The existence of a right of self-defence is beyond doubt but of its interpretation little is certain. There is agreement, first of all, that a state may take measures to protect itself against actions by another state which are likely to foment civil strife or to assist rebel groups. But do such measures properly extend to the use of force against the territory of the intervening state? It is at this point that the characterization of subversive intervention - whether as armed attack or as something else - again becomes crucial; if it is regarded as tantamount to armed attack on the part of the intervening state, then appropriate forceful measures against it are clearly permissible. The interpretation of the term 'armed attack' in documents such as the North Atlantic Treaty and the U.N. Charter thus becomes of great potential significance. The NATO powers agreed in 1949 to treat an armed attack on one of their number as an attack against them all. This prompted the following question from Senator Fulbright during the Senate Committee on Foreign Relations Hearing on the Treaty:

Would an internal revolution, perhaps aided and abetted by an outside state, in which armed force was being used in an attempt to drive the recognized government from power be deemed an "armed attack" within the meaning of article 5.¹

Secretary of State Acheson believed that it would be so regarded, a belief which appears to have been shared by at least some of his successors. The merit of this position is that the notion of armed attack is not at all self-evident and that an excessively narrow interpretation might restrict the legitimate rights of self-defence (and possibly of collective defence). A wide interpretation of the term 'armed attack' as used in Article 51 of the U.N. Charter is

supported by some writers on similar grounds.\(^1\)

Now it will be noted that those who take this view are not necessarily maintaining that every case of subversive intervention automatically constitutes an armed attack, rather that some cases are of sufficient importance as to justify forcible counter-measures. Dulles recognized the danger of expanding the notion of self-defence too far:

> if you open the door to saying that any country which feels it is being threatened by subversive activities in another country is free to use armed force against that country, you are opening the door to a series of wars over the world.\(^2\)

Falk maintains that to treat intervention as armed attack 'so broadens the notion of armed attack that all nations will be able to make plausible claims of self-defense in almost every situation of protracted internal conflict'.\(^3\) It is apparent that what is relevant here is the question of what international law should be, for no definitive statement can be expected as to what international law actually is. On the one hand, certain instances of subversive intervention are likely to resemble armed attack in many respects and the victims are in practice likely to treat it as such; if their political integrity is threatened by the actions of the intervening state, it seems difficult to deny a right of forcible response although its exercise might not always be considered judicious. Moreover, the broader the definition of armed attack i.e, the wider the circumstances in which appropriate armed counter-measures are legitimate, the greater the legal deterrent (and possibly the political and

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\(^3\) ibid., p.377.
military deterrent) to the conduct of large-scale subversive intervention. On the other hand, a broad definition of armed attack is liable to be abused by the supposed victims, perhaps as a matter of deliberate policy, perhaps inadvertently through the natural exaggeration of the seriousness of subversive intervention. There is the further point that subversive intervention has not usually achieved the same results as an armed attack without being accompanied by the threat or use of armed force in a more direct fashion; thus in more serious instances the resort to forceful self-defence is likely to be permitted by virtue of this threat or use of force on the part of the intervening state. That international law is unsure on these issues is due essentially to the inability of states to agree either on the actual balance of these probabilities or on the desirability of coming down on one side or the other. Legal argument can only clarify the terms of the choice, if a choice is to be made at all.

The problems of self-defence against a policy of subversive intervention become clearer when that policy is contrasted with an act of dictatorial intervention in the sense of a display or use of force designed to coerce the decision-makers of another state. The first point of contrast concerns the complicity of the outside state. Dictatorial intervention is usually overt so that its author is known to be a particular state or group of states; even if it is covert, the identity of its author will naturally be obvious to the decision-makers of the state concerned. Subversive intervention, on the other hand, may be conducted in ways which make proof of external complicity extremely difficult. The movement of material supplies or infiltrators across a border is often difficult to track down, depending on the nature of the frontier, and there are further problems in determining the precise origin of such movements once they are detected. Indeed, there may be no visible evidence at all to be found if subversive intervention takes the form
of commands and instructions from outside. 'Conversely,' as Brownlie points out, 'because of difficulties of proof, accusations of complicity can be made all too easily'. On several occasions the United Nations has undertaken the task of ascertaining the facts in cases where assistance to rebels has been alleged. Significantly, however, the purpose of bodies such as the Security Council Sub-Committee on Laos in 1959, the U.N. Special Committee on the Balkans and the U.N. Observer Group in the Lebanon was less to discover facts in an impartial fashion than to find evidence in order to bring accusations against the states known to be intervening. The fact that complicity in cases of subversive intervention may be a matter of uncertain knowledge, of unsupported and unsupportable charges and counter-charges, clearly hampers the exercise of self-defence. If the guilty cannot be identified beyond reasonable doubt, there is a case for not allowing forceful action against anyone.

A second point of contrast relates to the measure of responsibility that a state may be presumed to bear for each of these activities. Dictatorial intervention is manifestly at the initiative of the outside state. A particular case of civil strife, however, may originate in a variety of internal and external causes and, provided that it is not purely external in origin, the state concerned must take some responsibility for it. Now once civil conflict is under way the rebel movement may request outside assistance or even be in a position to demand it. In these circumstances the responsibility of the outside state for its policy of subversive intervention would seem to be less than that borne by a state undertaking dictatorial intervention. Moreover, the degree of control enjoyed by the intervening

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1 International Law and the Use of Force, p.369n.
2 James, Politics of Peace-Keeping, pp.202-4, 211-3 and 216-29.
state may differ widely as between dictatorial and subversive intervention. In the former case, interference is carried out by a state's own forces under its immediate command; the operation is begun, pursued and ended according to the policy of the intervening state, the matter of success or failure being irrelevant at this point. Subversive intervention, on the other hand, probably never gives occasion for complete control.\(^1\) The degree of control exercised over a rebel movement varies according to a multitude of circumstances and to the stage which the conflict has reached (or failed to reach). Civil strife may be initiated by another state but subsequently continue under its own steam and beyond the influence of the intervening state. In such a case the purpose of counter-measures ceases to be immediate defence and becomes either punishment or deterrence. It is questions such as these which have aroused much acrimonious debate over the origins of the insurgency in South Vietnam in 1959-60. Scholars and statesmen have disagreed on whether a signal or order of some kind was given by North Vietnam, on the willingness or reluctance of the North to become involved in the South, on the responsibility for the conditions in South Vietnam which made initiation and maintenance of the insurgency possible, on the extent of North Vietnamese direction of the subsequent campaigns and so on. Such questions are ones of fact but their very intractability in many cases of subversive intervention makes hazardous any straightforward assertion of a right to take forcible measures against the intervening state. Equally, a test of effective support and control on the part of the intervening state\(^2\) is inadequate.

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1 See chapter II, section B.

for the practical needs of the defending state unless effective control refers to something less than total direction. In the event the intervening state may be only partly responsible for the outbreak of civil strife (and even if it was responsible may no longer exercise any control); it may be unable to call off the conflict or find it impossible to cease giving assistance. To authorize forceful self-defence in these conditions may sometimes be a necessary procedure but it is also a potentially dangerous one.

The third point of contrast concerns the purposes which lie behind dictatorial and subversive intervention. The former has relatively clear goals which are necessarily made known to the victim who is thus in a position to make an appropriate response. Of course, this state may be unable to react at all or may take excessive counter-measures, but it does know the precise purposes of the intervening state that have to be denied or accepted. In the case of assistance to rebels, the goals of the outside state may be clear neither to the victim nor to the faction which is being supported; indeed, the purposes of the intervening state may remain undefined or may change over time according to the progress or lack of progress of the rebels. Again, the achievement of particular objectives through a policy of subversive intervention may depend on the degree of control that can be exercised over the rebels and this, as we have seen, is itself highly problematical. Subversive intervention, in other words, is not a precise and obvious instrument of policy in the way that dictatorial intervention often is. A response in the form of an armed attack may thus be far from meeting like with like. Moreover, discussion of the purposes of subversive intervention raises normative questions which tend in practice to confuse the issue of forceful self-defence. Thus the international community may approve certain goals such as the overthrow of racialist governments and consequently show a reluctance to grant the right of self-defence to those countries against
which subversive intervention is being conducted for such a purpose. A similar position may be taken by individual states with regard to more contentious goals such as national and colonial liberation. These aberrations cannot be taken as diminishing in any way the fundamental right of self-defence in international society but they do hinder its clarification and development so far as the response to subversive intervention is concerned.

If it is granted that forcible measures of self-defence are sometimes permitted against an outside state which is assisting rebels, they must still satisfy certain criteria relating to their extent, purpose and timing.\(^1\) Here discussion will focus on the problems of applying the rule of proportionality to actions taken against an external sanctuary which is being used by rebel forces. A government is at liberty to take any measure within its own borders in order to counter the effects of subversive intervention\(^2\), and interception of external aid may also take place on the high seas.\(^3\) Now it may be argued that action against a rebel sanctuary is itself a proportionate response; forces are sent against the territory of another state but only against those areas where rebels are in fact receiving succour. But then a response against the central government of the intervening state might also be considered proportionate to the threat since it is from there that support to the

\(^1\) See the fuller list of criteria in chapter IV, section A.

\(^2\) France erected extensive frontier barriers along Algeria's borders with Morroco and Tunisia to cut off assistance to the rebels. See Paret, *French Revolutionary Warfare*, p.35.

\(^3\) Oppenheim, *International Law* (vol. I, *Peace*), p.301n. Britain, for instance, took action against ships in the Mediterranean that were carrying supplies to the EOKA organization.
rebels is directed and organized. Clearly, proportionality is something less than self-evident. It depends in part on generally accepted standards which themselves derive from ideas of reasonableness, from prudence and from law. Thus it has been rare for a state engaging in subversive intervention to be subjected to a direct attack intended to compel a reversal of policy or to cause the government to fall. Moreover, even the more limited actions against external sanctuaries have generally been designed to relate directly to the supply of assistance and have usually been accompanied by attempts at justification. The fact that justification is felt to be both desirable and possible is an indication that certain rules governing such responses do exist, whether in explicit form or not.

In any given case much will depend on the actual importance of a rebel sanctuary to the course of the conflict. The most that may be said as a general rule is that it is not indispensable for the success of insurgents as the examples of China and Cuba indicate. On the other hand, geographical contiguity, especially with an easily penetrable frontier, may offer great advantages to an intervening state and to the faction it supports. The minimum proportionate response on the part of an incumbent government might be thought to be the exercise of a right of hot pursuit against rebels retreating over a frontier. Yet this is not established in state practice. The reason for this would seem to lie partly in the consideration that the state to which the rebels have retreated may not be one that is actively giving assistance and partly in the risks involved in an armed crossing of an international border. These risks

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1 For discussions of this question see Tanham, Communist Revolutionary Warfare; J.J. McCuen The Art of Counter-Revolutionary War (London, 1966); Zasloff, Role of the Sanctuary in Insurgency.

may be considered worth taking at some point but this is more likely when there is time to muster sufficient forces to make an effective strike and when careful calculations can be made in advance. A hot pursuit, by contrast, is almost certain to involve only a small body of troops in circumstances which make full consideration of the risks extremely difficult; the simple pursuit of rebel soldiers, moreover, does not touch the broader problem of the interventional policy of the assisting state.

What measures, then, do constitute a proportionate response to the existence of an active sanctuary? Practice indicates that an action by the defending states in order to compel a change of policy or a change of government in the intervening country is not an established right. Yet in some cases this has appeared to be the only effective response against persistent and elusive intervention. Even when actions are directed against the actual sources of support and against supplies in transit, many questions remain unanswered. Must the defending state, for example, merely prevent particular items of assistance reaching its territory or is it entitled to render the granting of aid or the movement of supplies physically impossible? Is it governed by rules comparable to those applying to contraband in time of war\(^2\) such that it may intercept supplies anywhere in the intervening state that are destined for the rebels and that are necessarily or potentially of value to the enemy?\(^3\)

\(^{1}\) Essentially the same problems are raised, though less acutely, by a passive sanctuary.


\(^{3}\) Contraband, of course, is normally carried by neutral countries which for obvious reasons tend to be well-disposed towards one of the belligerents. An intervening state that supports an active sanctuary cannot be a neutral in the legal sense but neither is it considered to be at war with the state in civil conflict.
Alternatively, the response of the defending state may be proportional to the importance of the sanctuary in assisting the rebel cause. In this case not only the impact of material support but also the political and psychological functions of a sanctuary need to be taken into account. The difficulty here is, firstly, that such assessments are exceedingly complex and tentative and the defending state in particular will find objective judgments not only hard to make but also difficult to carry out. In the second place, the importance of a sanctuary is a concept difficult to express precisely, and, even if some measure of importance is agreed upon, it is not immediately obvious what responses would be proportional to this measure. It is evident by now that the provisions of international law, such as they are, can play only a minor role compared with the political and prudential calculations that come into play in this type of situation. Certainly, rules do develop out of concrete policies but the complex and unique characteristics of each case of this kind militate against the development of specific and accepted standards of conduct.

Problems also arise where collective defence against subversive intervention is at issue. The first doubt is whether such action is properly classed as collective defence. Bowett maintains that the concept should be reserved for those cases where two or more states are attacked at the same time and exercise their individual rights of self defence in concert; it would not be applied to a situation where one state defends another against subversive intervention or even against armed aggression. Yet there are numerous instances in state practice of assistance against alleged subversive intervention being claimed as collective defence e.g. the Soviet action in Hungary in 1956 and the American landings in the Lebanon in 1958. The notion of collective defence in such circumstances

1 Self-Defence in International Law, pp.206ff.
also underlies many treaty arrangements of the United States as well as the Warsaw Pact. Now the difficulty with applying the idea of collective defence in a case of subversive intervention is that it grants the same rights to the ally as to the victim. These rights, however, are far from clear and it would be inviting abuse to extend them to third states. For the freedom to assist any country in a situation which may be one of self-defence (for the ally will make the judgment) creates virtually unlimited rights to resort to force.

Moreover, even in the case of genuine self-defence against subversive intervention, the extent of the assistance which may be given to an incumbent is uncertain under international law. Three major criteria have been regarded as legally relevant. Firstly, aid to an incumbent may have to be confined to off-setting the assistance received by an insurgent from another state. This implies neutralization of the effects of such intervention within the territory of the country concerned but it might also mean preventing outside assistance from reaching the rebels in order to allow a 'fair' contest. In this case measures against the territory of the intervening state may be necessary. Secondly, aid to a requesting government may in fact be subject to a territorial limitation. Thus Brownlie argues that:

foreign assistance to the government will be confined to measures on the territory of the requesting state unless the foreign aid to the rebels amounts in fact and in law to an "armed attack".

The purpose of such a limitation is to avoid expanding what is initially an internal conflict with some outside

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1 See also chapter IV, section D which discusses collective defence from the point of view of justifying intervention in civil strife.


3 See also section B on the nature of counter-intervention.

participation into an international war between the intervening states i.e. those aiding the rebels and those supporting the incumbents. If, however, the original conflict amounts to an armed attack, then it is already international and the involvement of further states may serve a law-enforcement function. One of the justifications of American bombing of North Vietnam has hinged on the claim that the latter had launched an armed attack or aggression against South Vietnam. If this claim could not be substantiated, the United States was, failing alternative justification, in breach of the criterion of territorial limitation on assistance to an incumbent. The disadvantage of such a rule, however, is that it restricts the powers of deterrence or punishment which third states might otherwise bring to bear on the intervening state in cases short of armed attack.

A third criterion relates to the type of assistance which an ally may extend to an incumbent. A possible rule is that any type or quantity of aid may be given other than that which could involve the personnel of the outside state in actual combat. This norm has some support in state practice but its legal standing is even more dubious than the two previous criteria. As Farer points out, the Soviet Union and China have followed this principle in assisting insurgents but the matter of aiding an incumbent is rather different. The latter is usually in a better political position to request the help of foreign troops, especially from a state allied by treaty; its need for troops is also likely to be greater than that of the rebels, particularly in the case of a guerrilla-type insurgency where the ratio required for a government victory is generally put at ten to one. The chief merit of such a norm would be that as long as outside powers had

2 ibid., pp.520-1.
not committed their forces, a victory for the other faction would remain much more acceptable politically and psychologically. So far, however, it has not attracted much attention as a binding criterion.

In conclusion, the situation of subversive intervention may be characterized as one of uncertainty about the complicity, the responsibility and the intentions of the intervening state. In these circumstances it has inevitably proved difficult to apply the notions of aggression or self-defence even in cases of large-scale intervention. Certainly, the victim cannot be denied a right to act in self-defence but it is unnecessary to assume that subversive intervention must amount to an armed attack or aggression before this right becomes operable. At the same time, the measures to be taken in response do not automatically include actions against the territory of the intervening state. A number of rules may limit such responses on the part of the victim itself or of its allies. International law offers no unequivocal canons on this subject so that their interpretation is partly a matter of preference as to what the law ought to be. In this vein, it seems that a sounder approach to the problem of subversive intervention is to be found in the closer definition of those rights of states which are in fact impaired in the event of outside assistance being given to rebels. At present these rights are summed up in phrases such as 'political integrity' or 'independence'. More extensive definition with reference to subversive intervention would, it is suggested, clarify the circumstances in which a right of self-defence might be exercised in protection of these rights and the circumstances in which an ally might come to the aid of an incumbent. This approach thus focuses attention more on the actual harm caused or threatened by subversive intervention than on the rights of retaliation possessed by the victim and his

1 ibid., p.519.
friends. It also sees subversive intervention as a relatively common feature of international society and as an international transgression usually far less serious than armed attack or aggression.

The legal regulation of subversive intervention has not proved particularly effective in the post-war period and its future prospects remain obscure. At the same time, the possibility, indeed the probability, should not be overlooked that the legal regime - such as it is - has caused many states to refrain from or to diminish their subversive activities. The mere fact that almost all states are able to subscribe to a general prohibition and that many favour including it in a definition of aggression indicates a certain consensus about how states would conduct international relations if they were free to choose. But in addition to these legal controls there exist also important political and strategic controls over intervention of both the subversive and supportive kinds. These controls are more informal than the ones that have been under discussion here for they must cope with situations which are not only of great complexity but which also arouse the most vital concerns of the governments involved. Even the apparently simpler concept of aggression has 'proved unworkable without reference to the concomitant non-military components';¹ there factors such as provocation, preventive attack, economic policies and so on have had to be taken into account. In the case of subversive intervention an additional number of highly complex and elusive factors must also be reckoned with. It seems probable that international society will in practice continue to rely largely on informal political and strategic methods in dealing with the problem of intervention rather than on more formal arrangements.

¹ Stone, *Aggression and World Order*, p.59n.
CHAPTER IX: THE UNITED NATIONS AND INTERVENTION IN CIVIL STRIFE

The limits on the ability of the United Nations to control intervention in civil strife or to regulate it are considerable. The international organization has no standing armed forces, only small ad hoc bodies of troops, with which to deter or punish intervention; nor is it a legislative organ which can lay down binding rules for its members. It might be further argued that the Charter places additional restrictions on the scope of its activities by excluding, for example, matters within the domestic jurisdiction of states;¹ certainly the Charter provisions may be widely interpreted (as they have tended to be in practice) but the task of ensuring liberal interpretation itself involves political costs and makes for inconsistency in actions. These limitations clearly derive from the nature of the U.N. itself for it is a creature of international politics rather than an independent participant; the organization can occasionally step beyond the broad consensus of international society but never for any distance or any length of time. Again, whatever action the United Nations takes with regard to civil conflicts (excepting humanitarian endeavours) is not somehow devoid of political content simply because it is international; some states and some of the parties involved are likely to raise strong objections to its activities and purposes.

Within these limitations the U.N. has performed two important functions in the control of intervention in civil strife. The first has involved a United Nations presence in countries divided by internal hostilities, notably the Congo after its independence in 1960 and Cyprus in 1964. In these cases one of the purposes was to prevent the internal situation from deteriorating to a point where outside intervention became inevitable. The Congo, it was

¹ See Rajan, United Nations and Domestic Jurisdiction, pp.473-97; Higgins, The Development of International Law, part II.
feared, would become an arena for an East-West confrontation if a minimum of law and order were not established, while in Cyprus intervention by Greece and Turkey seemed probable in the event of widespread armed clashes between the two communities on the island. The influence of the U.N. on the outcome of these two situations differed greatly but the ONUC and UNFICYP operations shared the important characteristic of attempting to 'refrigerate' the conflicts. A certain measure of success appears to have been achieved in both cases but the opportunities for repeating this are likely to be limited. Apart from the more concrete problem of assembling the necessary forces there are two sets of crucial factors to be reckoned with.

The first concerns whether the members of the United Nations will be willing to see it attempt the task of isolating the conflict from the international political situation. The major powers may wish to intervene themselves or at least keep the way open for such intervention. In September 1959, for example, the government of Laos requested a U.N. force to assist it in fighting rebels assisted by North Vietnam, but the Western powers were clearly concerned that if intervention did become necessary it would have to be undertaken by them and not by an international agency which was likely to prove ineffective and to pursue goals differing from those of the West. A situation which major powers believe they can or must handle themselves, especially one within a sphere of interest, is not likely to be handed over to the U.N. Those that are turned over to the organization are thus likely to be ones where there is no major power able or ready to intervene effectively as in Cyprus or where outside powers have no strong interest in intervention as in the Congo. While it may seem that the United Nations is trying to prevent intervention which states do not wish to undertake anyway,

1 James, Politics of Peace-Keeping, pp.320n, 354-68.
2 ibid., pp.200-1.
its presence may nonetheless quieten fears that other states will intervene and thereby reduce the pressure to get in first. Thus the Congo operation, which was formally directed at securing the withdrawal of Belgian troops and at restoring the conditions of law and order, also served to discourage any thoughts the great powers might have had about intervening.

The second set of political considerations concerns the nature of the situations with which the organization has to deal. It is of little use for the U.N. to seek to contain a conflict which demands political and material resources beyond its capacity; and a United Nations presence which fails to prevent national intervention is likely to increase the dangers involved rather than decrease them. Moreover, U.N. intervention is certain to prove more politically contentious in some cases than in others; thus restoration of law and order in the Congo aroused greater hostility internally and internationally than did supervision of an armed truce in Cyprus. In the former case the U.N. learned that it could not hope to establish a working political system where the basic conditions were lacking.

In 1964 U Thant described the limitations on U.N. action:

The current difficulties in the country reflect conflicts of an internal political nature, with their main origins found in the absence of a genuine and sufficiently wide-spread sense of national unity among the various ethnic groups composing the population of the Congo. There is little assistance that the United Nations Force can render in that kind of situation since the solution of the conflict depends entirely on the willingness and readiness of the Congolese political leaders and traditional chiefs and their respective followers to merge their factional interests in a true effort toward national conciliation.1

In other words, the U.N. at least can achieve little in the face of factors found in any deep-seated civil conflict. The force which was despatched to Cyprus in 1964 had a less ambitious task i.e., to supervise an unofficial dividing

1 29 June 1964, cited by Miller, World Order and Local Disorder, pp.113-4.
line between the Greek and Turkish communities in the hope of preventing the outbreak of civil war. It was not designed to further the cause of either side (though both believed it worked in their favour) but to facilitate a negotiated settlement by containing violence at a low level. Thus U.N. success depended on the presence of the elements of a settlement which were to be given an opportunity to come into play. At the time of U.N. intervention the situation in Cyprus was not one of actual warfare but was likely to degenerate in this direction if no remedial action were taken. The rule of the United Nations was thus to prevent the probable recurrence of civil war rather than to impose its own objectives.

The less contentious the purposes of the U.N., the greater would seem to be its chances of providing a substitute for national intervention. At the same time, however, such action must remain politically relevant. This is the force of Falk's suggestion that 'the United Nations should be encouraged to anticipate the outbreak of a civil war by intervening to secure basic human rights'.

International society has a proper interest in the fate of the individual, but the guarantee of his fundamental rights demands important qualities of the society in which he lives. The growing international concern with human rights indicates that states may be more and more prepared to accept pressures directed to such ends. This is not to say that protection of the individual citizen will necessarily prevent civil war, rather that it provides a channel whereby international society might find it possible to minimize the extent of conflict within states. It is significant in this regard that the general condemnation of governments based on racialist principles finds its strongest arguments in the rights of the individual, a point on which such regimes are highly vulnerable. Even

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1 'World Revolution and International Order', in Friedrich (ed.), Revolution, p.171.
communist countries are prepared to subscribe to the concept of individual rights, though they have fixed and perverse notions about how they are best served. Of course, human rights cannot be pursued to the point of ignoring altogether the rights of states, but in that the former are taken up by the society of states there is a guarantee that this will not occur.

It may be that intervention by the U.N. to secure human rights will prove possible without an invitation from the incumbent government or some group in authority. Up to now an invitation has been a prerequisite of U.N. action and this has limited the scope of the organization. For governments frequently prefer to invite in a powerful and trusted ally, especially when they believe themselves victims of subversive intervention. Even in the case of a purely internal conflict, the U.N. may prove a less reliable partner since its objectives are likely to be determined by political bargaining among its members. Moreover, intervention by a friendly state tends to be simply an extension of existing relations rather than a new step in a totally different direction. Both internal and international factors thus contrive to reduce the United Nations' capacity for controlling intervention in civil strife.

If the United Nations has little scope in controlling intervention in civil strife through active involvement on its own account, it does have an important second string to its bow. This is the part it can play in discussing and proclaiming rules relating to intervention. It is not that the U.N. is a legislative body but that it is a place where the great majority of states can make known their attitudes toward intervention and can learn the attitudes of others. If norms governing intervention are to be developed by international society, then the U.N. promises to be one of the most significant channels. Moreover, the organization is in a position to encourage intervention for specific purposes such as de-colonization
and to discourage intervention of other kinds. In addition, certain cases have prompted an indirect concern with the propriety of responses made by states to alleged intervention by others. Thus UNOGIL was in part a test of the United States claim to have acted in defence of Lebanon. The implication was that absence of the alleged infiltration and subversion would undermine the basis of American support for Chamoun; equally, proof of infiltration would serve to condemn Syria and the U.A.R. In both the verbal and active elaboration of rules, it is clear, the U.N. has important qualities as a near-universal organization but it is these very qualities which prevent it from moving very far ahead of the consensus of international society.

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1 R.A. Falk has developed this theme at length in a number of works e.g. 'The Legitimacy of Legislative Intervention by the United Nations', in Stanger (ed.), Essays on Intervention.
CHAPTER X : CIVIL STRIFE AND CONCEPTIONS OF INTERNATIONAL ORDER

The role that civil strife plays - or ought to play - in international society is subject to various interpretations. In the first place, internal conflicts may be seen as something quite apart from the relations between states. They are simply occasions on which the citizens of a state happen to disagree about their political arrangements, giving no cause for the disruption or disturbance of international relations and hence no cause for intervention. The intention is to insulate international and domestic politics from each other although it is possible that successive internal changes will eventually produce major changes in the international system. On this view, the primary rules of international society are to be interpreted in such a way as to maintain this insulation; at the same time the formal and informal processes available for controlling intervention may be managed so as to secure the minimum of external interference in civil strife. Principles such as the duty of non-intervention will come to the fore in this context.

An alternative view is that members of international society ought to make certain provisions for regulating the internal affairs of those of their number that experience civil strife. There are strong practical arguments for the proposition that since governments need to secure their own internal position they have a right to call upon others for assistance. Equally, states are at liberty, though not obliged, to render such assistance. This may in fact occur simply in the course of normal relations between governments and carry over into periods of domestic conflict. Internal order, moreover, may be regarded as essential to the continued stability of the international system in the face, for example, of a threatened series of changes within states. The essence of this second conception of the role of civil strife is that international rules should assist governments to protect themselves.
The third type of relationship sees the international system as subordinate to internal conflict. Civil strife becomes a means of changing international relationships immediately and directly (rather than through long-term transformation) and the promotion of civil strife therefore enjoys a primacy over other norms of international society. An international system based on this kind of relationship would be characterized by uninhibited intervention in civil strife on the part of competing powers. In practice, only a few states adopt this conception of world politics at any one time and their purpose is usually to bring a new system into being, based perhaps on a proselytizing religion or on a revolutionary ideology. The means of achieving this is to assist new regimes into power which accept the proposed system. But once the process is complete in whole or in part the new regimes are not likely to promote conflicts within each other; indeed, given the likely homogeneity between them, it is probable that they will develop arrangements to guarantee each other’s internal security, assuming of course that a recognizable international system still remains.

The importance of developing these archetypal relationships between civil strife and international order is that they throw light on the various purposes which states may have in promoting or preventing intervention in civil strife. The first relationship conceives of civil strife as continuing independently of the international system; the second sees the relations of states contributing to the maintenance of internal order; and the third envisages civil conflicts as an overriding purpose of foreign policy. In practice, of course, these conceptions are not held in their entirety by particular states but appear in varying proportions in the attitudes of all states that concern themselves with intervention and civil strife. What may be the case is that some states incline more to one conception than to others and with this in mind the attitudes of the Soviet Union, the United States and Communist China will be examined. The more these three
diverge in their conceptions the more difficult it will be for them to agree on rules governing intervention in civil strife since each will be pursuing different goals; and the more likely are they to attempt to enforce their conceptions regardless of existing rules.

First of all, however, some consideration needs to be given to the context in which these views about the role of civil strife are held. The first section will therefore look at the extent to which civil strife in different countries is in any case interconnected. The major powers hold differing views about the universality of internal conflict and the conditions that make it possible. A particular instance of strife may thus be seen to have a variety of implications for other situations of potential conflict. The nature of this interdependence, actual and perceived, is clearly a significant factor in determining states' attitudes toward the role of civil strife and therefore of intervention in international society.

A: The Interdependence of Civil Strife

Outsiders will almost inevitably be able to find some lessons in every case of civil strife and the conclusions they draw may have a bearing on the likelihood of civil conflict in their own or other countries. Every such conflict is an example showing what can be achieved under certain circumstances and by certain methods; the situation elsewhere may be sufficiently similar and the methods sufficiently appropriate to demonstrate that a rebellion could be successful. Recent history provides several instances when civil strife appears to have occurred in waves; the reform coups in Latin America, the Asian revolutionary wars in the late 1940s, the coups in the Middle and Far East in 1958 and 1960, the East African mutinies in 1964. Three possible explanations for the existence of such waves are mentioned by Huntington.¹ The first,

¹ 'Patterns of Violence in World Politics', in Huntington (ed.), Military Politics, pp.44-7.
positing the presence of a common directing force, he dismisses as manifestly insufficient; the second, which he calls 'isolated parallelism' i.e. the existence of similar but unrelated conditions in a number of countries, fails to explain the approximate simultaneity of these outbreaks; the third and, in his view, most complete explanation is that the power of example operates over and above the similarity of conditions. An outside state which wishes to prevent a particular civil conflict from serving as an example to rebels in other countries must therefore first consider the extent of the similarity in conditions and, if this is sufficiently great, intervene in order to demonstrate that the incumbent can win in such circumstances. (Alternatively, of course, the outside state may attempt to change conditions at home if it has the ability to do so.) Equally, a revolutionary movement or outside government may wish to prove that victory for the rebels is possible whatever the opposition.

It is an exceedingly difficult matter to determine whether the conditions in a country which is experiencing civil conflict are replicated in other countries to an extent which would permit rebels there to initiate civil strife; the task is even more problematical when elements of active outside instigation are also present, especially in the case of a communist movement where the power of example and the power of command are closely intertwined. What, to give a specific example, are the essential features of the post-1954 insurgency in South Vietnam which must be looked for elsewhere? Do they include the experience of alien rule by the French, the awakening of nationalism, the inadequacies and unpopularity of the regime of President Diem, the presence of an armed and organized communist minority? Or was the example of the Vietminh in North Vietnam itself an inspiration to the South Vietnamese insurgents (and how much was this dependent on the organizational relationship between the Vietminh and the Vietcong)?
The answers to these questions will depend in large measure on the theories of revolution that are held by the onlooker. Such theories may range from the one extreme of manipulation by a small number of revolutionaries to the other extreme of social forces - political, economic and psychological - operating in a grand and irreversible manner. Whatever the nature of the theory, moreover, suitable conditions for conflict tend to appear widespread; manipulation is, by its very nature, possible anywhere, while the grand theories are usually based on interpretations of existing social change. Even so, factors may exist which are unique to certain countries or regions so that comparisons are doubtful or impossible; their presence may mean that civil strife fails to occur as predicted or occurs when it is not predicted. For example, Harris has described as a 'geographical fiction' the idea that South East Asia has an identity of its own and that the states of the region are therefore similar; it is, on the contrary, divided in political tradition between south Asia and east Asia with the result that an ideology which takes hold in Vietnam may well prove alien in Laos and Cambodia.\(^1\) Finally, even if it is known what conditions would permit rebellion elsewhere, there remains the problem of discovering whether they are in fact present in other countries; it is not only in the extreme case of the coup d'etat that the task of gathering sufficient intelligence for prediction has in practice proved insuperable.

The next requirement for the intervening state is to ensure that the government it supports can retain its position against the rebels. If this is not achieved, the demonstration effect will be twofold: the rebels will provide an example of successful civil war tactics and the incumbents will have demonstrated the inadequacy of the methods it employed. If, on the other hand, the incumbent

government retains its position, a negative demonstration has been made. There is, however, no guarantee that it will have a negative effect, for rebels in other countries, even if they believe themselves in identical circumstances, may initiate civil strife in the hope that chance factors will favour them or that extra outside assistance will become available. Intervention to achieve a demonstration effect thus appears a somewhat doubtful proposition. The case of South Vietnam has nevertheless proved fruitful for those wishing to draw lessons from it.\(^1\) South Vietnam has been a proving-ground for military technology, tactics and ideas (as well as political experimentation) in much the same way that the Spanish Civil War exercised the fascist armies and air forces. In these circumstances civil war takes on an extra dimension of international competition, the participants resembling salesmen who are trying to convince bystanders of the superiority of their wares.

Little has been said so far about how the example of a successful revolution can actually influence rebels in another country. Two very broad ways can be identified without attempting to go into the realms of individual and social psychology. The first mode of influence is at the rational, intellectual level. Mao Tse-tung, for example, wrote at length on the strategy and tactics employed by the

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\(^1\) The result of an American sell-out in that country is foreseen by Thompson in the following terms: 'With the failure of Western methods of defence in Vietnam, all Western methods will be downgraded even in the political, economic and technical fields. The development of freedom and democracy through plural economic and political societies and the concept of free enterprise, will cease to be attractive because they will appear to render states vulnerable to subversive attack'. R. Thompson, No Exit from Vietnam (London, 1969), p.196. On the other side of the fence Lin Piao has reached a similar conclusion: 'The United States has made South Vietnam a testing ground for the suppression of people's war. It has carried on this experiment for many years, and everybody can now see that the U.S. aggressors are unable to find a way of coping with people's war'. 'Long Live the Victory of People's War', Peking Review, 3 September 1965, p.27.
communists in the Chinese civil war; some of this knowledge was available to Ho Chi Minh and General Giap when they began their struggle against the French; and, again, some of their precepts were learned by the Vietcong in South Vietnam. Obviously, no civil conflict - even the coup d'etat about which it has almost become possible to write a standard manual - is purely a matter of applying existing knowledge and techniques. Each civil conflict of any size generates its own tactics and possibly its own strategy; thus Mao's original doctrines were not adopted without change by the Vietminh and Vietcong. It is clearly wrong to apply unreflectively methods learned in one country to other situations; this has been the substance of the criticisms of Mao Tse-tung's position on revolution which have been made in recent years by orthodox communists (among others). Thus the Yugoslav Marxist, Kardelj, argues that Chinese policy is this matter necessarily reflects 'a specific complex of objective and subjective factors in present-day Chinese society'. The Chinese idea that the advanced countries - or 'towns' - of the world can be surrounded and defeated by the underdeveloped lands - or 'countryside' - is similarly condemned by a Soviet commentator as being largely the 'result of attempts to transplant the experience of the Chinese revolution mechanically to the international arena'. A model of revolution, therefore, requires interpretation on the part of those following it, a task which may prove beyond the capacity of some. The abortive attempts in Latin America to imitate Castro's


3 I. Shatalov, 'In a Single Revolutionary Torrent', International Affairs (Moscow), (September 1967), p.22.
revolution seem to bear this out, though naturally there are additional reasons for their failure. Indeed, as early as 1936 Mao Tse-tung himself had warned against following too closely the precepts and military manuals that had come out of the revolutionary war in Russia:

these laws and manuals embody the specific characteristics of the civil war and the Red Army in the Soviet Union, and ...if we copy and apply them without allowing any change, we shall...be 'cutting the feet to fit the shoes' and be defeated.1

The second factor in the influence that one civil conflict may have on another is at the moral and emotional level. That this involves a somewhat arbitrary distinction is indicated by Stalin's remarks on the role of revolutionary theory:

Revolutionary theory is a synthesis of the experience of the working-class movement throughout all lands - the generalised experience... But theory becomes the greatest force in the working-class movement when it is inseparably linked with revolutionary practice: for it, and it alone, can give the movement confidence, guidance, and understanding of the inner links between events.2

Knowledge in the abstract may thus be inseparably bound up with confidence in action. Nevertheless, the encouragement which one rebel group can receive from another (whether before or after the latter's advent to power) is certainly real, although intangible and difficult to assess. The most obvious example is the victory of the Chinese Communists in 1949 which undoubtedly 'stiffened the Vietminh will to fight'.3 There the effect was immediate and direct, with both Chinese and Vietnamese fighting a similar sort of war in the name of the same doctrine and with the promise of considerable material aid from the former in the near future. The effect

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3 Zasloff, Role of the Sanctuary in Insurgency, p.13.
diminishes, however, over time and distance and as differences in the situations increase. The CPSU, for instance, fifty years after the October Revolution still asserts the relevance of its experience to the communist parties of Asia, Africa and Latin America where conditions are far different from those of Russia in 1917. The Soviet appeal has in fact been diluted to cheering from the sidelines, and only occasionally does it extend to shouting advice or running onto the field. As a Soviet writer puts it:

The Socialist camp influences the working-class movement in the capitalist countries mostly by the sheer force of its example. Its support is moral support in the fight against reaction and imperialism. The success of the Socialist countries adds strength to the faith of the working people of the capitalist world in the justice of Socialism and Communism.¹

The encouragement that a revolutionary model can provide has been an important feature of the Chinese view of revolution for many years and will be discussed in some detail in a subsequent section. The Chinese case probably represents the extreme example of a revolution attempting to impress itself upon the world, but nearly every revolution that is undertaken in the name of some universal political principle manifests this tendency. Neither intellectually nor emotionally can such revolutions be ignored. If it is feared that a particular revolution will set too powerful an example, then it is likely that intervention to prevent it succeeding at all will prove a fruitless task; for the strength of its appeal seems to reflect the strength of the revolutionary movement itself.

¹ T. Timofeyev, 'The Building of Communism and the Working-Class Movement', International Affairs (Moscow), (July 1959), p.9, emphasis in original.
B: Soviet Conceptions of the Role of Revolution in International Relations

In the last years of Stalin's rule Soviet spokesmen frequently pointed out that the October Revolution had followed the First World War and that socialist revolutions in Europe and Asia had followed the second; the conclusion was that a third world war would carry socialism still further.\(^1\) This did not mean that the Soviet Union was prepared to start a war in order to achieve these results; it was rather a warning to the West that it could only expect to lose by going to war. Subsequently, however, the Soviet position has been almost completely reversed. The first steps away from the old doctrine were taken by Krushchev at the Twentieth Party Congress in 1956 when he maintained that world war was not 'fatalistically inevitable' on account of the great strength of the socialist camp.\(^2\) Thereafter, Soviet statements reveal a growing awareness that war would not lead to revolution.\(^3\) The change can be justified in doctrinal terms as a return to the idea that

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\(^1\) See, for example, Malenkov's report to the Nineteenth Party Congress in October 1952: 'The facts of history cannot be ignored. And the facts show that as a result of the First World War Russia dropped out of the capitalist system, while as a result of the Second World War a whole series of countries in Europe and Asia dropped out of the capitalist system. There is every reason to assume that a Third World War will bring about the collapse of the world capitalist system'. Cited by Goodman, Soviet Design for a World State, p.184.

\(^2\) Text in Floyd, Mao Against Krushchev, pp.229-30.

\(^3\) By 1960 an article in the CPSU journal Kommunist explicitly rejected the old notions about war and revolution: 'The working class does not think of creating a Communist civilization on the ruins of the centres of world culture, on desolated territories contaminated by thermonuclear fallout, which would be the inevitable consequences of such a war....It is therefore obvious that a contemporary nuclear war...can in no way be a factor that would accelerate the revolution and bring nearer the victory of socialism'. A. Belyakov, P. Burlatsky, 'Lenin's Theory of the Socialist Revolution and the Present Time' (September 1960), cited by R.L. Garthoff, Soviet Military Policy (London, 1966), p.194.
revolution is essentially the resolution of internal social
contradictions by forces within the society concerned;
revolution and international war are not to be confused for
the latter might create new contradictions as a result of
the vast destruction of productive resources and the stimulus
to imperialism and capitalism. These doctrinal arguments,
however, reflect a significant change in Soviet attitudes
toward the role of revolution in international relations.

The reasons for the increasing confidence of the
Soviet Union in its ability to secure peace after the
launching of the Sputnik in 1957 need not be elaborated here.
Essentially what happened was that Russia acquired a
capacity to launch a second strike at the North American
continent and this was believed to act as a strong deterrent
against an attack on itself. Once the Soviet Union had some
say in prevention of nuclear war it became possible to
emphasize the dangers of such an event, and the greater the
dangers were made out to be the more powerful was the
deterrent effect on the West expected to be. Nevertheless,

1 See E. Kardelj, Socialism and War, pp.84, 180.

2 This change is reflected in Soviet descriptions of the
distribution of world power. Before 1959 the basic term
of reference was the neutral 'distribution of power' rather
than equilibrium or preponderance. With the missile
developments of 1959-61 the most common Soviet assertion
was that a preponderance or favourable balance of power
existed, a position from which the socialist camp believed
it could determine to an increasing extent the content
of international relations. See Zimmerman, Soviet Perspectives
on International Relations, pp.165ff., 179-80. While this
claim was modified in late 1961 to one of equilibrium and
again in 1964 back to one of distribution, Russia remained
firm in the conviction that it could secure a favourable
international environment through its strategic posture.
Thus the Soviet achievement in the Cuban missile crisis was
represented (with some element of truth) as deterrence of
a U.S. invasion and preservation of the Cuban revolutionary
movement. See, for example, Khrushchev's address to the
Sixth Congress of the East German Communist Party, 16
January 1963, text in Floyd, Mao Against Khrushchev, p.353.
this position raised two problems. Firstly, some reliance had to be placed on the rationality and reasonableness of Western decision-makers. Secondly, the Soviet Union had to maintain some commitment to world revolution both in ideological and in real terms. It was not sufficient simply to proclaim support for revolution; the Soviet Union also had to demonstrate that it was providing genuine and important assistance. Clearly these two problems required policies that were to some extent incompatible but a solution was found in the 'general line' of peaceful coexistence. It amounted in essence to an attempt to separate the sphere of relations between states, which were to be kept peaceful and even amicable, from the sphere of internal politics where socialist revolution could progress freely.

The contemporary policy of peaceful coexistence originated in Khrushchev's speech to the Twentieth Congress in 1956. His fundamental proposition was that countries with different social systems could coexist without war and that relations could be improved on this basis. When Chinese views on this question subsequently diverged, the Soviet Union pointed out the dangers of a return to the cold war:

Who does not know that the ruling circles of the imperialist states exploit the situation of the cold war to whip up chauvinism, war hysteria and unbridled anti-communism, to put in power the most rabid reactionaries and pro-fascists, to suspend democracy and to do away with political parties, trade unions and other mass organizations of the working class?¹

It was also pointed out that peaceful coexistence was 'not the result of a deal, but an objective law governing the present stages in the development of society'.²

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¹ 'Open letter from the Central Committee of the CPSU to Party Organizations and all Communists in the Soviet Union', Pravda, 14 July 1963, text in Floyd, op. cit., p.438.

² G. Starushenko, 'The National-Liberation Movement and the Struggle for Peace', International Affairs (Moscow), (October 1963), p.4.
coexistence was thus represented both as inevitable between states and as simultaneously favourable to the progress of socialism within states.

The policy of peaceful coexistence requires not only that international relations be conducted peacefully but also that they be kept apart from political developments within states. Under no circumstances, therefore, can peaceful coexistence govern the relations between social classes within states. Nor can revolutionary progress be held back by the condition of international relations. Revolution, it is argued, depends on essentially internal factors and is not exportable in the same way as ballistic missiles or baggage trains. Advice and encouragement might be given from outside but the choice of the path to socialism is to be made by the people themselves. Since the causes of revolution are internal, the West cannot justifiably object to the policy of peaceful coexistence on the grounds that the Soviet Union is simultaneously provoking civil strife.

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1 See, for example, 'Open letter from the Central Committee of the CPSU to Party Organizations and all Communists in the Soviet Union', Pravda, 14 July 1963, text in Floyd, op. cit., p.436.

2 A letter from the Central Committee of the CPSU to the Central Committee of the CCP, dated 30 March 1963, maintained that: '...the working out of forms and methods of fighting for socialism in each separate country is the internal affair of the working class of that country and of its communist vanguard. No other fraternal party, whatever its membership, experience and authority, can lay down the tactics, forms and methods of the revolutionary struggle in other countries.... The enthusiasm of the revolutionary masses in the struggle for the victory of a socialist revolution cannot be kept back when objective and subjective conditions are ripe. It would be tantamount to death. But a revolution cannot be artificially instigated if conditions for it are not yet ripe.' Text in W.E. Griffith, The Sino-Soviet Rift (London, 1964) pp.248-9.
Any attempt by the West to make peaceful coexistence conditional on the non-occurrence of revolution is therefore wrong-headed and in fact impossible.¹ For revolutionary change - in accord with the most fundamental communist doctrines - is held to be inevitable in both the Third World and the capitalist West itself, and much attention has been given to the ways in which such change might occur.

It is not sufficient, however, for the Soviet Union to claim that peaceful coexistence merely permits revolutionary progress to be made; some demonstration that genuine assistance is being given must also take place. At the most general level pursuit of peaceful coexistence is formally equated with support for revolution. 'Peaceful coexistence,' according to one writer, 'does not exclude revolutionary changes in society but presupposes them, does not slow down the world revolutionary process but accelerates it'.² This formal equation is founded on the supposed common interests of the socialist camp, the international working-class and the national liberation movement which together constitute the anti-imperialist forces; whatever is in the interest of one of these must consequently be in the interest of the others for they have merged into a 'single revolutionary stream'. It is accordingly a serious heresy, one of which China has frequently been accused, to deny that such common interests exist and to maintain that the national liberation movement has distinct and possibly clashing interests of its own. To adopt this position is, in the Soviet view, to isolate the national liberation movement from its most powerful source of support - the socialist camp led by the Soviet Union.

¹ V. Matveyev, 'Wars of Liberation and Diplomacy', International Affairs (Moscow), (March 1963), p.71.
The claim that the Soviet example provides moral support for revolutionary movements is a little more specific but at some point the Soviet Union is required to acknowledge a willingness to give direct practical aid to revolutionary movements if this proves necessary. The 'duty to support the sacred struggle of the oppressed peoples' expressed in the CPSU Programme cannot be ignored entirely. Yet even in this regard serious qualifications are made in an effort to ensure that the policy of peaceful coexistence is not misunderstood. Thus an authoritative Soviet work on military strategy merely states a general duty of assistance: 'The CPSU has an international duty to aid countries in winning and strengthening their national independence, and to assist all nations fighting for the complete destruction of the colonial system'.

The revised second edition of the work mentions the giving of material support but fails to elaborate in any way: 'The Soviet Union fulfils its duty consistently and steadfastly, helping nations in their struggle against imperialism not only ideologically and politically, but also in a material sense'.

According to Soviet doctrine assistance to world revolution thus includes the relatively innocuous support of countries already independent and the widely approved aiding of anti-colonial movements. There is an obvious reluctance to make doctrinal commitments to rebellions other than anti-colonial ones and it is a reluctance which has to a certain extent been matched by practice.

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3 See, for example, Wolfe, op. cit., pp.107-8.
Such a duty, however, may be extended to creating the conditions of civil conflict in other states rather than simply assisting those rebel movements which have got under way. The Soviet Union must, for example, maintain some life in the idea that communist parties in other countries have a chance of coming to power through revolution, though it is an idea that has been steadily diluted to the point of referring to constitutional changes in some cases.

Khrushchev first introduced the possibility of peaceful transition to communism into communist dogma in his main political report to the 20th Congress of the CPSU:

There is no doubt that in a number of capitalist countries the violent overthrow of the dictatorship of the bourgeoisie and the sharp aggravation of class struggle connected with this are inevitable. But the forms of social revolution vary. It is not true that we regard violence and civil war as the only way to remake society.

At the same time the present situation offers the working class in a number of capitalist countries a real opportunity to unite the overwhelming majority of the people under its leadership and to secure the transfer of the basic means of production into the hands of the people.¹

This amounted to a doctrinal retreat on a narrow front, and it was perhaps an ambiguous retreat at that. For Soviet leaders have never been specific about which countries will experience peaceful transition; the option of revolution remains open even in those new states which have been considered the most likely candidates for peaceful transition. The example of peaceful transition to communism which is frequently held up by the Soviet Union — the events in Czechoslovakia in February 1948 — is hardly one that would be understood by Western states to be peaceful.

¹ Text in Floyd, Mao Against Khrushchev, p.230.
A more substantial contribution to the progress of revolution is perhaps to be found in the Soviet claim that it plays an important part in preventing the export of counterrevolution by the West. Peaceful coexistence, by stressing the internal nature of revolution, is held to isolate the interventionary policies of imperialism and thereby to facilitate their prevention. The Soviet Union, in other words, depicts itself as upholding the rule of non-intervention in internal conflicts:

The imperialists charge at every crossroads that the Communists export revolution. The imperialist gentlemen need this slander to camouflage in at least some way their claim to the right to export counter-revolution.

The attempts of the imperialists to interfere in the affairs of peoples rising in revolution would constitute nothing less than acts of aggression - a threat to world peace. We must state outright that in the event of imperialist export of counter-revolution the Communists will call on the peoples of all countries to rally, to mobilize their forces, and, relying on the might of the world socialist system, firmly to repel the enemies of freedom, the enemies of peace.¹

The terms of the threat were clearly that the expansion of internal struggles by the West was liable to produce disastrous consequences. It is here that Khrushchev's distinction between revolutionary and local wars comes in for the latter are regarded as subject to rapid and inevitable escalation.² By controlling these risks the Soviet Union is in a position to counter even the so-called 'small wars' doctrine developed by the U.S. in the early 1960s. This doctrine was seen as an attempt to develop a capacity to intervene against revolutionary movements within other


² The rigidity of this formula, however, has never been absolute. See Wolfe, Soviet Strategy, pp.118-24.
countries. The United States was therefore charged with the responsibility of risking world war if it resorted to intervention against the progress of revolution. To the extent that the U.S. has been deterred in this there is some truth in the claim that 'prevention of the export of counter-revolution is one of the most effective forms of aid to national-liberation revolutions by the Soviet Union'. It is also true, however, that when the United States has undertaken intervention of this kind the Soviet Union has for the most part proved reluctant to raise the risks significantly. The Soviet notion of regulating intervention in order to permit the free development of internal forces thus appears to have been forced upon it to some extent by its reluctance to initiate and promote civil strife and by its inability to check intervention by the United States.

C: The United States View of Revolution and International Order

The United States has no single body of doctrine in which its assessment of the place of civil strife in international relations is presented for all to see. In attempting to discover American notions about the relationship between civil strife and international order reliance must be placed on the words and deeds of statesmen while bearing in mind that ideas have not remained static and unchallenged in the changing circumstances of the post-war world. As far as revolution itself is concerned

1 'It was not officially admitted that the "small wars" were aimed against the peoples of Asia, Africa and Latin America fighting for independence. The theory was brought out initially simply as a way of avoiding the use of the much too destructive nuclear weapons. But the experience of the very first "small wars" of U.S. imperialism has shown that they are patently aimed against the national-liberation movement and are in no sense a substitute for nuclear war'. Y. Oleshchuk, 'Small Wars and the Aggression in Viet-Nam', International Affairs (Moscow), (May 1966), p.36.

certain themes appear to have pervaded American thinking for some considerable time. Perhaps the strongest of these is the significance attached to economic factors as an explanation of revolution, an attitude which goes back at least as far as the Russian Revolution. In 1918, for example, Secretary of State Lansing echoed President Wilson's views in describing Bolshevism as 'the madness of famished men' for which food was the 'great cure'. Since then economic development has come to be seen as a way of producing political stability and this has served as a major article of faith in American foreign aid programmes. The 'revolution of rising expectations', it is assumed, can be carried through by instruments such as the Alliance for Progress which will enable those expectations to be met. A closely related belief is that this revolution can be achieved by peaceful means since it is essentially a matter of distributing the benefits of economic growth rationally and fairly. What is more, this idea of revolution seems to have gained widespread acceptance as the desirable norm of international change to the point of regarding violent methods as per se unacceptable.

The adequacy of the economic interpretation of revolution need not be examined

1 Cited by Mayer, Politics and Diplomacy of Peacemaking, p.260.


3 On 5 July 1962 President Kennedy presented his views of the future: 'The stirrings of revolution can be felt in this hemisphere. It will either be peaceful or violent. We want it to be peaceful'. Press conference, Public Papers of the Presidents: 1962 (Washington, 1963), p.540. Some years later Senator Fulbright wrote of the dangers of excessive optimism on this score: '...we seem to be narrowing our criteria of what constitute "legitimate" and "acceptable" social revolutions to include only those which meet the all but impossible tests of being peaceful, orderly, and voluntary - of being, that is, in what we regard as our own shining image'. The Arrogance of Power (London, 1967), pp.76-7.
here except to note that it has clearly failed to fulfil its own expectations.  

Almost inseparable from this conception of revolution is the idea that outside forces can exploit economic backwardness in order to initiate and sustain civil conflict. In a large number of cases that outside element is believed to be communism which is encouraging, advising, influencing, assisting or directing the rebel movement. We are less concerned here with the degree of truth in this assumption than in the fact that it is commonly held and that certain consequences usually flow from its being held. The theme of communism as a force that exploits local aspirations and legitimate grievances has been particularly persistent. One part of President Truman's State of the Union Message in 1953, for example, has remained pertinent long after the passing of the cold war era: 'Where the forces of nationalism, independence, and economic change were at work throughout the great sweep of Asia and Africa, the Communists tried to identify themselves with the cause of progress, tried to picture themselves as the friends of freedom and advancement'. Where nationalism is present communism is believed capable of diverting and exploiting it for its own purposes, yet where it is absent communism is seen to have a free hand altogether. One of the results is that revolutions which combine communism and nationalism in some proportion have tended to meet with uniform hostility from the United States (save for the notable exception of Yugoslavia).

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The involvement of communism in revolution leads on to another theme in American thinking which concerns the means by which outside elements can guide and assist rebel movements. A number of writers have noted the Western preoccupation with the 'strategy and tactics' of world communism and the tendency to attribute to them a remarkable efficacy in the matter of overthrowing governments.\(^1\)

Certainly, there appears to have been no danger of the United States underestimating the threat of non-military activities in international relations.\(^2\) At times, even, communism itself has been seen simply as a set of techniques for carrying out revolution. This concern with methods may be part of a broader 'instrumentalist bias' in foreign-policy thinking, a tendency to see all challenges in terms of concrete problems to be solved by practical means.\(^3\) Whether or not this is generally the case, it seems to have been true of the response to guerrilla warfare in the 1960s which was regarded by many as a new weapon (or at least an updated one) in the communist arsenal for which counter-techniques had to be developed. Some writers went so far as to propose guerrilla warfare as an offensive weapon which the United States could use against communist countries. These were perhaps the more extreme reactions but they indicate the trend of much American thinking on the subject.

The themes that have been identified in American thinking about revolution are closely bound up with that


\(^2\) Speaking before the House of Foreign Affairs Committee on 26 June 1951, Secretary of State Acheson placed the methods of political manipulation on a par with the more usual weapons of war: 'The Politburo... has carried on and built on the imperialist tradition. What it has added consists mainly of new weapons and new tactics - the weapons of conspiracy, subversion, psychological and ideological warfare, and indirect aggression, and tactics skilfully designed to employ these weapons'. Department of State Bulletin, vol. XXV (9 July 1951), pp.48-9.

country's ideas about the role that civil strife plays and ought to play in international relations. The distinction between what is the case and what ought to be the case creates a genuine dilemma in the American outlook; this dilemma is less easily perceived in the actual conduct of affairs but even more troublesome. The United States proclaims support for the rule of non-intervention as a matter of principle but at the same time argues that the fact of frequent outside involvement creates strong and valid reasons for intervention on its part. In 1965 Secretary of State Rusk expressed this problem with reference to communist support for wars of national liberation:

International law does not restrict internal revolution within a state, or revolution against colonial authority. But international law does restrict what third Powers may lawfully do in support of insurrection. It is these restrictions which are challenged by the doctrine, and violated by the practice, of "wars of liberation". It is plain that acceptance of the doctrine of "wars of liberation" would amount to scuttling the modern international law of peace which the [U.N.] Charter provides.¹

But this is not the full extent of the dilemma, for in theory justifications are available for intervention that seeks to counter prior intervention by another state.

It is in practice that the dilemma emerges. The United States has found the prevention of intervention, particularly that of a covert and subversive kind, an exceedingly difficult task once an internal conflict has broken out. It has therefore seemed rational to assist incumbent governments to create political stability in their countries in order to minimize the likelihood of civil strife breaking out in the first place. But assistance of this kind cannot distinguish between the prevention of externally-inspired conflicts and the prevention of purely internal strife; its effect is to serve both of these

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causes whether they are openly avowed or not. The more obvious political and military interests of the United States in maintaining stability among its allies need not be elaborated here. American economic aid policy which dispenses funds not exceeded by any other state also contains an implicit commitment to the avoidance of civil strife. It is not simply that economic development in the recipient countries requires a measure of internal order but also that, in the American view, economic aid will have a significant and inevitable impact on the political domain. Aid of this kind, regardless of the reasons for which it is given, can only appear to be heading off internal conflict, and especially conflict involving violence and warfare. Whatever the results that have been achieved in this direction, the legitimacy of such purposes in American foreign policy has remained largely unquestioned.

The United States has also been much concerned with international rules relating to intervention, in particular defence against and deterrence of intervention. In general, it has proclaimed support for those rules which prohibit intervention in civil strife and which facilitate coping with intervention when it does occur. Probably the most important instance has been the development of the notion of indirect aggression. Essentially, this has meant that any rebellion instigated or supported from outside can be treated as an act of aggression to be dealt with in the same way as any breach of the peace. Writing in 1951 George Kennan charged that America's legalistic-moralistic approach to international affairs ignored the more subtle

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1 President Nixon, for example, explained American concern with promoting the independence of other states in characteristically ambiguous fashion: 'I mean the independence that comes with the economic strength, with political stability, and also with the means insofar as any threat internally that may occur in those countries - the ability to handle those internal problems without outside assistance, except that kind of assistance which is limited to material support....' Speech at Manila, 27 July 1969, Weekly Compilation of Presidential Documents, vol. 5, p.1040.
and covert means of undermining the independence of states.\(^1\) In subsequent years, however, the United States response to the problem of subversive intervention itself took on a markedly legalistic appearance in the sense that actions of this kind were branded indiscriminately as illegal and were to be met with the most stringent sanctions. Indirect aggression thus became in American eyes an international transgression wherever it occurred and regardless of particular circumstances. An important consequence of this approach, however, was that a rebel movement with a measure of outside support was considered to have no legitimacy at all compared with the incumbent government simply by virtue of its receiving outside aid. Given the fact that in the post-war era a great number of rebel movements have made use of external assistance, the effect of the American position has been to advocate international rules which limit the potential for internal change. The United States and the Soviet Union have both tended to see civil strife as an expression of ideological confrontation, but while Soviet policy has generally sought to increase the possibilities for internal change American policy, whether by design or by accident, has been directed toward the prevention of such change, and especially change of a violent kind.

**D: Communist China's Conception of Revolution and International Relations**

For China the cause of war in modern times is imperialism of which the United States is the most aggressive and violent representative. The nature of imperialism is eternally corrupt and can never change, even if, as has been the case in recent years, the forces for peace are predominantly stronger than the forces of imperialism and war. The way to achieve world peace, therefore, is to combat imperialism directly, relying on the masses and

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despising American nuclear blackmail. Two main points can be discerned in the Chinese position, firstly that the struggle for the defence of world peace and the national-liberation movements and the peoples' revolutionary struggles in various countries support each other and cannot be separated; and secondly that the emergence of nuclear weapons has not changed and cannot change the fundamental Marxist-Leninist principles with regard to war and peace. The function of revolution in international relations is thus to bring about the defeat of American imperialist policies, and this is a task to be pursued regardless of the apparent dangers.

The struggle between imperialism and national liberation is the most significant area of conflict in contemporary international relations:

Today the national liberation revolutions in Asia, Africa and Latin America are the most important forces dealing imperialism direct blows. The contradictions of the world are concentrated in Asia, Africa and Latin America.

The editorial goes on to assert that the main area of struggle will at some time in the future shift to the countries of Western Europe and North America, a point at which the end of imperialism will be in sight. Meanwhile, the contradiction between the socialist and imperialist camps well be significant but it will not be decisive; for the international system can only be transformed by internal struggles which must not be compromised by the foreign policies of the communist states. Thus peaceful coexistence between countries with different social systems is permissible only in strictly limited circumstances. In China's view this policy brings certain benefits in

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1 These views are fully and vigorously set out in a People's Daily editorial of 31 December 1962, 'The Differences Between Comrade Togliatti and Us', reprinted in Peking Review, 4 January 1963, pp.11,12.

that it exposes and isolates the aggressive forces of imperialism and contributes to 'a peaceful international environment for socialist construction'.\(^1\) It is, however, inapplicable not simply to class revolution but also to national liberation struggles.\(^2\) The priority thus accorded to revolution implies an obligation to assist revolution whatever the existing rules of international society and whatever controls other states might seek to place on such intervention.

'We support the revolutionary wars of the oppressed people,' the Chinese argue, 'because all these revolutionary wars are just wars'.\(^3\) The justness of a revolutionary war lies in the participation of the masses in a struggle for freedom from oppression and exploitation, and since there can be no higher principle than this it is always right to assist such struggles. The Soviet policy line of distinguishing wars according to the level of risk involved is consequently seen as a betrayal of revolution which the Soviet Union attempts to cover up by emphasizing the destructiveness of war. China, by contrast, maintains that reliance on revolution can overcome the military strength of the United States and that in any case it is not as dangerous as the Russians make out. The revolutionary, first of all, need not fear nuclear threats but should rely on his own strength:

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1 See the Letter from the Central Committee of the CCP to the CPSU Central Committee, 'A Proposal Concerning the General Line of the International Communist Movement', 14 June 1963, text in Griffith, The Sino-Soviet Rift, p. 276.

2 'It should never be extended to the relations between oppressed and oppressor nations, between oppressed and oppressor countries or between oppressed and oppressor classes, and never be described as the main content of the transition from capitalism to socialism, still less should it be asserted that peaceful coexistence is mankind's road to socialism.... Peaceful coexistence cannot replace the revolutionary struggles of the people'. Ibid., p. 275.

3 'Long Live Leninism', Red Flag, 16 April 1960, text in Floyd, Mao Against Khrushchev, p. 270.
Marxist-Leninist and revolutionary people have never been paralysed with fear by the nuclear weapons in the imperialists' hands and so abandoned their struggle against imperialism and its lackeys. We Marxist-Leninists do not believe either in the theory that weapons decide everything, nor do we believe in the theory that nuclear weapons decide everything.\(^1\)

Secondly, 'history has proved that even when imperialism is armed with nuclear weapons it cannot frighten into submission a revolutionary people who dare to fight'.\(^2\)

Revolutionary war, moreover, cannot be as dangerous as the Soviet Union claims since it has occurred more than once in recent years.\(^3\)

Now while China claims greater experience in revolutionary war and greater willingness to assist revolutionary movements than the Soviet Union, it still follows traditional communist doctrine concerning the importance of internal factors. In the first place, the question whether armed methods are to be used at all must be 'an internal affair of each country, one to be determined only by the relation of classes in that country, a matter to be decided only by the Communists of that country themselves'.\(^4\) No outside power should attempt to impose either peaceful or violent methods on a people seeking its own liberation (more specifically, the Soviet Union should not encourage the belief that peaceful transition to communism is always a possibility). In the second place,

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3. 'The Khrushchev revisionists maintain that a single spark in any part of the globe may touch off a world nuclear conflagration and bring destruction to mankind. If this were true, our planet would have been destroyed time and time again. There have been wars of national liberation throughout the twenty years since World War II. But has any single one of them developed into a world war?' Lin Piao, 'Long Live the Victory of People's War', Peking Review, 3 September 1965, p.27.
a revolutionary war must be conducted primarily by the masses themselves and must not rely on foreign aid, even that given by socialist countries; it is self-reliance that makes victory possible.\(^1\) China can thus perhaps be excused for not giving more assistance than it actually does since the main burden of revolution must be carried by the country itself. This seems to be partly a rationalization of the fact that China does take into account American military strength in determining the level of assistance to revolutionary movements, but at the same time China, unlike the Soviet Union, has openly and unequivocally identified itself with such movements, especially those in Asia. An increase in China's military power vis-à-vis the United States might thus reinforce the Chinese conception of revolution as the main determinant of international relations rather than lead to its abandonment. Nevertheless, the effects of a viable Chinese nuclear force remain uncertain in this regard; what is evident is that development so far has not caused or permitted China to move perceptibly closer to the Soviet position on the role of internal war in world politics.

The persistence of Chinese views is evident from the length of time for which they have been held. Already in 1936 Mao Tse-tung was claiming that the Chinese revolution would be a decisive factor in the world situation.\(^2\) Three years later Mao was prepared to assert that the example of 'new-democratic revolution' was 'developing in all other colonial and semi-colonial countries as well as in China'.\(^3\) There was a growing awareness of

\(^1\) Lin Piao, op. cit., p.22.

\(^2\) 'When the Chinese revolution comes into full power, the masses of many colonial countries will follow the example of China and win a similar victory of their own'. Interview with Edgar Snow, extract in Schram, The Political Thought of Mao Tse-tung, p.374.

novel elements in the Chinese revolution which were relevant to other countries as well but the influence of Soviet ideology remained predominant. This was most obvious in the continued emphasis on the proletariat as the leading revolutionary class despite its manifest weakness and small size. The Chinese revolution, moreover, was still considered 'part of the proletarian-socialist world revolution' which had 'the proletariat of the capitalist countries as its main force and the oppressed peoples of the colonies and semi-colonies as its allies'. Clearly, the Chinese Communists were as yet in no position to become an independent source of revolutionary teaching although the seeds of a new doctrine were there.

The victory of Communist forces on the mainland in 1949 promised to be a powerful demonstration of the success of Mao's revolutionary strategy; a working model could now be offered to other countries. The significance of this was not lost on the Chinese from the moment that victory was in sight. At the Conference of the Youth and Students of South East Asia held in Calcutta in February 1948, the Chinese delegation noted the special relationship between the revolution in China and the revolution in South East Asia:

the victory of the Chinese people would facilitate the struggle of the peoples of South East Asia and would greatly encourage their fight. The liberation campaign of the Chinese people cannot be separated from the liberation campaign of the peoples of South East Asia. The affinity between them is much closer than that between other regions. Effort for strengthening their unity is urgent.

It was at this conference that the new Moscow line on armed uprisings in South East Asia was apparently passed on to Asian communist leaders; the speech of the Chinese

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1 ibid., pp.329-30.

2 Mao Tse-tung, 'On New Democracy' (January 1940), ibid., pp.343, 346.

3 Cited by Brimmel, *Communism in South East Asia*, p.259.
delegation, however, indicated that this part of the world was not to be an exclusively Russian sphere of influence. India, for example, was included among those nations which could learn from the Chinese experience.\(^1\) The Chinese Communist success could be most strongly pressed in Asia but the earlier, more far-reaching thesis that Chinese methods could be used by all subject peoples to achieve their liberation was not forgotten.

On 16 November 1949, Liu Shao-chi addressed a WFTU Conference in Peking:

The course followed by the Chinese people in defeating imperialism and its lackeys and in founding the People's Republic of China is the course that should be followed by the peoples of the various colonial and semicolonial countries in their fight for national independence and democracy.\(^2\)

In June 1951 it was openly proclaimed that Mao Tse-tung had added to the 'treasury of Marxist-Leninist thought', a claim which only Stalin had made before. It amounted to

a restatement in modern terms of two of the fundamental postulates of the old Chinese view of the world: that China was the centre of civilization, the model which less advanced states and peoples should copy if they were to be accepted in the pale, and that the ruler of China was the expounder of orthodox doctrine.\(^3\)

It is perhaps more surprising therefore that China's claim to provide the example for the nations of Africa and Latin America as well as Asia should have been little heard during the 1950s than that it should be highly vociferous in the period since then. In October 1959, when the

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\(^{1}\) In a telegram to the Indian Communist Party dated 19 November 1949, Mao Tse-tung referred to the Indian people as one of the great Asian peoples, claiming that 'in many respects, her past fate and her path to the future resemble those of China'. Text in Schram, *The Political Thought of Mao Tse-tung*, p.379.


ideological clash with the Soviet Union had begun to emerge, Lui Shao-chi again argued for the general relevance of the Chinese revolution:

The Chinese revolution has a great attraction for the peoples in all backward countries that have suffered, or are suffering, from imperialist oppression. They feel that they should also be able to do what the Chinese have done.1

Clearly foreshadowed is the Chinese doctrine of the 1960s that the centre of world revolution has shifted to the countries of Asia, Africa and Latin America; it is a natural extension of the view of China as the leader of world developments.

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1 'The Victory of Marxism-Leninism in China', cited by Lowenthal, op. cit., p.145.
CHAPTER XI: ELEMENTS OF INTERNATIONAL ORDER

Civil strife has been a frequent and persistent phenomenon of the post-war world. While internal conflicts have not been absent in other periods, they do appear to have become more prominent in recent years. On the one hand, there are many new factors making for increased strife within states, whether more immediate ones - such as greater opportunities to seize power in a greater number of countries - or more deep-seated ones, in particular the "revolution of modernization" which has betokened rapid social and economic changes accompanied by severe political stresses. On the other hand, outside states have come to be closely concerned about conflicts within other countries. In many cases such conflicts include a measure of external participation, not only in that they may be instigated from outside or that rebel movements may receive assistance but also in that incumbent governments may rely on international alliances or agreements to maintain their position at home. In these circumstances it is likely that the pressures for internationalization of a conflict in some degree will prove greater than both the limitations on intervention itself and the inhibitions that states feel about undertaking it. Whether these conflicts are put down to external origins or whether they naturally and inevitably bring in outside parties, it is clear that civil strife has become an important part of international relations and a complex problem for international society.

Today there are some 130 states claiming to be sovereign and hence to have the right to be free from outside interference in the management or mismanagement of their affairs. Each is a potential arena for civil strife which, when it occurs, must be regarded as in the first place internal rather than international. Yet the reality is that internal conflicts do tend to involve outside powers and that international society does recognize certain rights of intervention, namely those based on self-defence and on the authority of the international community. The status of
sovereignty is thus under considerable pressure in the circumstances of the contemporary world. The rule requiring respect for sovereignty is frequently either disregarded or overridden by other rules; what is more, the fact that it has fallen into some disrepute may have the effect of reducing the inhibitions on intervention felt by those states which have hitherto upheld it. There may thus be some wisdom in placing less emphasis on the sovereignty of states, in particular at a time of domestic conflict, and in developing rules for governing the intervention that in any case seems likely to occur.

Not all intervention in civil strife, of course, amounts to a breach of sovereignty. There are many circumstances in which aid to an incumbent is considered proper, though perhaps fewer in which rebel movements may be legitimately assisted. These cases are generally held consistent with the maintenance of respect for the sovereignty of the state concerned. Although civil strife is in many senses a continuation of domestic politics, it is clear that outside participation is not therefore debarred completely; indeed, it would be odd to expect that all outside influences on a state should cease on the outbreak of civil strife. At the same time, most states are not content with purely neutral rules about when assistance may be properly given to an incumbent or insurgent; they are also interested in promoting the victory of one faction over the other. Civil strife necessarily involves a challenge to authority within the state and it is this that international society has found most problematical. For such reasons the rules of international law developed prior to World War I have proved incapable of governing the interventionary activities of states today.

Rules which are more relevant and which offer a greater likelihood of regulating intervention might be developed in two related areas. The first concerns the credentials of an incumbent government in inviting outside assistance during a civil conflict. There is not only the
more technical question of whether the actual request is what it appears to be but also the issues raised by the political aims that lie behind acceptance of such an invitation. Similar matters are brought up in the other area where rules might be developed, namely the conditions for the recognition of rebels. States are concerned not simply with their actual progress towards replacing the existing government but also with their political ambitions. What is required in the case of both incumbents and insurgents is evidently a certain measure of agreement on the social or political principles that ought to be promoted; it is not suggested that states are in fact likely to achieve such agreement, although there have been some steps in this direction with anti-colonial doctrines. On the contrary, states will probably continue to intervene for contentious political and social ends, but it does seem desirable to accept that any effective rules concerning invitations to intervene and the recognition of rebels would have to contain a normative element. This element would relate to the political arrangements to be made within states or to the identity of members of international society (which groups of people ought to constitute states and which not?). It is, perhaps, the latter issue where there is greater potential for agreement, but for the moment all that can be said is that the traditional rules on these matters have lost their force because they do not satisfy the concerns of states as they exist today.

Apart from the rule requiring respect for sovereignty, there are two other fundamental rules which contribute to the purposes of international society. In theory, it is possible that these rules, relating to the right of self-defence and the authority of the international community, could require actions which breach the sovereignty of individual states. In practice, too, respect for sovereignty in all circumstances has never been a feature of international politics. There are good reasons for maintaining that this is even more true of the contemporary world. The institution of self-defence has been especially
affected. It is not that internal conflicts have come to be very much more dangerous by way of direct threats to the nationals, property or territory of other states; but that the outcome of almost any conflict tends to be seen by the major powers as important to their global position. This is due in part to the fact that rival states may already be participating (or be on the point of intervening) but in part also to the nature of the ideological confrontation. Even a purely internal conflict may produce radical changes in foreign policy that arouse the concern of others; the idea of non-alignment which still survives today may be interpreted as to some extent an attempt to reduce such concerns by guaranteeing a continuity and an impartiality in foreign policy. In present circumstances it is difficult to define the proper limits of self-defence not only because of the resulting complexity in the notion of self-defence but also because the major powers are in any case prepared to act on their own assessment of the threat posed by a particular conflict. True, intervention in self-defence is a measure for guaranteeing one's own sovereignty but there is no certainty that such measures will make the sovereignty of all more secure in either the short or long term.

Intervention by the international community is less problematical, being limited in scope and in frequency. The occasions for humanitarian intervention, for U.N. action and for the maintenance of minimum standards of international conduct have been few in practice and, since they generally have a consensus of states behind them, do not release great potential for international conflict. If the international community is to play a significant role in governing intervention, it will have to be through its elaboration and development of the political and social goals that states may properly pursue. Of even greater significance may the role that regions are able to play in this regard, chiefly on account of that very homogeneity which defines their existence. Despite the many difficulties some such groups of states may prove capable
of developing both the appropriate rules and the means to enforce them.

There seems little indication that a diminution in civil strife will result either from developments within states or from international arrangements. Modernization on a global scale is unlikely to be carried through rapidly to a point where each political system is capable of dealing with pressing economic, social, ethnic and other problems without serious threat of breakdown or collapse. Offence will doubtless remain the stronger form of warfare within the state in that small numbers can initiate and sustain a rebellion even against a well-equipped and popular government (not that many states are so fortunately endowed). Nor do the internal forces for change appear to be of the sort that could be easily repressed or contained by an international concert of governments committed to social conservatism; it is evident, moreover, that most governments do not believe such a policy desirable, let alone feasible. Both the Soviet Union and China anticipate political revolution of one sort or another in the countries of the world, while the United States does not view economic development and political reform with disfavour. What is more, civil strife in one country cannot be prevented from serving as an example to others so that certain pressures for resort to civil conflict are always likely to be present as long as strife persists in some countries. Internal conflict is a problem which international society cannot simply suppress either as a practical matter or on principle, for this would be to deny far more of the meaningful content of sovereignty than does intervention in civil strife itself.

Granted that civil strife will continue to occur, it seems equally probable that intervention will also persist. The question for international society is how far it can tolerate unregulated intervention without having to change its character. It is clear that unlimited instigation of civil strife in other countries would be highly destructive of international order since governments
must generally accept each other's right to govern if they are to achieve any common purposes. Yet there are great difficulties in distinguishing between provocation of civil strife and subsequent participation in it. Some would argue that outside instigation of a conflict is impossible unless the conditions for it already exist and that the act of instigation is therefore unimportant. Others would maintain that the prospect of outside aid is itself an encouragement to rebellion and that skilled manipulation is usually capable of causing some kind of conflict. It is here that empirical investigation could throw much light on the actual dangers likely to arise from the instigation of civil strife. They are perhaps much less than is indicated by the vigour with which states are prepared to denounce activities of this kind; it may indeed be more true to say that civil strife is a cause of intervention than to say that intervention is a cause of civil strife.

If this assumption is correct save for a few instances - and the discussion of the pressures for the internationalization of internal conflicts indicates that there are some grounds for accepting it - then intervention appears in a rather less dangerous light. Thus most states could expect their sovereignty to be respected as long as they refrained from civil strife; intervention would then be in some senses a penalty for misbehaviour. Moreover, the disregard of sovereignty which may come with involvement in an existing conflict is sometimes a substitute for harmful actions which might otherwise have been taken later. This is most obvious when civil strife breaks out in the sphere of influence of a great power and one faction is intent on policies contrary to the interests of that power. Were the latter not to intervene during the course of the conflict it could be expected to take strong measures in the event of victory by the faction antagonistic to it. Such measures might be anything from interference in internal affairs to full-scale military attack but are in any case likely to amount to a breach of sovereignty. It may also be noted that, while sovereignty is a status either possessed or not possessed (political units are either members of
international society or not members), countries vary in the degree to which their hold on this status is a secure one. Those states which are sovereign more by courtesy than by virtue of their own internal capacities must expect to be subjected to international pressures of one kind or another. There seems no reason why international society should deplore disregard of sovereignty in the event of civil strife more than in other circumstances.

Intervention in civil strife may also serve a vital function in providing an area of foreign policy activity which the major powers believe relevant and important to their view of the world but which is not excessively dangerous. The issues involved in civil conflicts are frequently similar to those for which these powers are prepared to threaten the use of force against each other, even to the point of risking annihilation.\(^1\) It is not that the greater dangers of nuclear war have caused an increased concern with civil strife but that intervention would in any event have assumed an important place in the armoury of the great powers, given their ideological and political antagonisms. On the contrary, there seems to be some case for not restricting intervention lest this should lead to more immediately dangerous international activities. This argument seems all the stronger in view of the fact that it is generally the weaker countries which are subjected to intervention.

Civil strife and intervention, however, do not make up a self-contained area in the life of international society. For the very fact that the ideas of the major powers about civil strife and intervention form a significant part of their view of the world means that they cannot treat these matters as minor ones. A second factor militating against the separation of civil strife and intervention from the rest of international relations is to

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\(^{1}\) Arendt suggests that the idea of freedom has appeared in nuclear strategy like a \textit{deus ex machina} in order to justify what appears unjustifiable. \textit{On Revolution}, p.4.
be found in the pressures for such activities to expand by involving more states and to escalate to higher levels of violence. These risks can be manipulated to some extent as a means of controlling intervention but they are nevertheless risks, perhaps gaining in effect the more dangerous and devastating they appear to be. While intervention in civil strife usually consists of something less than the overt movement of regular forces across an international frontier, there is no guarantee that it will remain below this level indefinitely. On the other hand, the record indicates that intervention in civil strife does not normally lead to high levels of international violence although it may produce 'proxy' wars with outside states assisting rival factions. Conflicts of this kind, moreover, being symptoms of a deeper rivalry between states over the nature of international order, may also serve to exacerbate such antagonism.

The more that intervention is undertaken for such conflicting purposes, the more it is likely to be in breach of the primary rules of international behaviour; and the more necessary do direct controls over the activity itself appear to be. As far as international law is concerned, specific prohibitions on subversive intervention have been liberally enacted. All governments are naturally prepared to condemn such activity but they just as naturally disagree about when intervention is subversive and when not and about the circumstances in which exceptions to the rule are permitted.¹ The problem of intervention in civil strife,

¹ Before the U.N. General Assembly passed the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States by 109 votes to 0 in December 1965, the U.K. announced its abstention on the grounds that 'to put the stamp of the United Nations on a document that would be open to varying and contradictory interpretations would bring the Organization into disrepute'. Official Records, XX, 1st Committee, 1398th Meeting, S.R., para.2. Malta declined to vote at all, arguing that several states were intervening at the same time as they were voting for the Declaration. Ibid., Plenary Session, 1408th Meeting, P.V., para. 88.
moreover, appears to be of an importance and a complexity which makes simple legal regulation impractical; all cases promise to be hard cases and hence to make no law at all. Undoubtedly states do take into account in their decisions what they believe to be the specific provisions of international law as well as the more fundamental rules of international society but there is uncertainty not only about the weight which will be attached to these considerations but also about the actual content of what is to be considered.

It is the less formal controls over intervention in civil strife that must therefore be relied upon as the primary means of ensuring that the purposes of international society are promoted or at least not totally disregarded. Considerations of prudence inevitably enter into the foreign policy calculations of any state, and it is through this that a divided state and its friends can hope to limit intervention in particular cases. Efforts of this kind have helped to ensure that involvement in civil strife is usually not too overt or blatant. Thus there is some acceptance of aid given to groups of genuine exiles or refugees that are working against their government, while the despatch of regular troops still remains a serious move. The most extreme form of involvement - the threat or use of nuclear weapons - has so far been ruled out altogether, though here the legal and moral factors may have counted for as much as political and military considerations. Nevertheless, the dangers of expansion and escalation remain in the minds of those involved in civil strife and of those contemplating involvement.

True, controls of this kind are designed in the first instance to serve the interests of the states exercising them, but it appears not unusual for them to be directed also at upholding the fundamental rules of international society. On occasions, of course, such activities will detract from the measure of international order. For they consist of the whole range of means available in varying degree to all states for the control of
intervention by others. Some of these means have proved more susceptible to explicit regulation than others. Counter-intervention, for example, is generally accepted as being legitimate only within broad limits. For the most part, however, with the notable exception of certain U.N. activity, they remain uncoordinated and within the province of individual states. Moreover, these procedures are likely to vary according to the needs of each particular case and inevitably meet with differing degrees of success. Their elusive character, however, should not be taken to mean that such mechanisms of control are necessarily ineffective.

Within the not so very narrow confines set by formal and informal controls on intervention the United States, the Soviet Union and China pursue their own conceptions of international order. Despite this theoretical divergence all three have in practice maintained the distinction between internal and international politics. The Soviet Union and China have from whatever motives asserted the independence and individuality of revolution within each country and they have not considered their aid to rebel movements a departure from this position. Similarly, the U.S. begins from the assumption that internal and international politics are distinguishable, although it has from time to time maintained that a particular civil conflict displays the features and character of an international war. The U.S. has also been prepared to act on this view in some cases but in general regards such action as a departure from the desired norm. All three powers, in other words, accept the idea of a world of sovereign states (although each expects something different from them) and therefore see intervention in civil strife as a distinct activity which crosses the boundary between internal and international politics. Naturally, they find many occasions and almost as many justifications for embarking on actions of this kind but the underlying notion of a world of separate states seems firmly established. As long as intervention is distinguished from other sorts of activity on the international scene, it does not betoken
the dissolution of international society into a global politics where sovereign states have ceased to be the prime units of action.

Intervention in civil strife has become a recurrent fact with which states must live. In some cases it may accord with the clear purposes of international society, in others it will not. At all events, external participation in civil strife is a means whereby states put into practice their ideas about what these purposes ought to be. In the contemporary world states are much concerned with political arrangements adopted by others and expound a variety of principles which they sometimes seek to impose on others. Disagreement over them has been limited in various ways by the difficulties inherent in the act of intervention, by a residual respect for fundamental rules and for the specific provisions of international law and by considerations of prudence. It is easy enough to find instances where states have been able and willing to disregard these limits, but this has also been true of other international activities such as the threat and use of armed force. Intervention in civil strife is a result, and an important one, of the interdependence of states and of their unequal interaction. The problem for international society is not so much this interdependence and inequality among its members as their heterogeneity; for it is this which might lead them into actions which will destroy the fundamental rules necessary for their coexistence.
Appendix

   Resolution 290 (IV), 1 December 1949.

   The General Assembly
   Calls upon Every Nation
   
   3. To refrain from any threats or acts, direct or
      indirect, aimed at impairing the freedom, independence
      or integrity of any State, or at fomenting civil strife
      and subverting the will of the people in any State

2. General Assembly Peace through Deeds Resolution.
   Resolution 380 (V), 17 November 1950.

   The General Assembly
   
   Condemning the intervention of a State in the internal
   affairs of another State for the purpose of changing its
   legally established government by the threat or use of
   force,

   1. Solemnly reaffirms that, whatever the weapons used,
      any aggression, whether committed openly, or by
      fomenting civil strife in the interest of a foreign
      Power, or otherwise, is the gravest of all crimes
      against peace and security throughout the world.

3. General Assembly Declaration on the Inadmissibility
   of Intervention in the Domestic Affairs of States and
   the Protection of Their Independence and Sovereignty.
   Resolution 2131 (XX), 21 December 1965.

   1. No State has the right to intervene, directly
      or indirectly, for any reason whatsoever, in the
      internal or external affairs of any other State.
Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are condemned.

2. No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another State, or interfere in civil strife in another State.

3. The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

Draft Declaration on Rights and Duties of States.
(GAOR, IV, Supplement 10, Doc. A/925)

1. Every State has the right to independence and hence to exercise freely, without dictation by any other State, all its legal powers, including the choice of its own form of government.

Draft Code of Offences Against the Peace and Security of Mankind.

(GAOR, IX, Supplement 9, Doc. A/2693)
The following acts are offences against the peace and security of mankind:

4. The organization, or the encouragement of the organization, by the authorities of a State, of armed bands within its territory or any other territory for incursions into the territory of another State, or the toleration of the organization of such bands in its own territory, or the toleration of the use by such armed bands of its territory as a base of operations or as a point of departure for incursions into the territory of another State, as well as direct participation in or support of such incursions.

5. The undertaking or encouragement by the authorities of a State of activities calculated to foment civil strife in another State, or the toleration by the authorities of a State of organized activities calculated to foment civil strife in another State.

6. The undertaking or encouragement by the authorities of a State of terrorist activities in another State, or the toleration by the authorities of a State of organized activities calculated to carry out terrorist acts in another State.

6. Charter of the Organization of American States
Signed at the Ninth International Conference of American States, Bogota, 30 April 1948.

15. No State or group of States has a right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic and cultural elements.

7. Charter of the Organization of African Unity
Signed at the Summit Conference of Independent African States, Addis Ababa, 25 May 1963
The Member States... solemnly affirm and declare their adherence to the following principles:

2. non-interference in the internal affairs of States;

5. Unreserved condemnation, in all its forms, of political assassination as well as of subversive activities on the part of neighbouring States or any other State...
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