“Minimal Solidarism”:
Post-Cold War responses to humanitarian crisis

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“A society’s soundness and strength depends on each community member’s feeling of solidarity with the other community members, and the will to, in name of this solidarity, carry his or her share of the burden and responsibility for the community.”

-Dag Hammarskjöld
“Minimal Solidarism” – Post-Cold War responses to humanitarian crises

Anna Fridh Welin

The issue of humanitarian intervention presents a perennial conundrum and is one of the hottest topics in contemporary international relations. It contains aspects of both idealism and realism and is largely an issue born out of the end of the Cold War. This paper provides a theoretical and empirical evaluation of this normative shift in interstate affairs.

The vast growing body of human rights law serves as one indication that international law is changing in terms of a shift of focus, away from states, towards the international community made up of individuals. However, in absence of a formal agreement on how and to what scope international law has changed, conclusions can only be made based on the emerging, limited and fragile body of state and UN practices. If such a shift were to be accompanied by a corresponding empirical transformation, it would undoubtedly represent a huge leap forward towards a more solidarist underpinned world order. The present trends within international relations represent at least an aspiration towards some more clearly envisioned solidarity. As international actors interact, they generate new norms, but one must remember that the actors and their practices are themselves products of older norms. The present structures of international society are not ready to accommodate such change.

Human rights are important, not only because they become embedded in institutions and create new coalitions between actors, but also because they help states redefine their national interests and identities, as well as help them to choose among conflicting priorities such as sovereignty and humanity. Under the present global system, any discussion of the international protection of human rights and humanitarian intervention implies changes in both norms and practices. The theoretical part of this paper provides a framework for assessing these recent developments by determining first, how and why values are shared, and what these values need to be in order for international society to be categorized as solidarist. The empirical part then moves on to assess state and UN practices in order to conclude if solidarism is a reality in today’s international society.

In this paper, I argue that there is an international consensus in terms of a right to humanitarian intervention in cases of threats against international peace and security and where the UN S.C has given its authorization. Furthermore, even though not clearly establishing any such right to intervention, cases like East Timor, northern Iraq and Kosovo point to a normative shift where the redefinition of the concept of sovereignty might become a reality. This new consensus is a product of mainly three recent developments: a more expansive interpretation of the S.C on what constitutes a threat to international peace and security, the revolution of information technology that has heightened awareness of conflict and suffering, and the increased robustness of international human rights norms. While diversity continues to characterize the 21st century, there is a greater degree of consensus on the meaning of sovereignty and human rights today than most pluralists suggest. Nevertheless, the practical behaviour of the international community shows that the commitment to solidarism remains minimal.
Keywords
Solidarism, minimal solidarism, human rights, humanitarian intervention, international society, post-Cold War, normative shift, international relations, international community, humanitarianism.
ABSTRACT

The issue of humanitarian intervention presents a perennial conundrum and is one of the hottest topics in contemporary international relations. It contains aspects of both idealism and realism and is largely an issue born out of the end of the Cold War. This paper provides a theoretical and empirical evaluation of this normative shift in interstate affairs.

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I dedicate this paper to my dad, the late Conny Fridh, who continues to be an inspiration and a role model in all my academic achievements as well as in life.
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<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>AFL</td>
<td>the Armed Forces of Liberia</td>
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<tr>
<td>CAT</td>
<td>the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</td>
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<tr>
<td>CEDAW</td>
<td>the Convention on the Elimination of Discrimination Against Women</td>
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<tr>
<td>CRC</td>
<td>the Convention on the Rights of the Child</td>
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<tr>
<td>ECHR</td>
<td>the European Convention on Human Rights</td>
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<tr>
<td>ECOWAS</td>
<td>the Economic Community of West African States</td>
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<tr>
<td>EU</td>
<td>the European Union</td>
</tr>
<tr>
<td>ICC</td>
<td>the International Criminal Court</td>
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<tr>
<td>ICCPR</td>
<td>the International Covenant on Civil and Political Rights</td>
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<tr>
<td>ICERD</td>
<td>the International Convention on the Elimination of All Forms of Racial Discrimination</td>
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<tr>
<td>ICESCR</td>
<td>the International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>ICISS</td>
<td>the International Commission on Intervention and State Sovereignty</td>
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<tr>
<td>ICJ</td>
<td>the International Court of Justice</td>
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<tr>
<td>ICRMW</td>
<td>the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</td>
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<tr>
<td>IGO:s</td>
<td>Inter-governmental Organizations</td>
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<tr>
<td>IO:s</td>
<td>International Organizations</td>
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<tr>
<td>NATO</td>
<td>the North Atlantic Treaty Organization</td>
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<tr>
<td>NGO:s</td>
<td>Non-governmental Organizations</td>
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<tr>
<td>OAS</td>
<td>the Organization of American States</td>
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<tr>
<td>OIC</td>
<td>the Organization of the Islamic Conference</td>
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<tr>
<td>OSCE</td>
<td>the Organization for Security and Cooperation in Europe</td>
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<tr>
<td>RO:s</td>
<td>Regional Organizations</td>
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<tr>
<td>RPF</td>
<td>the Rwandan Patriotic Front</td>
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<tr>
<td>S.C</td>
<td>the UN Security Council</td>
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<tr>
<td>TNA</td>
<td>Transnational Actors</td>
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<tr>
<td>UDHR</td>
<td>the Universal Declaration on Human Rights</td>
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<tr>
<td>UN</td>
<td>the United Nations</td>
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<tr>
<td>UNAMIR</td>
<td>the UN Assistance Mission to Rwanda</td>
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<tr>
<td>UNHCHR</td>
<td>the UN High Commissioner for Human Rights</td>
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<tr>
<td>UNITAF</td>
<td>the Unified Task Force</td>
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<tr>
<td>UNISOM</td>
<td>the UN Operation in Somalia</td>
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1. INTRODUCTION

“[T]he political realist thinks in terms of interest defined in power, [...], the lawyer, of conformity of action with legal rules, the moralist, of conformity of action with moral principles.”

This quote by Morgenthau, points to the historical attempts to separate law from politics; however, the increased attention to human rights and the development of international law in contemporary international society has come to challenge this distinctive separation between international morality, law, and politics.

Over the last decades, a strong consensus of support for the concept of human rights as a guide to ethical international policy-making has been generated, resulting in a shift of analysis away from realist study of power towards a focus on normative human rights theory. This evolution has been welcomed because it brings up the issue of morality in contemporary international relations, theorizing not only about what is, but also of what ought to be. Certain moral precepts, such as justice, and equality forms the centre of this critique aimed towards the existing international order. This paper is an attempt to assess the normative status of international society, i.e. the devotion to solidarism, when it comes to cases of humanitarian intervention, by framing it by recent relevant developments and state behaviour in this area. Are we any closer to delivering an ethics of solidarism in international society spoken of in the quote by Dag Hammarskjöld?

Human rights emerged within the context of political liberalism and initially were expressed as claims of individuals against the state. It inherently suffers from the problem of cultural relativism and little consensus has been established on what really constitutes human rights. However, “despite divergent theories, competing ethical and philosophical justifications, and contested interpretations of human rights”, there is a widespread political acceptance that such rights are legitimate and provide a basis for claims both on the national and the international level. This political agreement is evident first and foremost in the significant body of international human rights law that has been developed through different treaties mainly since the end of World War II. Furthermore, a membership in the United Nations (UN) requires states to promote human rights both domestically and internationally.

In an anarchic international system where states remain the most important actors, the promotion of human rights, and more specifically the more active protection through forcible intervention, becomes a complex problem. In pursuing a humanitarian foreign policy, especially when using coercive force, states are often left with a fundamental choice between political autonomy or human rights, between sovereignty or the alleviation of suffering. This tension has been illuminated throughout history, perhaps most visible in the cases of northern Iraq in 1991 and Rwanda in 1994. Human rights and humanitarian intervention undoubtedly

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pose as two of the more complex and controversial problems within international relations today, and highlights “the conflict between order and justice at its starkest”\textsuperscript{5}.

The end of the Cold War brought about a shift in the international environment; the absence of supranational conflict and the spread of human rights awareness altogether altered the classical conception of international relations. The increased willingness to use force to safeguard humanitarian values has been reflected in the multitude of interventions, and reflects a shift in international relations: moving away from the claims of states towards the claims of individuals.

The growth in human rights awareness and the increased focus on international law implies changes in the underlying normative content of the international environment. One of the most comprehensive analyses on the normative content of international society has been presented by Hedley Bull, providing for the “pluralist” and the “solidarist” conception of international society.\textsuperscript{6} Together with writers such as Wight, Vincent, and more recently Wheeler and Dunne, Bull is associated with the English school of thought within international relations. Traditionally, the English school tradition builds on three different divisions: international system, international society, and world society. A deeper analysis of these three divisions, and more specifically the relationship between them, provide us with the basis for a revised and more informed understanding of contemporary international society.

The promise made by solidarism may indeed, as Bull himself noted, be premature; yet, developments within human rights law and increased moral awareness points to at least a partial development towards a more solidarist underpinned international order.\textsuperscript{7} Solidarist considerations as ideally expressed through a “world society” are crucial in understanding how, and why, international society itself has, or even can, develop beyond a mere basic organization of international life.

Solidarism can be used as a synonym for cosmopolitanism, but in this paper solidarism represents a high degree of shared norms, rules and institutions between states in the international environment, where the focus is on cooperation rather than coexistence. Developing the idea of solidarism, within the confines of international society, can help us form a more informed and layered understanding of the status of human rights and humanitarian intervention in today’s international society. In other words, we might ask: have human rights and the practice of humanitarian intervention brought us closer to a solidarist international society? In this paper, I argue, that the key to solidarism lies in developing international law, and that it is within a “minimalist” conception of solidarism we can best understand post-Cold War responses to humanitarian crisis.

1.1 Aim and research questions

The general aim of this thesis is to understand and interpret the concept of solidarism, placed within a broad theoretical framework. In the case of change, or transition, of the international environment towards solidarism, such changes cannot be fully understood without setting up a framework that puts it into a broader historically and systematically context, and connects to the underlying political-legal framework of the modern international system. It is in this aspect, the idea of international society, and that of world society, grounded in the English school tradition, fills an important role. The theoretical part of this thesis therefore concentrates on defining the variables upon which solidarism depends, with the special focus on the role of international law.

The more specific aim of this paper is an attempt to assess the normative status of contemporary international society. The developments within international human rights law and the interventionism following the end of the Cold War, indicates an increased solidarity. Solidarist writers have, with very few exceptions, put unwarranted emphasis on human rights and its posed tension with the concept of state sovereignty, which has created several arguments along the lines of what might be called cosmopolitan solidarism. The distinction between a world society composed of individuals, and an international society composed mainly of states is a complex issue, specifically highlighted in the issue of human rights; however, the relation between the two might prove useful in developing a more insightful view on international society; a view more susceptible to finer distinctions between different types of normative environments and more sensible to endogenous changes. By expanding our understanding of international society, we become better equipped to assess changes in the normative environment. Solidarism as such, is not limited strictly to human rights; it implies a certain level of interconnectedness within a variety of areas, out of which human rights are only one, albeit an important one. Choosing human rights and humanitarian intervention as a topic for this paper, is not an attempt to limit the concept of solidarism, but rather an attempt to shed some light on the practicality of solidarism and the realities of today’s international relations.

In order to fulfil these aims, I try to assess the legitimacy of human rights and humanitarian intervention, and to link these normative developments to a more “solidarist” view of international society, by relating the idealism inherently noticeable in the idea of solidarity to the practice and reality of humanitarian claims and actions within international society.

The framework provides for two more specified questions to be analyzed in relation to the idea of solidarism and its relation to humanitarian intervention:

1. On what basis are claims of human rights and humanitarian intervention put forward, and what solidarist “standards” do such claims appeal to?
2. How well are such solidarist considerations expressed in reality?

The first question helps us identify the moral, political and legal reasoning behind human rights claims, whereas the second question, allows for further interpretation by measuring how well the actual political behaviour and justifications surrounding claims of humanitarian intervention, measures up to such standards.
1.2 Delimitations

As said above, the aim of the thesis is to reach a greater understanding of the idea of solidarism in contemporary international society when it comes to issues of human rights and humanitarian intervention. A more detailed analysis of human rights, their universality, and the contradictions between different comprehensions, will therefore fall outside the scope of this thesis. Likewise, interventions for other purposes than humanitarian, and issues of distributive justice, are not covered in this paper.

This paper addresses the normative structures of contemporary international society and its responses, or “non-responses” to humanitarian crises, and for this purpose, focus has been put on interventions in the post-Cold War period.

1.3 Structure of the paper

Chapter 1 “Introduction”: This chapter introduces the aim and the research topics of the thesis. Methodological concerns are presented and described, along with a review of relevant literature.

Chapter 2 “Theoretical Framework”: Chapter 2 lays out the theoretical framework for analyzing the “degree of commitment” to the solidarist claims embedded in human rights and humanitarian intervention. The basis of the theoretical framework will be constructed using an enlightened constructivist approach building on the English school tradition, and the chapter entails development of solidarist and pluralist “standards”, in order to gain a more comprehensive understanding of the normative content of international society.

Chapter 3 “Human Rights and International Law”: The chapter will serve as an introduction to the topic of human rights and humanitarian intervention, and is devoted to key concepts relating to the analysis to be made, and provides a brief overview of the UN Charter framework and the human rights doctrine.

Chapter 4 “Analysis: The Commitment to Solidarism in Contemporary International Society”: The analysis in chapter 4, will be devoted to investigating how well solidarist concerns has been expressed in post-Cold War humanitarian interventions. Empirical data will be presented and analyzed through case studies in order to assess the normative status of contemporary international society according to the theoretical framework outlined above.

Chapter 5 “Conclusions”: In a concluding chapter, the result of the analysis is presented. In addition, this chapter contains recommendations for further research.
1.4 Methodology

1.4.1 A Qualitative, Normative and Constructivist Approach

The framework for this paper rests mainly within a qualitative method. Generally, distinction between qualitative and quantitative methods is drawn in two ways: first, between a concern for either numbers or words, and secondly, between a focus on behaviour and a focus on meanings. However, qualitative research often entails the examination of behaviour in context, and thus, is not limited strictly to a focus on meanings. Quantitative methods are often associated with positivism, i.e. it is underpinned with “the belief that only that which is grounded in the observance can count as valid knowledge”. In contrast, qualitative methods often stress the dynamic, constructed and evolving nature of social reality through interpretation. Hence, the ontological view is in this paper based on constructivism rather than positivism.

Qualitative research is, according to its critics, neither replicable nor comparable, and therefore suffers from unrepresentability. Unlike quantitative research, it produces “soft” unscientific results. However, what qualitative research offers is often alternative accounts of social reality and leaves practitioners better informed, and helps them understand or address problems with which they are confronted. Qualitative methods are specifically concerned with the importance of the contextual understanding of social behaviour. When it comes to the practice of humanitarian intervention in contemporary society, a qualitative method is exceptionally compelling for its recommendation that we cannot understand the behaviour of states other than in terms of the specific environment in which they operate. A qualitative methodology and a constructivist approach are appropriate for the topic of this paper because the focus is put on “deeply understanding specific cases within a particular context” rather than in hypothesizing about generalizations and causes across time and space.

International relations theories can be sorted into two general types of theory, “those theories which seek to offer explanatory accounts of international relations, and those that see theory as constitutive of that realm”. As the wording implies, explanatory theories explains and describe, whereas constitutive theory, tries to understand, or to interpret, international relations, and thus builds on methods of social science.

“The notion that social reality can be understood through purely empirical investigations into behaviour, which can then be the basis for casual hypotheses and prediative models, ignores the fact that human conduct and social relations are permeated with beliefs and ideas embodied in our language and in the character of social relations.”

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11 Ibid, p. 204.
13 Ibid., p. 278.
This statement initially builds on Winch’s model of social scientific investigation, and is aimed at interpretation, rather than causal explanation. The social behaviour is determined by what shared understandings, beliefs and conceptions that is reflected in our common, constitutive rules. Our common practices and institutional arrangements, becomes important, as social action

“can be made intelligible by inquiring into the conceptual structures embedded in the cultural and institutional settings that contextualize conduct and provide people with reasons for acting.”

Constructivists claim that meaningful behaviour is only possible within an intersubjective social context; through norms and practices, states develop their international relations. And since structure is meaningless without some inter-subjective set of norms, anarchy as a structural component of traditional international relations theories is meaningless. Thereof, the famous claim made by Wendt, “anarchy is what states make of it”. Constructivism focuses on interests and identities and leaves us better equipped to understand phenomena within international relations.

Traditional international relations theories do not take into account changed contexts or changed opinions, leading to imprecise and perhaps inaccurate results. In addition, positivistic thinking lends to no normative theorizing, it remains fixated on what is, and thus leaves little room for moral improvement, or for a future likely to approximate a public order of human dignity. Traditional IR theory treats world politics as undifferentiated by either time or territory, and the failure to account for the dynamic character of interstate relations, leads to an unsatisfying understanding of the world. The statement that normative assumptions underpins any conception of society, today meets little argument, and it is for re-emphasizing this normative content that constructivism has been welcomed as an approach to contemporary international relations.

1.4.2 Ideal types as a “Method”

The notion of the ideal type was developed by Max Weber as a key conceptual tool against which reality can be measured. Ideal types are constructed out of certain elements of reality, and construct “a logically precise and coherent whole”, which can never be found as such in reality. Moreover, ideal types do not refer to a moral ideal, as it can consist either of “good” or “bad” constructs. Ideal types, thus, are human constructs, and represent human attempts to conceive reality.

Weber himself stated that,

“An ideal type is formed by the one-sided accentuation of one or more points of view and by 
the synthesis of a great many diffuse, discrete, more or less present, and occasionally absent 
concrete individual phenomena, which are arranged according to those one-sidedly emphasized 
viewpoints into a unified thought-construct”.23

Different ideal types, as a system of interconnected concepts, can serve as a “theory” for 
studying a particular phenomenon. It is not a theory in the usual sense, as it does not provide a 
conceptual representation of reality that will be either true or false. However, ideal types 
specify distinct features, all of which are not found in each specific case, they are only “more 
or less present”, against which we can be allowed to “measure” reality.

In this paper, I have chosen to adopt solidarism and pluralism as ideal types in order to 
identify the variables necessary to come to any conclusions on the normative content of 
contemporary international society.

1.4.3 Case studies

Humanitarian intervention problematizes the relationship, and sometimes tension, between 
central tenets within international relations today: order, justice, solidarism, individual and 
state sovereignty, and human rights and obligations.24 A key test of the “degree” of solidarity 
among states is to investigate how far humanitarian intervention is perceived to be a 
legitimate practice among the collective of states.25

The empirical part of this paper will be devoted to studying the cases of post-Cold War 
responses to humanitarian crisis. However, the cases presented in this paper in no way 
provide an exhaustive list of humanitarian crisis. The multitude of humanitarian interventions 
has escalated since the end of the Cold War, but such interventionist practices takes place 
against the backdrop of other post-Charter interventions, such as India in East Pakistan in 
1971, Vietnam’s war against Pol Pot’s regime in Cambodia in 1978, and Tanzania’s 
overthrow of Idi Amin’s rule in Uganda in 1979.26

In assessing solidarism in contemporary international society it is of great importance to look 
at different types of action and non-action in form of international, regional and national 
responses. The interventions in Liberia, Somalia, northern Iraq27, Yugoslavia28 and Rwanda 
are examples of forcible intervention and provide the basis for the case studies. Liberia, 
Somalia, and, in addition, Sierra Leone provides us with example of a fairly recent 
phenomena of so-called weak or “failed” states. All of the above cases represents both 
“failures” and “successes” of the international community to respond to humanitarian crisis,

26 Buchanan, Allen (2003), “Reforming the international law of humanitarian Intervention, in Keohane and 
Holzgrefe, (eds.) Humanitarian Intervention: Ethical, Legal, and Political Dilemmas. Cambridge: Cambridge 
University Press, p. 130.
27 This refers to the so-called “Kurdish crisis” in the beginning of the 1990’s.
28 The Bosnia-Hercegovina case is in this paper refered to as the case of Yugoslavia, whereas the more recent 
case of humanitarian crisis in former Yugoslavia is refered to as the case of Kosovo.
and along with the case of Kosovo and East Timor, and the prevalent situations in Darfur\textsuperscript{29} and Chechnya, provides a good basis for evaluating international society’s commitment to solidarism.\textsuperscript{30}

In assessing a normative shift in international relations, it is also important that conclusions are not drawn upon single precedents. The reasons and special circumstances surrounding each case of humanitarian intervention varies, and it is therefore important to include a higher number of cases in order to extract commonalities from which general trends can be concluded.

The paper, thus, have both a theoretical and an empirical part. The theoretical part consists of an attempt to reconstruct solidarist international society theory, and builds upon English school theory, as presented mainly by Buzan. Different variables or features, upon which solidarism depends, are extracted and further developed in order to serve as the framework for the analysis.

The empirical part of this paper is devoted to trying to trace the aspirational as well as the empirical development of solidarism. For this purpose, legal treaties, other conventions and the claims put forward as expressions of the ambitions of international society will be studied, along with selected cases of responses to humanitarian crisis. Using a multistrategy approach, conceptualizing of solidarism and a norm of humanitarian intervention in theory and supplementing it with studies of legal treaties and case studies, helps in overcoming some of the weaknesses normally associated with a qualitative approach.

1.5 A review of relevant literature

1.5.1 Theoretical literature reviewed

The theoretical framework of this paper rests mainly within normative theory and constructivism, largely associated with the works of writers of the English school of international relations. Two essential books for this paper has been \textit{The Anarchical Society}\textsuperscript{31} by Hedley Bull and Buzan’s \textit{From International Society to World Society}\textsuperscript{32}.

Part of the theoretical review has also been made by secondary reviews, which are mostly related to the work of Hedley Bull, by writers such as Watson\textsuperscript{33}, and more contemporary writers like Wheeler and Dunne\textsuperscript{34}.

\textsuperscript{29} Darfur is the Western region of Sudan.

\textsuperscript{30} “Bad neighbourhoods” where future intervention might become an issue are not confined to the cases of Chechnya and Sudan. For a greater analysis, Ignatieff, Michael (2003), “ State failure and nation-building”, chapter 9 in Holzgrefe and Keohane (eds.) \textit{Humanitarian Intervention: Ethical, Legal, and Political Dilemmas}. Cambridge: Cambridge University Press.


1.5.2 Empirical literature reviewed

The list of works on the contemporary responses to humanitarian crisis, are extensive and cannot all be accounted for in this paper. For an overview, I have used Ramsbotham and Woodhouse’s *Humanitarian Intervention in Contemporary Conflict*\(^\text{35}\) and Murphy’s *Humanitarian Intervention: the United Nations in an Evolving World Order*\(^\text{36}\).

This have been accompanied by case studies and complemented by secondary article reviews on cases of humanitarian intervention, some of the more influential ones being the articles by Vesel\(^\text{37}\), and the one by Nanda et al.\(^\text{38}\) The empirical data, thus, contains rhetorical statements as well as actual state behaviour and is supplemented with writings and reports on the evolution of a norm of humanitarian intervention.

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2. THEORETICAL FRAMEWORK

“[T]heories do not simply explain or predict, they tell us what possibilities exist for human action and intervention; they define not merely our explanatory possibilities, but also our ethical and practical horizons.”

Chris Brown identifies three main areas of debate in contemporary normative theory: the autonomy of the state, the ethics of the use of force, and international justice. Human rights and humanitarian intervention perhaps more strikingly than other issues, bring these three areas together. As pointed out, humanitarian intervention cannot be fully understood solely within the specific human rights regime. For a richer understanding of humanitarian intervention, it becomes necessary to complement the solidarist and idealist features of human rights with a more thorough understanding of international society itself. For this purpose, the English school of thought becomes a good starting point, providing a model of international relations based on international system, international society and world society.

2.1 The Idea of International Society

The idea of international society dates back to the writings of Grotius and is “rooted in the classical legal tradition and the notion that international law constitutes a community of those participating in the international legal order”. The concept of international society has come to be associated with the English school within international relations.

The central thesis of this approach is that state behaviour can neither be explained, nor understood, without reference to the rules, customs, norms, values, and institutions that the international society is comprised of. It is for re-emphasizing this normative content, that constructivism has been welcomed as an approach to contemporary international relations, as neither realism nor liberalism critically addresses the underlying normative presumptions of the anarchical order they work within. States, and therefore also the idea of a society of states, are in an important sense fictions, whose status depends on the willingness of people to believe in, or accept, their reality.

In contrast to realist thinking, constructivism first of all sees actors as deeply social and not atomistic agents, secondly sees interests as endogenous to social interaction, and not exogenously given, and last, sees society as a constitutive realm, and not a strategic. Identity, interests and especially norms, then, becomes central to understanding state behaviour. As expressed in the writings of Ruggie,

“the building blocks of international reality are ideational as well as material...At the level of the international polity, the concept of structure in social constructivism is suffused with ideational factors. There can be no mutually comprehensible conduct of international relations, constructivists hold, without mutually recognized constitutive rules, resting on collective intentionality.”

According to Reus-Smit, normative structures shape actors’ identities and interests, and indirectly state behaviour in three different ways: through imagination, communication and constraint. First of all, non-material structures, such as norms and ideas, conditions what actors considers as necessary and possible, both practically and ethically. In regard to communication, normative structures influence what is perceived to be legitimate. As a result, states will appeal to established norms of legitimate conduct when trying to justify state behaviour. Normative structures, according to constructivists, also put constraints on actors’ behaviour. Realists and liberalists argues that ideas functions only as rationalizations and for dressing up the underlying desire of power, whereas constructivists claim that institutionalized norms through their moral force can itself constrain state behaviour. In other words, there is a case for promoting the idea of international society “on the ground that it constructs a way of thinking about international relations that, if widely adopted, would have beneficial effect on the practice of how states relate to each other”.

Through state practice, states generate certain norms of behaviour or shared expectation, and these norms are as much a part of the structure of international society as material elements. Norms and practices are seen as mutually constitutive; norms are factors in determining the nature and shape of international relations and feeds into state practice. State practice then in turn shapes and determines the primary institutions, such as international law, war, and the balance of power.

First, we set out to examine the distinction between international system and international society, and second, the relationship between international society and world society. Both these are central in understanding how international society has developed and how it could and even may be developed.

2.1.1 International System and International Society

In an international system, the political units are states or independent political communities, among which significant interaction takes place and that are structured according to some ordering principle. According to Bull, significant interaction is action such that the behaviour of one actor is a necessary factor in another actor’s calculations. The idea of an international system is a more basic, and prior, idea than that of an international society, where international society is defined as being “a group of states […] which not merely form a

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48 Björkdahl, Anita (2002) “From Idea to Norm-Promoting Conflict Prevention” in Lund Political Studies 125, Department of Political Science, Lund University, p. 158.
system, in the sense that the behaviour of each is a necessary factor in the calculations of others, but also have established by dialogue and consent common rules and institutions for the conduct of their relations, and recognise their common interest in maintaining these arrangements”.51 The usage of international system within the English school theory is closely related to that in realism, “being about power politics amongst states within a political structure of international anarchy”52.

Bull asserts that the idea of international society is closely related with the idea of order, where order means “an arrangement of social life such that it promotes certain goals or values”53. According to Bull, an international society exists,

“when a group of states, conscious of certain common interests and common values, form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another and share in the working of common institutions.”54

Similarly, Martin Wight argues that international society is “a system of relationship that promotes certain common purposes”55. Although offering accurate assumptions on the centrality of order, it does not give much guidance as to what degree or what type of interaction is necessary for a system to turn into a society.

The institutions held to foster this international order are, besides the balance of power, war, diplomacy, international organizations and perhaps most significantly, international law. Both the system approach, as well as the society approach, stresses the importance of international order, however, they differ in their views on how order is created and fostered. Within the state-system approach, international law is the product of states and has no constitutive effect. On the opposite, the existence of an international society in many ways conditions the behaviour of states; it is constitutive and international law therefore has decisive effects on state behaviour.

2.1.2 The Gemeinschaft and Gesellschaft Conceptions of International Society

International societies can come into being in two ways: either by developing or by being created. These account for the gemeinschaft and the gesellschaft conceptions of society.56 The gemeinschaft conception sees society as being developed from something, such as bonds of common identities and sentiments, and thus is a historical and traditional view. The gesellschaft conception is based on the notion that society is something constructed and thus is made up of acts of will rather than acts based on a common bond. As noted by Buzan, “whether or not units share a common culture, at some point the regularity and intensity of their interactions will virtually force development of a degree of recognition and accommodation among them”.57 Although some gemeinschaft element are necessarily inherent, the functional view, more in accordance with gesellschaft understanding of society, is better suited for explaining contemporary international society. The pre-existence of a common culture, or identity, is therefore not a necessity for an international society to come

into being; however, it might be a necessary element in further developing the international society beyond a rather basic notion.

According to the functional, or gesellschaft, view, the inevitability of relations between units in the system creates a minimum necessary condition: a common desire for order. By adopting and developing common rules and institutions, states to various degrees become conscious of common values, hence developing beyond a mere state-system and becoming an international society. According to Buzan, the development of international society is a response to the problem of disorder in an anarchic system, as well as to the specific problems posed by an increased interaction, as it is seen as the minimum condition for the effective functioning of the society.

The problem with adopting international society as a gesellschaft construction is that it neglects the notion of a common identity that remains central to the concept of a society. In a gemeinschaft society, a shared identity is often rooted in a historically shared culture. In a gesellschaft society, on the other hand, a shared identity can be created either by units that by functioning under anarchy has become more alike and hence develop the same type of entity among each other, or by unlike units accepting a common set of rules that legitimizes the differentiation of units and establish the distribution of rights and responsibilities among functionally differentiated actors.

An international society coming into existence through civilization, is perhaps more powerful and less fragile than a society developed through a functional model; however, given the multicultural character of contemporary international relations, any global international society must have strong gesellschaft elements. The threshold between international system and international society is, at a minimum, some basic societal relations between different units. “By accepting other as sovereign equals, states form the sense of community among like units that is the essential ingredient of any society”. This mutual recognition affirms the anarchic structure and opens up for international law and diplomacy as ways of ordering relations between states and for reproducing the idea of international society.

In constructing a theory of international relations, we need to be conscious of the element of society discussed in the previous part of this paper. As suggested by Buzan, today’s international society is a hybrid; it steams partly from the gemeinschaft society developed in modern Europe and partly reflects a gesellschaft process by which different units in the system has increased their level of interaction.

2.1.3 International Society and World Society

The distinction between international society and world society is mainly done according to the units. The international society takes states, or other political units, to be the primary unit of the society, whereas a world society takes individuals, non-state organizations and the

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61 Ibid., p. 336.
62 Ibid., p. 346.
63 Ibid., p. 349.
global population “as the focus of global societal identities and arrangements”. The question of how the idea of international society and the idea of world society relates to each other, can help us in gaining a more advanced understanding of international society ranged along various degree of development, from basic to highly developed.

How the idea of world society relates to international society, however, depends on whether one adopts the gemeinschaft or the gesellschaft view of international society. In the former, some element of world society is a precondition for international society itself, whereas in the latter there is a possibility to imagine international societies to exist, although at a fairly primitive level, without any elements of a world society.

World society is associated with idealism, whereas international society in the post-colonial era has been mainly associated with realist and pluralist thinking, and has revolved around the centrality of the state and the role of an anarchic structure. Human rights and humanitarian intervention is interesting because it implies a commitment to individuals rather than states, but according to Bull, the extension of international law to subjects other than states, serves to undermine sovereignty and challenging the basis for the international order. Linklater follows the same line of arguing, saying that human rights and human development mount an assault on the state.

This view of the relationship between world society and international society and the irreconcilability of the rights of the state and the rights of the individual have impaired the development of a more solidarist international society. The problem of establishing universal human rights and the unlikeliness of a “world government” points to the importance of developing solidarity as a feature of international society, looking at human rights and humanitarian intervention as something that can happen within international society, not in conflict with it. As both Manning and Wight recognizes, the basis of international society lies “both in the recognition of similarities between political units and in a general sense of common humanity”. Developing international society in a more solidarist fashion therefore assumes parallel developments of world society elements. Thus, “international society provides the political framework”, whereas world society “provides the gemeinschaft foundation without which international society remains stuck at a fairly basic level”. Furthermore, this view supports the view on developing international law as the key to solidarism.

2.2 Normative Structures in International Society

The normative structures in international society are important because “normative standards shape identities, interests and behaviour by communicating the scope of a state’s entitlement,
the extent of its obligations, and the range of its jurisdiction”.

International norms, rather than representing an average behaviour, are “regularities commonly believed to oblige general conformity” by the members of the international society. Because norms only exist in relation to human beings, measurement is difficult.

Normative and constructivist theory, however, along with the development of pluralism and solidarism as ideal types, provides a promising approach to increasing understanding on the position of human rights and the legitimization of humanitarian intervention, by relating actual state practice to underlying societal mechanisms and structures.

2.2.1 Pluralism and Solidarism: Society vs. Community

Hedley Bull is perhaps the most influential writer on the normative content of international society, and was the first to identify the two different conceptions of international society: pluralism and solidarism. Both pluralist and solidarists agree that the state system is actually a society of states, including commonly agreed values, rules and institutions. Nevertheless, the two conceptions differ in their normative content.

Looking more closely at these conceptions of international society, some conclusions can be made. True, as noted by Bull, Vincent and Jackson, solidarism rests on the idea of solidarity, which implies a unity of interests and sympathies amongst a set of actors, and that this unity is of a type sufficient to generate capability for collective action. Hence, in general, solidarism is about both the number of shared values and the types of values shared. These types of values are either pluralist, based on co-existence, or solidarist, based on cooperation. Pluralist and solidarist conceptions also differ when it comes to why and how values are shared among the units in the society, resulting in two separate types of social relationship: society and community. More specifically, these conceptions lead to different views on the legitimization of humanitarian intervention. A broad categorization has been provided by Ramsbotham and Woodhouse:

<table>
<thead>
<tr>
<th>International Anarchy</th>
<th>The realm of:</th>
<th>Main Approach:</th>
<th>Type of intervention:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(International System)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Natura</td>
<td>Power</td>
<td>Realist</td>
<td>Interest and Power</td>
</tr>
<tr>
<td>International Society</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Societas</td>
<td>Order</td>
<td>Pluralist/ Statist</td>
<td>Non-intervention:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>the value of order</td>
</tr>
<tr>
<td>3. Communitas</td>
<td>Legitimacy</td>
<td>Solidarist/ Internationalist</td>
<td>Intervention:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>humanitarianism</td>
</tr>
<tr>
<td>World Community</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(World Society)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Universitas</td>
<td>Justice</td>
<td>Universalist</td>
<td>Intervention no longer defined</td>
</tr>
</tbody>
</table>

Figure 1.75

75 Ramsbotham and Woodhouse (1996), a combination of diagram 2, p. 31, and diagram 4, p. 58.
The figure illustrates the centrality of order in international society, while stressing what led Bull to explore solidarism in the first place: the promise of justice to contribute to the long-term prospect of order. Solidarists view justice as an important component of international order and sees human rights as being universal norms, whereas pluralists defend state-system values on the basis of its beneficial effect on international order. In a solidarist international society, then, human rights values are given as much weight as system values and hence, sovereignty according to this view is conditional and linked to the internal legitimacy of the state.76

2.2.2 Pluralism and Solidarism: Co-existence vs. Cooperation

Bull and Wight’s analysis of international society, offers us little insight on what really constitutes the “certain goals or values” necessary to create or sustain different normative conceptions of an international society. The idea that international society is “subject to strengthening and weakening trends” does not help us as an analytical tool “unless some benchmarks can be established against which to measure the extent and direction of change”.77 For this purpose we need to increase our understanding on what values counts as solidarist.

Contemplating pluralist societies is somewhat easier than developing solidarism as an ideal type, as it generally stands for the Westphalian model based on mutual recognition of state sovereignty and non-intervention.78 The concept of a solidarist international society has been less developed, with the exception of some works related to human rights, which develops solidarism as a cosmopolitan notion. Both pluralism and solidarism contains sets of shared norms, rules and institutions, but as seen the depth of internalization decides how “thick” or “thin” these sets of shared values are. However, it does not address what values are shared, and that they are necessarily “good”. What the values are also has important implications for how we theorize about pluralism and solidarism.

Pluralism is often linked to the idea of a society of sovereign states and reflected, amongst others, in the Westphalian model based on mutual recognition of sovereignty and non-intervention.79 Although moving beyond a mere system in the sense that each units’ behaviour is a necessary factor in the calculations of others and establishing common rules and institutions in recognition of a common interest to uphold these, states preserve maximum autonomy.80 Pluralism, therefore, rests mainly on the principles of co-existence, namely sovereignty, non-intervention and diplomacy.80

Solidarism, on the other hand, expresses a will to move beyond co-existence, towards developing and pursuing common interests defined in terms of joint gains.81 Pluralist and solidarist societies therefore differ first and foremost in its institutions and principles. If we generalize pluralist societies to be about coexistence, and solidarist to be about cooperation, it

81 Ibid., p. 121.
is of importance to further establish the dividing line between these two. When does an international society move from being based on rules of coexistence to rules of cooperation?

The pluralist conception of international society was by Bull identified as “one in which state are capable of agreement only for certain minimum purposes”, the most crucial being mutual recognition of state sovereignty and the subsequent norm of non-intervention. This was further encapsulated by Linklater’s comment on order being the one thing that states are able to agree upon despite different views on justice. A solidarist international society, on the other hand, is based on rules of cooperation. Bull defines rules of cooperation as prescribing “behaviour that is appropriate not to the elementary goals of international life, but rather to those more advanced or secondary goals that are a feature of an international society in which consensus has been reached about a wider range of objectives than mere coexistence.”

Unless we establish more precise what this behaviour is, this division will offer us little insight. As rules of coexistence Bull mentions those that hinge upon the basic elements of social life: limits to violence, sanctity of agreement and establishment of property right, which led to his classical view of the institutions of international society. The dividing line between coexistence and cooperation, however, seems somewhat default. The logic of coexistence has stretched beyond “behaviour appropriate for the elementary goals” to include rules that are mainly about cooperation, yet without threatening the principle of state sovereignty and without representing any substantial collective project at odds with the pluralist structure of international society. Even under the Cold War, states were pushed into “cooperation” in dealing with shared dangers, though there can be little doubt that the interstate society of that time was anything else than pluralist.

The rules on coexistence are initially based on the self-interest of states, and therefore are not a threat per se to creating a more “liveable” international order. In an increased interconnected and more technically advanced world, the pursuit of coexistence necessary leads to agreements not only about strictly behaviour of coexistence. The need to reduce frictions and create efficiency in their international affairs pushes states to establish at least a low degree of rules generally categorized as rules of cooperation.

2.2.3 Buzan’s Reconstruction of the Pluralist-Solidarist Debate

If pluralism and solidarism are seen as ideal types of social relationships along a wider spectrum of interstate relations, they are not necessarily each other opposites. Developing solidarism as a feature of interstate relationships, without necessarily crossing over to world society, offers a promising path to increasing solidarism as it moves away from the liberal and utopian view of an increased interconnectedness eventually leading to the crossover from international society to world society, from the system being inter-state to being inter-human. In principle, a solidarist international society could generate a very wide array of shared norms, rules and institutions, as seen for example with the EU.

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84 Bull (1977), p. 70.
Developing solidarism in this way also allows for recognizing the potent force of states as the basic units of international relations. For over three hundred years, world politics has been mainly organized on the basis of the Westphalian system of states. In international relations, therefore, states are the dominant political entity, and the primary unit of both international politics and international law. Politically, the nation-state is a specific type of territorial state, deriving its ultimate legitimacy from its people. Its characteristics, in political terms, are absolute power within its defined territorial boundaries and independence outside of it. In legal terms, this has been expressed as legal authority over domestic matters (internal sovereignty) and subsequently, equality between states on the international level (external sovereignty). In relations to human rights and intervention, state sovereignty is explained as the freedom to make decision, whereas the principle of non-intervention provides the subsequent freedom from outside interference.

As a concept given to describe a certain form of territorial state, nation-states and its emphasis on nationalism, sovereignty and raison d’état has tended to mitigate the development of a more peaceful and cohesive formation of international community. Regardless of the claimed declination of the state as the primary actor in world affairs, due to increased interdependence, and its inability to come to terms with global problems, the state remains a vital force in international relations. It is, at least in the near future, not likely to be replaced, and it is hard to see how states, or units with similar function capacity, can be done without. Accepting international law as the key to order in an interstate society recognizes the importance of states, while also leaving a scope for a progressive development of interstate society in which states can agree upon norms, rules and institutions in a vast array of issue areas.

Buzan has theorized about a wider set of positions along the larger spectrum of interstate society along which different social relationships exists, ranging from asocial to deeply social. An asocial society, on one end, is a rather rare condition fulfilling the minimum requirements for a society, and at the other end, a confederative society exists at the borderline between a solidarist interstate society and the creation of a single political unity. In general, pluralist societies are focused on what goes on within the state, whereas solidarist societies are more interested in the bonds between states. Buzan sets up six different types of interstate relations, which all can be seen as containing various degrees of pluralism and solidarism. Identifying where the differences between these lies, makes it possible to set up variables or criteria that is decisive for the degree of solidarism one can ascribe to interstate relations.

The two main types of interstate society are pluralist and solidarist, but these can be further divided into more or less solidarist societies. These all exists as ideal types, and in reality, the answer is not as clear-cut. In fact, one is likely to end up at different conclusion depending on what area one looks at. This view also reflects the uneven empirical development of solidarism in contemporary society. For instance, huge progress has been made in areas such as the pursuit of joint gains and the pursuit of knowledge. However, exploring the traditional idea of international society through the lenses of solidarism, opens up for a debate on human

rights and humanitarian intervention more informed and connected to reality than that of cosmopolitan solidarism.

At the pluralist end of the spectrum, an asocial interstate society is one where war of extermination is the only form of social contact between states. Therefore, no contact in form of diplomacy takes place and no values are shared. Hence, states have no capability for collective action. At the next stage, in a power political society, states do not necessarily share any values and the state of social contact remains the possibility of war. Institutions therefore are minimal and basically confined to rules of recognition and diplomacy. The main motives for states are survival and the avoidance of unwanted disorder. As a result the capability for collective action is minimal. Coexistence can be seen as the most advanced form of pluralist international society and is perhaps most associated with the Westphalian type of international society based on the principle of state sovereignty. Different types of social interaction exist and are upheld by some core institutions: war, international law, diplomacy, the balance of power and great power management. Cooperation is possible although limited in areas where the goals conflict with the states’ self-interest.

For an international society to be categorized as solidarist, cooperation that goes beyond merely co-existence needs to be developed. Some joint projects or goals exist beyond survival, but the main motives for cooperation are to reinforce security and legitimacy by consciously linking with others that share the same view. The domestic structures of different units in the system may differ, however cooperation to reach joint goals takes place with others alike, preserving similarity. To reflect the solidarist joint projects, international law and other institutions may develop and arise, and war probably becomes downgraded as an institution.

When a significant number of values are shared within a set of states, the states converge: meaning that they adopt similar legal, political and economic forms to further enhance similarity and pursue their joint projects. In a later stage of such a development, a shared identity may be developed from sharing the same values and from developing institutions reflecting these values. However, this identity is likely to be constructed, as opposed to an identity shared on historical cultural roots. The political and legal systems can be based on similar values in respect of basic rights, such as property rights, human rights and the relationship between government and the people. As a result, international law becomes increasingly important as an institution of international society, and facilitates an increased capacity for collective action.

A confederative society is seen as the most advanced ideal case of solidarism within the borders of interstate society, without developing into a single political entity. Compared to a convergent international society, a confederative has reached an even higher degree of homogeneity both in values and in their domestic structures. Usually this is accompanied by an even wider common agenda, a large set of states converge within a vast array of issues, resulting in a common identity. In terms of humanitarian intervention, a confederative society

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91 Ibid., p. 159.
92 Ibid., p. 160.
93 Bull (1977), pp. 4-5.
94 Buzan, p. 160.
95 Ibid.
96 Ibid., p. 160.
97 Ibid.
would be in agreement on what claims that could be put forward on human rights and would subsequently move closer to a duty to intervene rather than just a right to intervene.

The different positions on the spectrum vary according to the range of shared values, the state of social contact between the units, the motives for cooperation and the capabilities for collective action. Within international societies categorized as pluralist, the main concern is order, whereas among international societies categorized as solidarist, focus is put on justice rather than order. The attempt to balance the concern of order with a concern for justice when it comes to humanitarian intervention has been expressed through the debate on legitimacy.

As said initially, coexistence and cooperation does not create a clear enough boundary between what counts as pluralist and what counts as solidarist. In looking at the different levels proposed by Buzan, some conclusions can be made. First of all, solidarism depends upon to which degree a shared or common identity exists. Second, it depends upon the level of convergence between the units in the system. Third, it depends upon what values and institutions the units has converged upon, and forth, the enforcement mechanisms available to defend those institutions and values.
2.3 A Framework for Analysis: Solidarist International Society Theory

Having identified the criteria necessary for a solidarist international society, I now turn to clarifying what these variables stand for and how they connect to the development of solidarism. All these variables are supplementary, since all of them are necessary in order to categorize a society as solidarist, and since only one or some of them are insufficient.

2.3.1 Identity Criterion

One variable that has been brought up is that solidarism includes the development of a common or shared identity. However, this view is, in itself, insufficient in offering a dividing line between pluralism and solidarism. Pluralism does not exclude the members of interstate society from sharing a degree of common identity, although it is probably consistent of “the lowest common denominator”, being the mutual recognition of state sovereignty. Sharing a common identity is therefore not a strictly solidarist feature, but has consequences for how and why values are shared, and hence affects the stability.

Identity is defined as “the ways in which the elite or policy makers define the national interest of a state and the ways in which these national interests or policy preferences cannot or separate the state from other states”. Hence, state identity shapes leaders’ definitions of state interests on both domestic and international norms and issues. In general, there are two broad categories of identities: norm-supportive and non-conforming identity. Non-conforming states are likely to deem international demands for compliance with human rights as interference in their domestic affairs, whereas norm-supporting states are likely to cooperate and respond positively to international expectations of compliance with international norms. “States are more likely to comply with those normative expectations that best fit a state’s identity”.

Solidarism, thus, depends on to what degree these normative expectations are commonly held. In other words, how and to what width states identify with others. The more solidarist an international society is, the lesser the distinction between “us” and “them”. A solidarist identity is contingent on a we-feeling sufficient to render support of norms and institutions in support of that same we-feeling. For instance, when it comes to humanitarian intervention, a shared identity in order to be categorized as solidarist needs to be based on the belief in the common humanity, the fact that we do not want atrocities committed to others because it is to be equated to the same atrocities being committed to ourselves.

In looking at international society as a hybrid, as a combination between a gemeinschaft creation and a gesellschaft construction, the link between society and community becomes clearer. A society is contractual (gesellschaft) relationships based on norms, rules and institutions as agreed arrangements concerning expected behaviour of the units in the system. Community on the other hand,

“is the idea that whatever order exists in a community is normatively grounded, based on relationships which constitute a network of mutual claims, rights, duties and obligations that

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99 Ibid., p. 193.
100 Ibid., p. 193.
pull people together in ways that are quite different from the impersonal forces which create a system.”

Cronin also concludes that a community “require some degree of group cohesion and a shared sense of self”. In other words, a community to a certain degree implies a shared identity and a sense of “we-feeling” that is lacking in a society.

Wendt makes a distinction between the type of society, as to what values are shared, and the mode/depth of internalization, as to how and why values are shared. Society and community belongs within the how/why dimension. How and why social structures are formed and held together, does not guarantee that the values shared are necessarily “good”. Values can be shared either by coercion, calculation or belief. Generally categorized, a society defines social relationships held by calculation, whereas a community is held together by belief. What type of society, the shared values are constructing, however, depends on what values are shared.

Shared identity, thus, can range from low to high intensity. Usually a shared identity based solely on being part of humanity is low intensive, while the identity based on a narrower selection, such as belonging to a nation or a religion, are usually high intensive, and perhaps sometimes even exclusive. At a “middle-intensive” level are perhaps various types of alliances and sub-global organizations, such as the club of Western liberal democracies, the community of Islamic states, and the EU. The importance of establishing a shared identity is perhaps best illuminated throughout the history of debate within the EU and the growing importance of transnational associations (TNA’s).

In order to argue that international society is solidarist, the behaviour and non-behaviour of states in cases of humanitarian crises needs to depend on the degree to which we associate with others based on our shared humanity. In other words, this involves excluding alternative reasons in principle, such as political cost-benefit calculations, national interests, generally associated with pluralism, and in parts the CNN-factor, although it can also serve as a generator of humanitarian sentiments.

2.3.2 Convergence Criterion

Separating interstate solidarism from the liberal view of cosmopolitan solidarism, suggests that solidarism, at least in its early stages, are built upon the foundations laid down by pluralism. The dividing line between pluralism and solidarism therefore needs to be of the type possible to add to the pluralist coexistence, yet distinct from it. One distinct difference is that pluralism adheres to diversity, whereas solidarism is about homogeneity. This can be said to be the convergence criterion of solidarism. The convergence criterion relates to the conscious move by states to associate with one another in various areas, regardless of why, whereas the identity criterion relates to why such convergence takes place and how it is sustained.

The conscious move by states to abandon the pursuit of diversity and focus on the actual goal of becoming more alike is one element of solidarism that is not limited to the discussion on

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human rights, and therefore provides a better understanding of the idea of solidarism in interstate society. As a result of convergence, states adopt similar domestic structures, whereas pluralism preserves the difference and exclusivity of each state's domestic structure. Examples where the convergence criteria have been met are mostly found on regional levels, such as the European Union or the “liberal Western democracies”, but aspirations also exist within the Arab League and the Organization of the Islamic Conference (OIC). The interest becomes the preservation and survival of the bonds between states, i.e. the international society itself, rather than the interests within the states.104

A conscious move towards greater homogeneity in domestic structures and values among a set of actors, beyond the basic acknowledgement among them that they are all the same type of sovereign entity, shows a will to move into the realm of solidarism.105 Not only does this include the values typically associated with belonging to the same group, but also with “a substantial degree of convergence” in the norms, rules, and institutions of the states involved.106 States consciously make certain projects a priority through pursuing them jointly.

Solidarism, thus, builds on the principles laid down by pluralism, in the sense that states recognize that they are equal, but moves on to consciously protect and seek similarity and equality as a value in itself. They do so by linking with others that are alike, and in that way reinforces their own security and legitimacy of their own values. The interventionist agenda has largely been driven by Western liberal democracies. This is understandable, since democratic governance is asserted to be an unparalleled protector of human rights. Thus, democracies constitute a relatively coherent group of states, sharing core values and behaviour. Non-democratic states, on the other hand, represent a rather heterogeneous group, since they do not share a common ideology.

2.3.3 Institutions/Values Criterion

An additional element in advancing into a solidarist interstate society can be constructed through the acknowledgement of common values among states that goes beyond mere survival and coexistence combined with an agreement to pursue these common values through coordination of politics, the creation of norms, rules and organizations, and the undertaking of collective action. Where on the spectrum of pluralism and solidarism an international society is located therefore depends on what types of institutions it has, and how these institutions are interpreted.107 I have chosen to call this the institutions/values criterion of solidarism.

“Societies of states are communities of mutual recognition, they are bound together by intersubjective meanings that define what constitutes a legitimate state and what counts as appropriate state conduct.”108 Generally, institutions are defined as a “stable set of norms, rules, and principles” that serves to constitute actors as social agents and to regulate behaviour: in other words, shaping social relations.

The idea of primary institutions of international society has been presented by several writers, although in different shapes. Primary institutions can be described as

“durable and recognized patterns of shared practices rooted in values held commonly by the members of interstate societies, and embodying a mix of norms, rules and principles.”

And in order to count as “primary”, such practice must play a constitutive role in relations between the units and determine the very shape of international relations. Changes in the concept of sovereignty over the last centuries shows that primary institutions are neither fixed nor un-adaptable. Bull himself remained loyal to the traditional institutions of the post-Westphalian order: war, balance of power, great power management, diplomacy and international law. Even though not explicitly confirming the state as being one of them, it seems safe to speak of the state as the “master” institution which conditioned all the others. James and Jackson followed up on this and explicitly said the sovereignty was “the constitutive principle of interstate relations”.

For instance, in a pluralist society, institutions that are about the management of violence, like the balance of power, war and the role of the great powers, are likely to be dominant, whereas international law and diplomacy becomes important mostly for communication, negotiation and the sanctity of agreement. International law has by Mayall been described as the “bedrock foundation” upon which international society is built and since solidarism builds upon pluralist foundations, the key to enhancing solidarism becomes to recognize the possibilities to develop and refine international law.

Kratchowil and Nardin support Mayall’s view that international law is the principle institution. In addition to international law, Reus-Smit talks of multilateralism as a key contemporary institution, a view supported by Keohane. More out-spoken solidarists, such as Knudsen and Wheeler lean towards viewing human rights as an institution, or at least, as a norm of international society.

Buzan lists the master institutions of contemporary society to be sovereignty, territoriality, diplomacy, great power management, the equality of people, the market, nationalism, and environmental stewardship. From the master institution sovereignty, he derivates the non-
intervention and international law, and from diplomacy, both bilateralism and multilateralism. Human rights and humanitarian intervention falls under the equality of people.

In contrast, secondary institutions are the locus for states to support those institutions that counts as primary. The most well-known secondary institution is perhaps the UN. States support secondary institutions, because they believe in the primary institutions promoted by them. With the example of the UN, by being a member of it, states support for instance multilateralism and diplomacy, and grant the Security Council with enforcement powers in terms of the use of force. The creation of the UNHCR also reflects member states’ will to let their international relations be governed by elements of justice in terms of equality of people.

The convergence criterion can be seen as the growth of solidarity in general, independent of what the values are, whereas the institution/values criterion is about what values the states come together on. In the later category we can differentiate between the aspirational and the empirical side of solidarism. A common denominator is however that both aspirational and empirical solidarism threaten the pluralist traditional conception of sovereignty as one of the institutions of interstate society.

A difference needs to be made between changes within institutions and of institutions, although both can lead to solidarist progress. Changes within the institution either weaken or strengthen the existing institution, while changes in principles and norms leads to a change of institution.120 The evolution of a norm of humanitarian intervention subsequently has a decisive effect on the eventual progress of solidarism. Three elements are central to norm evolution: norm, norm entrepreneurs and normative structure.121 The process of norm evolution contains several steps. First, idea takeoff that is usually stimulated by change in the normative environment, for instance the shift from inter-state conflicts to intra-state conflict following the end of the Cold War. Second, norm initiation, where the idea gets transformed into a norm “candidate”. Third, diffusion and socialization of a norm, including the promotion of the norm by norm entrepreneurs, for example the Secretary-General of the UN (socialization), and the adoption of the norm “candidate” (socialization). At the last stage, the norm candidate is either rejected or institutionalized, i.e. included into the structure of an IO or translated into the objective of practical policies.122 Norms are significant, since “material facts acquire meaning only through human cognition and social interaction”. By accepting new norms, new values or changing perceptions of their own national interests, states change and subsequently also their international behaviour.123

While the identity and convergence aspects are about unity and how and why this unity is held together, the institution/ value criterion are about the type of values that are commonly held. Here, Bull and Wight’s analysis give us some indications on what type of values that counts as solidarist; by expanding on what values that are associated with cooperation and co-existence, we gain further insight. So far, works on solidarist international society theory has been limited to human rights, while neglecting other values and institutions, where some actual progress has taken place. Bull’s definition of cooperation is such behaviour appropriate not to the elementary goals of life, but rather more advanced or “secondary” goals. Beside

human rights, environmentalism, health, finance and the advancement of knowledge can be brought up as examples of such behaviour more appropriate to the well-being of humanity, rather than the survival and security more associated with values of co-existence. For solidarism to exist, consensus must have been reach on these more “secondary” goals. Such consensus can be found in the various international conventions on the different issues. However, in order for such consensus not to be solely aspirational, consensus must also be followed up through customary practice, gathered either through official statements, or from acts and omissions. \footnote{Malanczuk, Peter (1997) Akehurst’s Modern Introduction to International Law, 7th ed. London and New York: Routledge, p. 44.}

2.3.4 Enforcement Mechanisms

Another requisite for an international society to count as solidarist follows from the institution/ values criterion. Not only is it important what institutions and values that are present, but also how well these are backed up by collective action. This is the criterion of enforcement mechanisms.

The perhaps most common conception of solidarism in terms of enforcement mechanisms is the collective security conception underpinning the UN order. Nevertheless, it is possible to theorize about different degrees of capability of collective action. A more solidarist society would include increased mechanisms for the capability of perhaps both regional and international organizations, and even unilateral actions. The less solidarist an international society is, the more limited is the capability of taking collective action. In pluralist societies collective action may be taken, but are often limited to alliances, which are limited both in time and in purpose.
3. HUMAN RIGHTS AND INTERNATIONAL LAW

“In this struggle for freedom […] the decisive question is what degree of dignity we are willing to assign the human being. […] each human being is a purpose in and out of itself, of endless value as an individual. To confess this opinion in words or to refer to it for the benefit of one’s actions is easy. But the central thesis of this opinion becomes a reality first when we ourselves, individually and as members of a group, follow a path of life that entitles us personally to the mature human being’s freedom, restrained by her conscience. And it becomes the key to our behaviour towards other people first when it is motivated by a conviction, that in spirit and in truth assigns them the value they possess by the conviction we declare as our own.”

The empirical part of this paper is limited to investigating humanitarian intervention in contemporary practice. In the following, an overview of international law and the human rights doctrine is presented in order to provide a background for the case studies and analysis.

The notion that human beings have rights because they are humans, not because they are citizens of a state, is a staple of contemporary world politics. International law, however, was originally law between states; individuals were mere objects, and not subjects, of international law. During the 20th century, state practice and the development of international law to include international human rights and customary rules of international standard of justice, have once again put focus on the individual and the debate inevitably cuts across all levels of contemporary international society.

The sources of international law are generally accepted to be found listed in Article 38 (1) of the Statute of the ICJ, where it says that the Court in delivering decisions on the matter of international law shall apply, among others, international conventions, international custom, as evidence of a general practice accepted by states, and general principles of law. In the Nicaragua case, the Court concluded that custom is constituted by two elements: the objective requirement of a “general practice” of states, and the subjective requirement of the practice being “accepted as law”, the so-called opinio juris. As such, international law is the common set of principles, norms, rules and decision-making procedures that states considers themselves bound to, over time expressed through state practice and a sense of legal obligation (opinio juris).

International law suffers from the so-called “Austinian handicap”, i.e. that international law is not law “properly so-called”, but a mere collection of principles, norms and rules “imposed by sovereigns by opinion current among them”. However, the important question is whether or not this body of rules governing state behaviour exists in the absence of an international authority, and whether or not states considers them to be binding upon them. For both

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125 Hammarskjöld, Dag, in Falkman, Speech at John Hopkins University, 1st of May, 1955. Translation by the author.
128 Nicaragua v. USA Merits, ICJ Reports 1986, paragraph 186.
political scientists, such as Carr, and international lawyers, such as Brownlie, states have by referring to rules described as rules of international law accepted the binding nature of it.  

3.1 Human Rights

The idea of universal human rights has its origin in the Natural Law tradition, were human beings were said to be endowed with certain rights, benefits, and protections, solely by reason of their humanity. Several evolutionary steps has been taken along the path to enshrining basic human rights in law, and today, the UN Charter, and the UN General Assembly Universal Declaration of Human Rights (UDHR), forms a natural starting point for any discussion on human rights and humanitarian intervention. 

In order to provide a backdrop for the debate on human rights and humanitarian intervention in contemporary international politics, we first look at the development and emergence of the human rights doctrine, as well as the criticism aimed towards the idea of universal human rights. Then, by a review of relevant international law, more focus is put on the contemporary debate on human rights.

3.1.1 The Nature and Origin of the Human Rights Doctrine

The notion of human rights is a fairly recent one; however, it builds on major ideas from both ancient and medieval political thought. The account of Natural Law begins with the Roman and Greek ideas of a universal system of laws rooted in cosmopolitanism and the idea of nature. Although the good of the individual was subordinated to that of the state, the idea of nature supposed a natural order in the world at large. The individual belonged to a universal community which existed by nature and the rules of the Natural Law therefore were expressed as “of universal application, unchanging and everlasting [...].” During the Middle Ages, the Roman ideas of *ius naturale*, *ius gentium*, and *ius civile*, played parts in creating the basis for canon law which portrayed Roman Law as “the law of an international civilization, and relatively universal”. Thus, natural law was put before positive law in both origin and dignity.

With the later years of the Middle Ages came the growth of the idea that political authority resided within the people, legitimizing the absolutist state, and emphasizing the reciprocity of rights and duties. Political theory, however, during the beginning of the 19th century was questioned through ideas of rationalism. Instead of the focus on the individual, political thought stressed the community and the idea of the state as itself having a “personality” with the capacity to will and to act. The community was no longer seen to exist as an outcome of individual decision, but as actually shaping language, law and morality of the individuals. The revolution against natural law was perhaps most noticeable in German thought, and the focus on national law, *Volksrecht*.

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Political liberalism has undoubtedly provided us with the most comprehensive and compelling definition and justification of human rights. The idea of human rights as individual rights is in large a historical product of European politics and rooted in Western political thought. Several different theories of human rights have been developed, but because this is an attempt to assess the status of human rights in contemporary international society, and thus in many aspects building on pluralist elements, focus is put on the international law of human rights.

The concept of human rights is a dynamic one and has, as we have seen, been subject to change. Despite disagreement on what rights are to be included, the very essence of the concept is that “every individual has certain inalienable and legally enforceable rights protecting him or her against state interference and the abuse of power by governments.” Although several different arguments have been put forward, with different views on how to best define and justify human rights, “there is widespread political agreement that such rights are legitimate and provide a basis for making demands within states and the international community itself.” However, the development of human rights on the international level, unlike developments on the national level, has not gone uncontested since it has the potentiality to challenge the basic tenet of the system – the principle of state sovereignty. Analyzing the progress of international human rights law therefore, is of great importance because it has consequences for how contemporary international society is to be apprehended.

3.1.2 The International Law of Human Rights

The significant body of international law of human rights is evidence that, despite divergent theories and interpretations, human rights are acknowledged and politically accepted. Among the first major legal agreements to highlight human rights in contemporary society was the UN Charter. First and foremost, the Charter functions as a constitutional document of the UN, but it is also important from a human rights perspective, because:

- the Preamble specifies the promotion and protection of human rights as one of the major purposes of the UN, and
- Article 1 calls upon member states to promote and encourage “respect for human rights and fundamental freedoms”, and
- Article 55 and 56 delineates some of the international human rights obligations that should be promoted, and calls on member states to take individual and collective action in support of these norms.

Apart from the UN Charter, there is a vast body of international agreements on human rights. The most important one perhaps, the UDHR of 1948, is generally recognized as the most authoritative document on the issue. It is accompanied by seven core international human

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137 Vincent (1986) on the moral theory of human rights. Other theories are the human needs theory, the social justice theory of human rights (Beitz), the constitutive theory of human rights, or the social-scientific theory of human rights.
138 Both those rights enshrined in positive international law and in customary international law.
140 Amstutz (1999), p. 74-75.
141 Malanczuk (1997), p. 211.
rights instruments, the most important ones being the two Covenants from 1966. The empirical evidence of the growth of human rights awareness is first of all expressed through the various codifications of human rights both on the international and regional level, found listed beneath.

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<th>The International Protection of Human Rights:</th>
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<td>- the UN Charter</td>
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<td>- the Universal Declaration of Human Rights adopted by the UN General Assembly in 1948 (UDHR)</td>
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Core International Human Rights Instruments:
- the International Covenant on Civil and Political Rights of 1966 (ICCPR) and its optional protocols
- the International Covenant on Economic, Social and Cultural Rights of 1966 (ICESCR)
- the International Convention on the Elimination of All Forms of Racial Discrimination of 1965 (ICERD)
- the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 (CAT)
- the Convention on the Rights of the Child of 1989 (CRC)
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990 (ICRMW)

Other Universal Human Rights Instruments:
- World Conference on Human Rights: the Vienna Declaration and Action Programme of 1993
- The UN Millenium Declaration
- the Geneva Conventions on Humanitarian Law of 1949

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<th>The Regional Protection of Human Rights:</th>
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<td>- the European Conventions for the Protection of Human Rights and Fundamental Freedoms of 1950</td>
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<td>- the American Conventions on Human Rights of 1969</td>
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<td>- the African Charter of Human and Peoples’ Rights of 1981, usually referred to as the Banjul Charter</td>
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3.2 Forcible Intervention and the UN Charter Regime

The human rights doctrine, call into being, first, the duties of their national government to protect and assist, and second, the duties of other governments, or the international society, when or if the host government fails. But the question remains: do outsiders have a right to act across borders in response to human rights violations or humanitarian crisis?

The international human rights doctrine that has been created and developed since 1945 is certainly impressive and shows a remarkably progressive course. The aspirational side of human rights, thus, seems to show no lack of commitment. The main purpose for this paper remains to investigate how well these standards have been implemented in practice. As put by Brownlie,

142 The International Covenant on Civil and Political Rights (ICCPR), and the Covenant on Economic, Social and Cultural Rights (ICESCR), both from 1966.
“[t]here can be little doubt that the main issue is the implementation of the existing stock of standards, and, in that connection, the reduction of the gap between international commitments and the domestic performance of governments”

First, we turn to the existing rules regarding intervention and the prohibition of use of force in international law, which touches upon the basis of the post-Westphalian state-system, i.e. state sovereignty and the principle of non-intervention.

3.2.1 Prohibition on the Use of Force

The prohibition of force is stated in Article 2(4) of the UN Charter and is a fundamental obligations of states and goes together with Article 2(3) which requires states to settle their disputes peacefully. The two Articles read as follows:

Article 2(3) “All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.”

Article 2(4) “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”

Although Article 2(4) leaves some room for interpretation, it is to be understood as a total prohibition of the threat or use of force.

The right to self-defence and the right for the UN Security Council to invoke enforcement actions according to Chapter VII of the UN Charter form the two stated exceptions to the prohibition clause. However, interventionist practices have continuously taken place since the end of the Cold War, pointing to the two, at times, incompatible values enshrined in the UN Charter: state system values and human rights values. Several different routes has been taken in attempts to establish a “right” of humanitarian intervention, and the legal discussion has revolved around two different options: either through creating new treaty law, within or outside the UN system, or through a case-to-case evolution of a new customary law, also known as the incremental approach. The creation of new customary law is dependent on a persistent pattern of state behaviour accompanied by the \textit{opinio juris} element.

3.2.2 Definition of an “Intervention”

Intervention, as defined by R.J Vincent, is an:

“activity undertaken by a state, a group within a state, a group of states or an international organization which interferes coercively in the domestic affairs of another state […] it is aimed

\begin{footnotes}
\footnote{Brownlie, Ian (1990), Principles of Public International Law, 4th ed, Oxford; Clarendon Press, p. 577.}
\footnote{Malanczuk (1997), p. 311. The prohibition of the use of force also forms part of customary international law, however, with a slightly narrower scope than that in the article in the Charter.}
\footnote{The exception of self-defence is found in Article 51. The right for the S.C to invoke enforcement mechanisms under Chapter VII is found in Articles 39 and 42 of the UN Charter. This latter exception is read out in conjunction with Article 2(7).}
\footnote{Buchanan (2003), pp. 138-140.}
\end{footnotes}
at the authority structure of the target state. It is not necessarily lawful or unlawful, but it does
break a conventional pattern of international relations.”

Such action can be taken overtly or covertly, individually or collectively and can range from
relatively non-coercive actions to direct military intervention. An intervention can also be
taken for a variety of purposes, such as economic expansion, strategic interests, territorial
security and humanitarianism. The purposes seem to fall within two broader categories,
strategic interventions, and humanitarian interventions. The former being to advance the
political interests of the intervening power, and the latter to promote and protect human rights.
Part of the debate surrounding humanitarian intervention has evolved around the difficulty to
establish a clear dividing line between these two categories, as most interventions seems to
have taken place for a combination of strategic interests and humanitarian reasons. Despite
this difficulty to separate the reasons for intervening, humanitarian intervention is generally
defined as:

“the threat or the use of force across state borders by a state (or a group of states) aimed at
preventing or ending widespread and grave violations of the fundamental human rights of
individuals other than its own citizens, without the permission of the state within whose
territory force is applied.”

Humanitarian intervention, thus, consists of an intervener, convention-breaking
(interventionary) behaviour by that state towards a target state against the targeted state’s will
that has to its effect to protect internationally recognized human rights.

3.2.3 State Sovereignty and the Principle of Non-intervention

The peace of Westphalia brought about a consolidation of the doctrine of state sovereignty,
and with the creation of the UN, the principle of state sovereignty and the subsequent
principle of non-intervention was further established. Claims of humanitarian intervention
inevitably conflicts with these principles. In practice, “states have from time to time violated
state sovereignty when they have perceived that their national interests or the global common
good would be advanced by such action.”

The UN Charter, in general, and Article 2(4), specifically, is an expression of states, to let
their international relations be governed by the rule of law, rather than the rule of force. The
principle of state sovereignty is generally expressed in Article 2(1) where it says that

“[t]he Organization is based on the principle of the sovereign equality of all its Members”,

and is accompanied by the subsequent norm of non-intervention in Article 2(7), which states,

“Nothing contained in the present Charter shall authorize the United Nations to intervene in
matters which are essentially within the domestic jurisdiction of any state […]”

151 Reed, Laura W. and Kaysen, Carl (eds.) (1993) Emerging Norms of Justified Intervention. Cambridge, Mass:
123.
As implied earlier, the doctrine of state sovereignty has a double meaning. Internally, it means that the state has exclusive competence in international affairs, and externally, it is characterized by autonomy in foreign policy, the absence of a supreme authority and hence, the independence of sovereign states.\textsuperscript{152} The concept of sovereignty however, also implies that something exists beyond the states; it asserts membership of the international community. However, since sovereignty locates the supreme authority to rest within the state and all states are equal, the international community consequently is anarchic.

3.3 The Solidarist Case for Forcible Intervention

Martin Wight has observed that the issue of intervention “raises questions of the utmost moral complexity: adherents of every political belief will regard intervention as justified under certain circumstances”.\textsuperscript{153} Not even among political persuasions such as liberalism is there one cohesive view on the issue, as liberalists can be divided between “interventionists” and “non-interventionists”. Whether or not humanitarian intervention has been advocated or opposed has therefore depended more upon circumstance, including political interest and normative commitment, and less upon clearly established laws or principles.\textsuperscript{154} The solidarist case for forcible intervention builds on the cooperation variables discussed in previous section: identity, convergence, institutions/ values and enforcement mechanisms.

3.3.1 Legal context

Legal scholars are divided between restrictionist and non-restrictionists. These differs in their interpretation of international law, where the restrictionists argue for the realist, or pluralist, case of prohibition on the use of force, the continued robustness of the norm of state sovereignty and the principle of non-intervention. Non-restrictionists, on the other hand, argues that intervention should be a possibility in certain cases, but remains divided in the approaches on how to go about it.

One interpretation is that using force for humanitarian reasons does not threat the “territorial integrity or political independence” of the targeted state and furthermore is not inconsistent with the purposes of the UN. Another is the opening in Article 2(7) that prohibits the UN to intervene in matters which are “essentially within the domestic jurisdiction” of the targeted state.\textsuperscript{155} Clearly as international law develops and expands, some issues can no longer fall exclusively within domestic jurisdiction. Whether an increased solidarism has been accomplished in this sense, through expanding international law as an institution, perhaps at the cost of a redefinition of the concept of state sovereignty, and through increased importance of the value of human rights as well as larger convergence, remains a subject to discuss in the analysis. The legal context of the debate on humanitarian intervention, thus revolves around two sets of legal documents: the UN Charter and various human rights conventions.

\begin{footnotes}
\item[154] Ramsbotham and Woodhouse (1996), p. 50.
\end{footnotes}
3.3.2 Political and Ethical contexts

The political and ethical contexts are largely intertwined, and perhaps most vividly expressed in the various discussions and statements regarding the intervention in Kosovo in 1999. Although deemed illegal according to international law, the majority of scholars seem to argue that it was, however, a legitimate move by NATO to intervene. Whereas the legality is decided based on “what is lawful?”; the question of legitimacy is more related to “what is right?”; i.e. whether the action was justified. The further up the solidarist ladder one climbs, the more likely that a humanitarian intervention is justified, in other words considered legitimate.

Ramsbotham and Woodhouse refer to ethics as a “wide range of considerations to do with choice and action” and locate the core of the ethical debate to lie in the tension between the two clusters of values reflected in the UN Charter: state-system values and human rights values, which “intersect with each other and which may sometimes work at cross-purposes”. Bull was probably right when arguing that solidarism, and its promise of justice, is valuable for the effect of providing long-lasting order.

Through membership of the UN, states have agreed that it is one of their major purposes to protect and secure human rights both internationally and domestically. If states seriously violates these rights, it should no longer receive the protection granted to them through international law because it undermines the one reason that justifies their political power. In cases like Liberia, Sierra Leone, Somalia and former Yugoslavia, humanitarian crisis have appeared in political communities in which government authority was weak or even absent: so-called “quasi” or failed states. In these states, a decline in the government’s perceived legitimacy along with the growing demands of ethnic, religious or political minorities for political autonomy has resulted in the breakdown of civil order and government authority.

Human rights are held by individuals by virtue of their personhood and independent of history, culture and national borders, and the fact that people are right-holders have normative consequences for others. Thus, in principal, it is possible to argue that the moral grounds for armed intervention include a wide range of situations where human rights violations have occurred. Nevertheless, even though the moral justification for humanitarian intervention is broader than most pluralists would admit, the constraints are such that it can seldom be defensible in practice. The ethical and political context revolves around the tension between the concept of order and the concept of justice, as shown in figure 1. The moral arguments can be divided into realist and pluralists vs. solidarists and cosmopolitanism.

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156 Ramsbotham and Woodhouse (1996).
4. ANALYSIS: THE COMMITMENT TO SOLIDARISM IN CONTEMPORARY INTERNATIONAL SOCIETY

The theoretical framework for the further analysis that has been presented is an advanced understanding of international society, ranging from strictly pluralist to different degrees of solidarist. The analysis is devoted to discussing the practice and behaviour of states in contemporary international society in order to assess just how well solidarist principles are actually applied in reality. Solidarism as discussed in the first section is not limited to issues of human rights. This second part, however, will be limited to the “application” of solidarism. Unlike the pursuit of joint economic gain, or environmentalism, humanitarian intervention touches upon the basis for humanity itself and provides us with perhaps the best test of contemporary commitment to solidarism.160

Initially, preliminary remarks on the normative and geopolitical changes in the recent past will be made. In order to understand the status of humanitarian intervention in the post-Cold War era, cases of post-Cold War responses to humanitarian crisis is then provided through looking more closely at selected instances of humanitarian interventions. The major part of the analysis will focus on the evolution of a norm of humanitarian intervention and its effects on state sovereignty and the principle of non-intervention. Specific inferences will be drawn from each case, and later summarized in more general terms, using the variables set out in the theoretical section.

First, the identity aspects are reflected in the motives for the intervention. Therefore it is necessary to look at what triggers the choice of intervention or non-intervention: is it pure humanitarianism, or is it triggered by the degree of media exposure, national interests, or the possibility of success or failure? Second, the convergence criterion is in this later part reduced to looking at the convergence on one specific area, namely human rights. No conclusions on how many values state converge on can therefore be drawn from this analysis. Third, and fourth, the institutions and values, and the enforcement mechanisms used to back them up, addresses specifically the balance, or conflict, between pursuing solidarist standards based on human rights, and upholding state sovereignty.

4.1 Case Studies: Post-Cold War Responses to Humanitarian Crisis

Since the end of the Cold War, the international environment has gone through dramatic changes, resulting in increased international need and expectations for the protection and enforcement of human rights. The problem is that, up until recently, this development has not at the same speed been accompanied by developments of international norms and institutions. New demands and increased expectations for actions have certainly changed the context for state behaviour in the post-Cold War era. As described above, solidarism holds great promises on delivering justice and long-lasting order to the international society of states. By studying state behaviour, we can assess whether or not the aspirational side of solidarism has translated into sustained moral and political action.

The responses to humanitarian crisis can be divided into four different categories: non-intervention, such as the cases of Chechnya and Turkey, non-military interventions, such as the cases of Sri Lanka, Afghanistan and Sudan, non-forcible military intervention, such as

UNPROFOR in Bosnia, UNOMIL in Liberia, UNAMIR in Rwanda, and UNISOM I in Somalia, and last forcible interventions, such as Operation Provide Comfort in Iraq, ECOMOG in Liberia, Operation Turquoise in Rwanda and UNITAF/UNISOM II in Somalia.

In order to make any general conclusions, because of the special circumstances surrounding each case of intervention or non-intervention, a large number of cases will be presented. The cases of Liberia, Sierra Leone and Somalia represent cases of a fairly recent phenomenon of so-called “failed” or “weak” states, which are important to show how the definition of security has changed, whereas the cases of Northern Iraq and Yugoslavia are examples of abusive states. The cases of East Timor and Kosovo points to situations where force has been used in order to defend primarily humanitarian values. In order to provide a more correct view of solidarism, it is also important to include cases where international response has been reluctant or non-existence, and for this purpose I have chosen to include the cases of East Timor and Rwanda and the prevalent situations in Chechnya and Sudan.

4.1.1 “Failed” States – the Cases of Liberia, Sierra Leone and Somalia

The end of the Cold War brought about a new set of security issues. As interstate conflict decreased following the end of the Cold War, emphasis was put on democracy, human rights and good governance. The result of this nation-building has presented itself as a shift towards intrastate conflicts, which has enlightened the weakness of state structures as well as the risks and challenges with nation-building. In many cases this has resulted in increased vulnerability of civilians both in terms of being directly targeted in armed conflicts and through refugee flows, famine and civil war. Examples of such “failed” states are Liberia, Sierra Leone and Somalia.

THE CASE OF LIBERIA

The crisis in Liberia started with a military coup, committed by the Armed Forces of Liberia (AFL), and the assassination of President Tolbert. Rebel forces was set up, and in 1989, the civil war was a fact, resulting in massive human rights violations on both sides. The UN S.C did not take any actions because most of its members felt that the conflict should be solved within Africa. Initially attempts were made within Africa to solve the issue, through the Economic Community of West African States (ECOWAS), but without results. Later, ECOWAS intervened with military forces, with the explanation that the “humanitarian intervention” was necessary to ensure that food and medical assistance reached the civilians, and to stop further killings.

ECOWAS intervention in Liberia took place without the authorization of the UN S.C but was later praised by the US. It wasn’t until after the intervention that the S.C declared that the situation in Liberia constituted a threat to international peace and security. Despite this, the cooperation between the UN and the regional organization ECOWAS, was deemed successful and the intervention was, with minor exceptions, supported almost universally. A symbolic

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161 Murphy (1996), pp 146-147.
blessing was also given afterwards through Resolution 788, where the S.C enthusiastically commended the work of ECOWAS.

THE CASE OF SIERRA LEONE

In 1997, when the S.C deemed the situation in Sierra Leone to constitute a “threat to international peace and security”\(^{164}\), the country came from a long period of political instability, organized violence and economic strife.\(^{165}\) The declining legitimacy of the government in Sierra Leone resulted in armed conflict all through the 1990’s.\(^{166}\) A military coup was staged by the Revolutionary United Front (RUF) in 1992, following the invasion in 1991. Throughout the 1990’s grave atrocities were committed by the RUF, and in 1997 president Kabbah was overthrown. Sierra Leone, with the involvement of both the ECOWAS and the UN, made several attempts to reinstate Kabbah.

S.C Resolution 1132 fell short of granting ECOWAS authorization to use full enforcement powers. It did however, express that the S.C was “[g]ravely concerned at the continued violence and loss of life in Sierra Leone […], the detoriating humanitarian conditions in the country, and the consequences for neighbouring countries.”\(^{167}\) Through S.C Resolution 1270, the UN stepped up its involvement by establishing the UN Mission in Sierra Leone (UNAMSIL) and granted the UNAMSIL power to take necessary action to ensure protection for civilians under imminent threat of violence. The intervention in Sierra Leone hence took place in two stages: by ECOWAS in 1997-1998 and by UNAMSIL in 1999-2000.

Both the case of Liberia and Sierra Leone points to two variables, first of all the lack of functioning capacity of the state, and second, the post facto sanctioning and appraisal of ECOWAS intervention. In addition, the case of Sierra Leone was deemed to be very successful in terms of its rather peaceful and humanitarian outcome.

THE CASE OF SOMALIA

In the case of Somalia, after the fall of Said Barre’s dictator regime in 1991, civil authority broke down and the country was torn apart between rival clans in a bloody civil war, resulting in massive famine, death and destruction.\(^{168}\) The S.C adopted unanimously Resolution 751, establishing the UN Operation in Somalia (UNISOM I), to protect relief convoys, and over a ten-month period in 1992, four other resolutions regarding Somalia was passed. The human tragedy in Somalia, together with the difficulty in distributing humanitarian aid was later deemed to constitute a threat to international peace and security, resulting in the set-up of a Unified Task Force (UNITAF) through resolution 794. UNITAF was a multinational operation led by and prompted the US, authorized by the S.C to use force in order to provide a safe environment in Somalia.

Somalia is a prime example of a “failed” state, and Resolution 794 stressed the “unique character” of the situation, the “complex and extraordinary nature”, and “the need for an

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\(^{164}\) UN Security Council Resolution 1132.


\(^{166}\) Ibid., p. 26.

\(^{167}\) S.C Resolution 1132, paragraph 2.

immediate and exceptional response”. The statement that the “magnitude of human tragedy in Somalia” constituted a threat to international peace and security proves that the S.C was precautionate about setting a dangerous precedent. The case of Somalia is also important, because for the first time the S.C gave the authority to “use all necessary means” for the sole purpose of quickly providing a secure environment for humanitarian relief operations. UNISOM’s and UNITAF’s humanitarian purposes have gone uncontested since Somalia was considered to be of little strategic interest to any of the forces.

UNITAF was later replaced with the UN-led peacekeeping mission UNISOM II, which later, following disagreement, became involved as a party in the conflict. This had detrimental effect on the results of the intervention, damaging its humanitarian character. UNISOM was not withdrawn until several countries had expressed their discontent, and the UN S.C mandate was terminated without reaching its humanitarian objectives. Despite its “failure”, the case of Somalia and Resolution 794 has rightly been regarded as a watershed in the doctrine of humanitarian intervention.

IMPLICATIONS FOR THE SOLIDARIST CASE OF HUMANITARIAN INTERVENTION

These cases illustrate cases where international community has regarded humanitarian intervention as a valid exception to non-intervention when gross human rights violations have occurred within a state.

As far as identity is concerned, the intervention in Somalia showed a clear humanitarian case and enjoyed strong international support. However, further analysis shows that this in large depended on the status of Somalia as a failed state, as the threats by China and other countries to defend the non-intervention principle shows. The phenomenon of so-called failed states has proved less challenging to the concept of state sovereignty, than cases where a clear locus of sovereignty exists. Without fear that the traditional concept of sovereignty was being eroded, these interventions have been largely supported, even in the cases of Liberia and Sierra Leone, where UN authorization was lacking. The case of Somalia was also subject to media attention, but the decision to intervene was largely driven by the humanitarian goals and the good chances for success. Through the course, the intervention in Somalia, however, was decidedly half-hearted. The realist, or pluralist view, however, do not account for the beginning of the interventions in Somalia, or the continuance of intervention in Sierra Leone.

When it comes to convergence, these cases provide good examples of the support of international human rights norms and the willingness to use enforcement mechanisms in support of these. Nevertheless, the cases avoid setting a limit as to how gross violations must be for intervention to take place. In the case of Liberia, the S.C sufficed by stating the situation to constitute a threat to international peace and security, even though the later intervention by ECOWAS had more clearly stated humanitarian aims. In the case of Sierra

173 Ibid., p. 31.
Leone, the S.C explicitly expressed its grave concern for the continued violence and loss of life in the country, but also included the possibility of consequences for neighbouring states and international peace and security, however without invoking its enforcement powers under Chapter VII. The case of Somalia is of major importance because it was the first time the S.C explicitly authorized the use of force for a solely humanitarian purpose. Although these three cases shows a commitment to rules and norms of human rights, the S.C, in fear of setting dangerous precedents, has sufficed in using terms as “the magnitude of human suffering” and “deteriorating humanitarian conditions”. It remains dubious whether these cases have led to greater convergence on the rules and norms associated with humanitarian intervention. The failed state-status of Liberia, Sierra Leone and Somalia do little to resolve the tension between human rights values and state-system values.

If collective security is seen as an aspect of solidarism, then the cases of Liberia and Sierra Leone clearly fails the test. The idea of collective security involves states acting together under agreed set of norms, principles, and rules, to defend the existing security order from any threat. However, assessing the solidarity of international community does not necessarily presuppose that it is the UN that acts. This is not to say that the UN S.C is probably the closest we come to ever defining such a diffuse term as international community; instead it is to say that it is of importance to look to the reasons for enforcement rather than merely who acts. Solidarism as it most advanced assumes that an overwhelming majority of the international community share the same values and hence, are equally devoted to enforcing them. This question becomes closely entangled with the previous criteria. It is evident that intervention took place in all of these cases, but the question is whether the decision to intervene was based on enforcing human rights norms or if the intervener had ulterior motives in acting. In this aspect the failure to follow through on the intervention in Somalia as international community’s interest diminished, shows a lack of commitment to solidarity. ECOWAS motives for acting in African conflicts have also been questioned, based on the national interest of states to use interventions to pursue their own provincial economic agendas.

4.1.2 Abusive States – the Cases of northern Iraq and Yugoslavia

The cases of northern Iraq and Yugoslavia are examples of functioning, yet abusive states. As such, they pose a different normative dilemma than the cases of failed states and a greater challenge to traditional concepts of state sovereignty.

THE CASE OF NORTHERN IRAQ

Following a massive surprise invasion of Kuwait by Iraq, in August 1990, the S.C. immediately took action and, through Resolution 660, deemed the act as a breach of peace and international security and demanded that Iraq “withdraw immediately and unconditionally”. The invasion was internationally condemned, and with Resolution 678, the S.C authorized states to “use all necessary means to uphold and implement resolution 660 and all subsequent relevant resolutions and to restore international peace and security” unless Iraq

by itself complied with the previous resolutions. In the absence of withdrawal of Iraqi troops, the allied carried out the Gulf War to liberate Kuwait.  

In the aftermath of the Gulf War, Iraq was faced with internal breakdown of civil order with the Iraqi government campaigning for repression and launching missile attacks against the Kurdish rebels in the northern part of the country (also referred to as the Kurdish crisis). This created large refugee flows, and forced the UN to act again. Through Resolution 688, safe havens were set up to provide relief to Kurdish refugees, by a coalition largely consisting of American, British and French troops. This resolution contained no reference to Chapter VII of the UN Charter; however, intervention did take place in order to protect the safe havens and to provide shelter, clothing and medicine for the refugees.  

Among all resolutions passed in the wake of the Gulf War, Resolution 688 was the one where the S.C stood most divided. France spoke in favour of a robust resolution embracing the “duty of intervention”, while many other countries, led by the British, expressed the fear of setting a precedent for future actions.  

The intervention, however, did take place predominantly due to humanitarian reasons, and succeeded in bringing humanitarian relief to Kurdish refugees.  

THE CASE OF YUGOSLAVIA  

The post-Cold War disintegration of Yugoslavia led to an ethno-nationalistic war within Bosnia-Herzegovina among Croats, Muslims, and Serbs resulting in death and over one million refugees.  

In mid-1992, the conflict escalated; grave human rights violations were documented, such as ethnic cleansing, and the crisis had altogether created over 2 million refugees. The Security Council declared the situation to constitute a threat to international peace and security, through Resolutions 770 and 787: the former authorizing the use of force in the airspace of Bosnia-Herzegovina in order to facilitate the delivery of humanitarian assistance. A multinational implementation force, IFOR, was established and was empowered, acting through or in cooperation with NATO, to take “all necessary measures” to be able to defend its forces or to assist the force in “carrying out its mission”.  

IMPLICATIONS FOR THE SOLIDARIST CASE OF HUMANITARIAN INTERVENTION  

The discourse of humanitarian intervention placed on rescuing strangers, undermines the claim that these strangers are a part of us, that security is indivisible, and that all human beings are members of one global family. The failure of Europe to act efficiently in the escalating Yugoslavian conflict, and human suffering taking place in its own backyard only a few hours from home, reflects the lack of solidarity between us and them:  

“If the cause of Bosnia failed to arouse the universal outrage and anguish that the atrocity footage on our television screens led one to expect, it was not because watching such images

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177 Ibid., p. 182.  
in comfort of their living rooms lack a conscience or humanitarian impulse. The charitable response was quite strong. The real impediment to sustain solidarity ran deeper: in some nearly incorrigible feeling that their security and ours is indivisible; that their fate and ours are indeed severed, by history, fortune and good luck; and that if we owe them our pity, we do not share their fate”.

The Iraqi case illustrated a relatively clear-cut case for enforcement. Continuing aggression towards the Kurdish population and gross violations of human rights provided a clear humanitarian case. However, resolution 688 did not authorize an intervention, because several states regarded such action to be an interference in the domestic affairs of Iraq. Hence, a few different variables are important in assessing the case of northern Iraq. First of all, the division within the S.C. Second, the increase in media exposure of the targeted Kurds in the West and the humanitarian character. Third, the lack of condemnation from both the UN and the broader international community.

The international community in the case of northern Iraq was not able to broker consensus within the UN. In particular, the permanent members of the S.C (P-5) stood largely divided in the case of northern Iraq. Soviet threatened to use its veto, and both China and India referred from voting against Resolution 688, as it fell short of granting full enforcement powers. France advocated a duty of intervention, but the pluralist support for sovereignty and non-intervention in this case overshadowed the solidarist position taken by the French. Humanitarianism seems to have been the driving force behind the creation of safe havens by the coalition forces, and though the coalition claimed their action to be legitimate under Resolution 688 and justified according to the “overwhelming humanitarian need”, the most common explanation for the policy shift towards solidarism was the increased media attention it attained. Last, the lack of condemnation of the actions taken by the coalition forces indicates that a large majority of states accepted the intervention. Although support was strongest among the club of Western liberal democracies, the only country condemning the intervention was, in fact, Iraq.

The involvement by the UN and the international community in the Yugoslav conflict, such as both the US and European countries, showed great reluctance to back up resolutions by military sanctions. This was partly due to the differences in interests of the states and the lack of policy regarding the future of the Balkans. The Iraqi and Yugoslav interventions illustrate the continued controversy surrounding humanitarian intervention and the relationship between human rights and sovereignty; although with humanitarian motives, especially the Iraqi case does not contribute to the development of customary international law in favour of humanitarian intervention. First, the uniqueness of the case is once again stated, and second, ongoing atrocities against the Shiites in southern Iraq during the same time as the response in northern Iraq, shows that similar cases are not treated equally by the international community.

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185 The permanent members (P-5) consists of the US, Russia, China, France and Britain.
4.1.3 True Humanitarianism? – the Case of East Timor

In 1975 East Timor was invaded by Indonesia which led to an Indonesian military rule on the island, resulting in around a quarter of the East Timorese population dying as a result of the violence. Due to Indonesia’s size as a country and the preoccupation with the security balance of the Cold War, the international community came to accept the Indonesian rule in East Timor. Countries like the US, the UK and Australia all “supported” the invasion, and the visit of the US President Ford and his secretary of state Kissinger, was even seen as giving the “green light” to the Indonesian invasion.

The situation changed dramatically following the end of the Cold War, the Asian financial crisis and the fall of Suharto’s regime brought political instability to Indonesia. Increased public support for East Timor’s bid for self-determination arose, both in and out of the country. The case of East Timor in many respects came to be a question over the status of East Timor, and in 1999 the UN Mission in East Timor (UNAMET) was established to administer elections. Indonesia delayed the vote twice and undertook Operation Clean Sweep to eliminate supporters of an independent East Timor. An estimated third of the population in East Timor were said to have been killed, and human rights abuses continued.

Through Resolution 1264, the S.C responded to the crisis, voicing its appallement by the worsening humanitarian situation, and declared it as a threat to international peace and security. The Resolution went ahead and agreed to the establishment of an Australian-led coalition force with full enforcement powers (INTERFET).

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For an analysis on solidarism and humanitarian intervention, the East Timor case provides two important aspects. First of all, the humanitarian character, and second, the unwillingness by the UN and Australia to work without at least a partial permission or invitation by the Indonesian government, hence supporting traditional definitions of state sovereignty.

The intervention itself was deemed successful, and it remains “the closest instance of a true “humanitarian” intervention in goal, scope and results”. However, the delay in response from the international community, and the history of the US involvement in Indonesia’s invasion in 1975, shows a lack of commitment. Indonesia’s size and the vital business interests vested in the region, prevented states from acting earlier during the military occupation of East Timor. When Australia eventually intervened, however, “the case of INTERFET is particularly significant” as Australia’s “vital interests” were clearly not being served by its decision to use military force in East Timor, as Australia would be better served maintaining the relative peace and security balance of the region. This further underlines the humanitarian and solidarist character of the intervention.

Resolution 1264 on East Timor contains several references to the support of human rights law. Women, children and other vulnerable groups, are explicitly mentioned as being

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190 Vesel (2004), p. 34.
191 Ibid., p. 35.
threatened by the “worsening humanitarian situation”, and “widespread and flagrant violations of international humanitarian and human rights law” called for further action.

Two angles of the East Timor case are specifically important in analyzing the relationship between sovereignty and the right to humanitarian intervention. During the Indonesian invasion in 1975, the actions by Australia, the UK, and specifically the US, was in support of an invasion, and for over twenty years the Indonesian rule in East Timor was accepted despite the many casualties that occurred as a result. With respect for Indonesian sovereignty, neither the UN nor any individual state was willing to intervene without an invitation from the Indonesian government. Although Indonesia as a whole did not categorize as a failing state, the status of East Timor was under dispute. Indonesian president Habibie was unable to obtain any real control and to provide security for the East Timorese and East Timor was categorized “not so much a failed state as a territory from which the attributes of the state had been removed”. The reluctance to act without permission, hence, supports the traditional concept of sovereignty over the development of a right to humanitarian intervention. It is also unlikely that the ASEAN-countries would have supported an intervention without such a permission from Indonesia, given these countries long-standing tradition in defending state sovereignty.

4.1.4 The Humanitarian War – the Case of Kosovo

In context of the break-up of former Yugoslavia, a long-standing conflict between Serbs and Kosovars over Kosovo broke out in full-fledged war between the Serb forces and the Kosovo Liberation Army (KLA) in 1998. NATO had been involved since the beginning of the crisis in former Yugoslavia, with the UN taking the backseat in most of the major decisions regarding intervention on behalf of the Kosovars.

The Security Council was impaired through the threat of both Russia and China to invoke their veto on any resolution supporting military intervention. Resolution 1160, 1199 and 1203, did not, even though claimed by NATO, contain any legal justification. However, through outside groups such as the Contact Group and the OSCE, the UN played a subsidiary role in resolving the Kosovo conflict. Under threat of air strikes, the former Republic of Yugoslavia agreed to the conditions set out by the Contact Group, the so-called October deal, and provided for a Kosovo ground verification mission monitored by the OSCE, including an air verification mission over Kosovo conducted by NATO. Since unauthorized by the S.C, NATO was in violation of the UN Charter.

The prima facie illegality of NATO’s action, however, did not hinder them from continuing to act outside the framework of the UN. At the Rambouillet conference, the Contact Group introduced a set of non-negotiable military terms which gave NATO all access to and unrestricted passage throughout former Yugoslavia. When signed by the Kosovars, NATO had all the authority necessary to begin Operation Allied Force. The intervention was based on the premise that “there are some crimes so extreme that a state responsibility for them,  

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192 Ibid., p. 35.
193 Ibid., p. 35.
194 Ethnic Albanians.
196 The Contact Group consisted of France, Germany, Italy, Russia, the United Kingdom and the United States.
197 Vesel (2004), p. 44.
198 Rambouillet Conference in France, which was the “last ditch resort” to solve the conflict diplomatically.
Despite the principle of sovereignty, may properly be the subject of military intervention”. Despite this, the humanitarian character of NATO’s intervention in Kosovo is debatable; as more people were killed during than before the intervention and several refugees were created.

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One of the greatest incitements for NATO to act in the case of Kosovo, was the disability of the S.C to take any further action, since both China and Russia threatened to invoke their veto against any resolution authorizing the use of force. With the S.C largely put out of play, NATO acted and tried to justify their action based on the humanitarian values at stake. The closest the UN came to authorizing NATO’s action was in voting down a measure to officially condemn the intervention after it had taken place.

True, NATO intervened in Kosovo on behalf of its values rather than its strategic interests, but in terms of generating a precedent for humanitarian intervention the Kosovo case is clouded with controversies. Beside the questionable “humanitarian” character the problem is first of all with authorization and second, with its consequences. Nevertheless, the actions taken by NATO clearly challenge the traditional notion of sovereignty. The Kosovo case clearly indicates the growth of more humanitarian and solidarist policies among the NATO members, but the fact that a regional organization like NATO acted also illustrates, that any construction of a shared identity when it comes to human rights are limited to the sphere of Western states.

The problem with the NATO action is two-folded. First, the action by the NATO members, led by the US, undermined both international law and treaty obligations they themselves helped to create. There is a problem with the way NATO carried out its mission. Undeniably massive human rights violations had been committed by the Milosevic regime, however, this should not license any response that the intervener seems fitting. Large portions of the initial intervention were undertaken by air strikes, and, thus, remain a contradiction. Second, there is a problem with the response of the international community, as it blatantly accepted the claims put forward by NATO without much scrutiny. The central thesis of this paper is that international law holds the key to solidarism in contemporary international society, and is necessary in order to come to terms with the problem of abuse. In this light, the new interventionist regime promoted by the Clinton administration following the intervention in Kosovo, only serves their national interest although taken under the label of “humanitarianism”. Kofi Annan’s statement, that “there are times when the use of force may be legitimate in the pursuit of peace” but that the S.C “should be involved in any decision” regarding the use of force, highlights this aspect. This inability of the S.C to broker consensus, points to the limits of post-Cold War solidarism, as the international community was not ready to accommodate a principle of humanitarian intervention, despite the grave humanitarian crisis present in Kosovo. Nevertheless, the case signalled solidarism among NATO members, since it showed that some of the most powerful states were willing to go to war in defence of human rights.

Seen as a single precedent, the Kosovo case has rightly been seen as one of the most important cases in the evolution of a norm allowing for humanitarian intervention. However, put in perspective with the response of the international community in the East Timor case, it becomes clear that it offers little ground for claims that humanitarian values overrides sovereignty as a principle. As observed by Noam Chomsky, the notion of sovereignty still largely affects the ability for nations to act: in the case of Kosovo, intervention was praised because it showed that sovereignty can be by-passed for humanitarian purposes, but in the case of East Timor, “which had an additional distinction” of having been an independent nation prior to invasion, the international community showed that respect for the principle of sovereignty and non-intervention had to be maintained – “all in the space of few months”.203

4.1.5 Failure of the International Community – the Rwandan Genocide

Rwanda has a long history of ethnic clashes between the ruling Tutsis (15% of the population) and the Hutus (85% of the population), which in 1990 reappeared in full-scale internal and cross-border conflict. Demands by the Hutus for self-determination, and their attempts to address political, economic and social inequalities resulted in reverse discrimination against the Tutsis, causing refugee flows to neighbouring states.

The Tutsis established a guerrilla force, the Rwandan Patriotic Front (RPF) in an attempt to end the oppression. In 1993, RPF and the Hutus signed a power-sharing peace agreement and the UN established an observer force to ensure implementation of the agreement, the UN Assistance Mission to Rwanda (UNAMIR). The ill-equipped UNAMIR-forces, were forced to withdraw as Rwandan extremists killed several of the peacekeepers.

However, following the attack and death of the Hutu president in 1994, a re-born animosity arose, and Tutsis rebels seized control of the government and began a systemic massacre of Tutsis and Hutu moderates, which until this day remains one of the most destructive genocidal campaigns in modern times. Although the Security Council determined the situation in Rwanda to constitute a threat to international peace and security, no real action was taken until France had offered to intervene in June 1994. S.C adopted Resolution 929 with reference to Chapter VII and a French intervention, authorized to take military actions, was temporarily carried out on humanitarian grounds.204

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The Rwandan genocide, and the subsequent displacement of refugees suggests that, despite claims, states are not eager to intervene military even when grave violations of human rights have occurred. In addition the French-led intervention in Rwanda shows the problem of self-interest of states, as France had a history of involvement in support of the Hutus.

From almost every perspective, the record of international response to the humanitarian situation in Rwanda is abysmal. The humanitarian case for intervention in Rwanda could not have been clearer, as genocidal conduct had been notoriously recorded. However, Rwanda came to pay the prise for previous costly interventionist behaviour authorized by the UN, promoting a cautionary agenda by the S.C, in particular among the P-5.

203 Chomsky, Noam, off the Internet at http://www.globalissues.org/Geopolitics/EastTimor/Kosovo.asp.
Advocates of humanitarian intervention view the Rwandan case as an argument for a need of shift in post-Cold War politics, however, the lack of commitment and willingness shows no signs of international solidarism in terms of either identity or enforcement in defence of humanitarian values. This lack of shared identity as to the separation between us and them, and the lack of political will, was specifically noticeable in the attitude of the US. After all, it was only Africa, and even though few US soldiers would perhaps have been killed, the conflict remained primeval and distant, and the US found it hard to find any political advantage in acting. The Rwandan genocide could have been stopped earlier or even prevented, but the international community lacked the will to do neither.

Several lessons can be learned from Rwanda, apart from the danger of non-action. As the UN failed to protect the civilians from abuse and withdrew its mission in Rwanda (UNAMIR) from the area, it did however, also eventually authorize France to intervene. The questionability of the humanitarian motives has surrounded the case of Rwanda. After the international community had stood by and watched as over half a million people was brutally killed during the course of a few weeks, when intervention did take place it was by France, a country with a long history of supporting the Hutus. The intervention was arguably motivated by France’s regional security interests, and not solidarity, as France intervened in an attempt to prevent the overthrow of the Hutu government by the RPF “as it would undermine French credibility in Africa”.205 Even though the intervention was successful in protecting the targeted Tutsi population, it inevitably led to a salvation of the Hutu military leadership, responsible for carrying out the genocide, as well.

However, the argument that Rwanda was of diminishing importance to France, can be made based on the division within France on the issue, and the fact that the government conditioned its intervention on UN approval. Contrary to the NATO involvement in Kosovo, this attitude by the French government supports the rule of law, and shows that there is a case to be made for working through international law in coming to terms with violations of human rights obligations.

Frequent and vivid media exposure of distant conflicts arguably helps in giving resonance to a common solidarity, as it did in the case of Somalia. Nevertheless, the case of Rwanda as well as that of Yugoslavia, goes to show that solidarity has not always extended to a willingness to pay the costs of alleviating suffering.

4.1.7 The Future of Solidarism – the Situations in Chechnya and Darfur

THE SITUATION IN CHECHNYA

The situation in Chechnya can be described as “Europe’s perhaps longest-running conflict but least visible war”.206 The Chechens were recognized as a distinct people already in the 17th century, and during the period of 1818-1917, they were active opponents of the Russian conquest of the Caucasus. During the World War II, Chechens actively collaborated with the invading German Nazis and were perceived as a threat to their nation, resulting in mass

deportation of Chechen people by Stalin. Following the death of Stalin in 1953, the republic was re-established in 1957.

With the collapse of the Soviet Union in 1991, several regions managed to gain independence. Chechnya, however, was not one of them. Both geopolitically and economically, Chechnya was considered too important to Russia to be granted independence. In 1994, the tensions between the Russian government and that of the Chechen president Dudayev escalated into warfare. In a two year-period, some 70,000-80,000 people died, and in 1996 Russia withdrew from the region. The current conflict consists largely of terrorist bombings by Chechen rebels, and ongoing atrocities committed by the Russians. In April 2001, the UNCHR adopted a resolution on Chechnya condemning the serious human rights violations committed by Russia’s forces.

THE SITUATION IN DARFUR

The conflict in Sudan’s western region Darfur has by the UN, been described as “the world’s worst current humanitarian crisis.” The Darfur conflict is a conflict mainly between the government-supported militia, the Janjaweed, largely made up by people from Arab tribes, and the non-Arab peoples of the region.

It began in early 2003, when the local rebel forces of the Justice and Equality Movement (JEM) and the Sudanese Liberation Army (SLA) attacked the Sudanese government forces. A ceasefire agreement was signed in April 2004, without bringing an end to the atrocities. The scale of the crisis, with both sides being accused of committing serious human rights violations, led to warnings of an international disaster comparable to that of Rwanda.

By the end of July 2004, the UN set a 30-day deadline for the Sudanese government to disarm through Resolution 1556, with the expression of its “intention to consider” sanctions in case of non-fulfilment. The deadline expired without small attempts made by the Sudanese government, and with little consequences from the UN.

Neither the UN, the African Union (AU), nor the EU, have declared the situation in Darfur to be an act of genocide. The Darfur conflict has however come to be widely described as “ethnic cleansing” and “genocide”. An estimated 80,000 people have perished from genocidal conduct, countless civilians have endured rape, torture and famine, more than 1.3

207 “Crisis in Chechnya”, http://www.globalissues.org/Geopolitics/Chechnya.asp
208 For example the “black widows”: a group of widows, mothers and sisters of Chechen men, who had been killed by the Russians, that carried out a series of bomb attacks in Russia, perhaps the most well-known the Moscow theatre siege in 2002. “The conflict the West Always Ignores, by Hilsum, Lindsay, Monday 26th of January 2004, New Statesman.
213 The Swedish Minister of Foreign Affairs, Laila Freivalds and the Minister for International Development Cooperation, Carin Jämtin, in August 2004 expressed the Swedish government’s view that the situation in Darfur “has the same character as genocide”. http://www.dn.se/DNet/road/Classic/article/0/jsp/print.jsp?&a=294325. 5th of August 2004, off the internet 2005-05-17. (translation made by the author)
million people have been forced to leave their homes and countless others have been affected by the war. As a result, at least 180,000 people are thought to have died during the crisis.

IMPLICATIONS FOR THE SOLIDARIST CASE OF HUMANITARIAN INTERVENTION

In order to sustain any real development of international law in favour of human rights and humanitarian values, the convergence in norms, rules and institutions must be accompanied by enforcement. With the exception of the late intervention in cases such as Rwanda, the previous cases show instances where humanitarianism has been enforced, however, sometimes with ulterior motives. The cases of Chechnya and Darfur is only two out of many “trouble-areas” in the world today, where human rights abuses, sometimes with genocidal conduct, are committed, but where the international community continuously refuses to take any real action.

Grave human rights violations are not only confined to the African continent. The case of Chechnya is a “shameful example of Western leaders to confront another government on human rights abuses”, and shows that, in the end, political and strategic interests matter more. Although the lack of shared identity with the people of Darfur, is somewhat easier to understand given its remote location, and cultural diversity between the north and the south, the Chechnya case, because of among other things its geographical proximity to Europe, questions the argument that solidarity among the western states has increased.

Nevertheless, resolutions regarding both these cases points to the increased focus and robustness of human rights norms. In the case of Chechnya, the UN has adopted a resolution condemning the serious violations committed by the Russian forces, and in the case of Darfur, resolution 1556, shows that UN is gravely concerned with the humanitarian consequences of the conflict.

Adopting an international security perspective, would perhaps shed some light on the Chechnyan case. In Chechnya, as a potential site for intervention, “the immediate and likely catastrophic consequences on global stability necessitate tolerance of some abuses” and hence, few calls for intervention has followed. The conflict is complex, miserable and potentially dangerous and “we just don’t care enough to make a difference”. Furthermore, Darfur provides a strong case for the importance of political will on the decision to intervene.

Intervention in another country for humanitarian values, is in itself an enforcement of international law, as human rights abuses violates both international law and the various human rights treaties. Although the UN is engaged in, especially in Darfur, these two cases illustrates that the international community is not ready to act to stop grave injustices. The echoes from Rwanda of “never again” seem to have faded, and as the international community speaks in aspiration of a higher degree of solidarism, yet history is coming close to repeating itself in practice.

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214 http://www.darfurgenocide.org/News/annan1.htm
215 http://news.bbc.co.uk/1/hi/world/africa/3496731.stm
216 Hilsum (2004) "The Conflict the West Always Ignores".
218 Hilsum (2004).
How the international community has handled the situations in Chechnya and Darfur, illustrates more clearly than ever that it is not yet ready to follow up on its solidarist aspirations. Not only because the cases portraits so-called “non-intervention” cases, but also because they are presently taken place, and in addition in an international environment where human rights norms has become more robust, and, that has become more aware of the risks with nation-building, and that lives with the baggage of its half-hearted intervention in Somalia and its failure to act in Rwanda.
4.2 The Solidarist Status of Contemporary Society

Whereas pluralist argues that there is no general right to humanitarian intervention, nor should there be, solidarist claims that not only has states agreed upon a common standard of humanitarianism expressed in various human rights treaties, but there is, or at least is emerging, a norm allowing humanitarian intervention. Using the theoretical framework, some general analysis of the case studies is presented.

While the identity criteria and the convergence criteria can be seen as to what degree states come together and in the width and depth of their commitments towards each other, the institutions and values criteria are related even more to what values they come together on. For the purpose of this paper, the institutions of international law and human rights and the values of a solidarist international society in connection to armed intervention are more thoroughly analyzed.

4.2.1 Identity

In what way can the humanitarian crises since the end of the Cold War be said to have fostered a shared identity? The identity aspect of solidarism contains a qualified requirement of a sense of we-feeling: that we are committed to human rights abuses committed in other countries, because we would not want them to be committed to ourselves and we see no difference in atrocities between us and them. During the Carter administration in the US, solidarity in human rights and fundamental freedoms was expressed as “because we are free, we can never be indifferent to the fate of freedom elsewhere”. This was the assertion that under the UN Charter, members are obliged to act jointly and separately to promote greater respect for human rights and fundamental freedoms. The aspirational side of solidarism shows a great portion of commitment, especially following the Rwandan genocide and the tragedy in Kosovo. Human security, according to Kofi Annan, is indivisible, “there is no such thing as a humanitarian catastrophe occurring in a faraway country. If international community stays disengaged there is a risk of becoming complicit bystanders in massacre, ethnic cleansing and even genocide”.

What then, speaks for the development of a shared identity between the units of the international community in practice? The fact that the international community, either through the UN or a coalition of states, a number of times has taken up arms in response to humanitarian crisis, should that not point at least to some degree of shared identity. Several aspects need to be analyzed in order to answer this question more properly. First of all, the question of selectivity; second, the questionability of the humanitarian character of the interventions; and third, the CNN-effect.

The selectivity shown by the international community in its responses shows that similar cases are not answered to in an equal manner. The interest motivating Western states to intervene has changed radically since the end of the Cold War and the question of selectivity has to do with how do states decide when to intervene, and when not to. This argument feeds into the second aspect as selectivity ultimately helps questions the humanitarian character of the intervention. It often comes down to cost-benefit analysis, and in the end if one country, or a group of countries, are willing to risk the lives of their soldiers for humans in a remote

219 Derian (1979), p. 3.
country. The situation in Chechnya, the tragical records of intervention in Somalia and the inaction in Rwanda and East Timor shows that we are not as solidarist as some may claim. Not to mention, the selectivity in choosing what cases that are suitable for intervention clearly points to a lack of solidarity, as consistency is missing.

Any construction of a shared identity when it comes to human rights is so far limited to the sphere of Western states. The actions taken by NATO in Kosovo were by many viewed as a new precedent for humanitarian intervention and definitely as the beginning of more humanitarian and solidarist policies among the organization’s members. Even though solidarity and the identity between various groups have increased, there is still a lack of solidarity between the north and the south. The cultural diversity, with the South focusing on cultural, social and economic rights, and the North focusing on civil and political rights, remains the largest impediments to developing a shared identity.

The CNN-factor, is a short-hand term for “the process by which an ethical response to a large-scale tragedy is first aroused and then translated into political action”.\(^{221}\) It can largely be described as the level of media exposure, and the causal mechanism is: media exposure, especially through vivid television images of human rights atrocities, which leads to public debate in the media among journalists and opinions leaders often involving criticism of the government in question. This puts an unbearable pressure on the government to act and “do something”.\(^{222}\)

In the cases of northern Iraq, Somalia, Rwanda and Haiti, the CNN-effect partly contributed to put the issue of intervention on the agenda. Although the decisions to intervene were decided by good or reasonable chances of success, the CNN-effect clearly gives resonance to a common solidarity, and as the cases of Rwanda and Bosnia shows, the solidarity has not always extended to a willingness to pay the costs of alleviating suffering. Meanwhile, human suffering continues outside the media spotlight.

The solidarity among members of the international community is to a limited degree triggered by humanitarianism, and enhanced by the media coverage of the conflict in question. However, pluralist sentiments, such as national interests, and the likeliness of success, are still very much dictating the terms for international engagement. Whereas Kosovo illustrates a greater degree of a shared identity among NATO members and the successes of intervention in Liberia and Sierra Leone: the diversity within the UN, and the reluctance to act in remote conflicts, especially in Africa, proves the discrepancy between “us” and “them”.

4.2.2 Convergence

As outlined in the theoretical part of this paper, there are two possibilities to converge, either by units becoming more alike domestically and hence adopt similar legal, political, and economic forms, or by differentiated units developing common sets of rules based on shared values beyond mere survival and coexistence. The EU represents a significant normative and institutional change in the way heretofore quite independent states relates to each other. It has, to a considerable extent made war among its members quite unthinkable.\(^{223}\) Conceptually, this

\(^{221}\) Fixdal and Smith (1998), p. 284.


process has amounted to a decline in the legitimacy of the norms of sovereignty and a rise in the legitimacy of the norms associated with human rights.\textsuperscript{224}

In one way, the end of the Cold War resulted in a shift away from the institution of war towards the institution of international law, as conflict shifted from being interstate to intrastate. Increased focus has been put on enhancing similarity and strengthening the bonds between states. As a result several groupings of state sharing similar domestic structures and similar values have been created, the EU being only one of them. The most homogeneous is perhaps the group of so-called Western liberal democracies. This is of no surprise when it comes to human rights as liberal democracies remains the most fertile ground for promoting and protecting human rights. The cultural diversity between the north and the south, once again becomes visible when evaluating to what degree the international community has converged.

The ability to broker consensus, particularly among the permanent members of the S.C, to support UN sponsored missions in for example Somalia shows a convergence in world opinion.\textsuperscript{225} Meanwhile, the division among the opinions of the member states in the large portion of cases presented in this paper, points to the opposite. The standstill led Kofi Annan to aim at a greater political agreement within the S.C and to refocus attention on protecting civilians, and to “challenge[d] the international community to forge unity behind the principle that massive and systemic violations of human rights…should not be allowed to stand”.\textsuperscript{226}

It is possible to argue that a higher degree of convergence has been reached in less sensitive areas, but when it comes to human rights, convergence is contingent on finding a common ground on what really constitutes human rights. Various human rights treaties and the increased number of states applying them since the end of the Cold War, points towards an increased robustness of human rights norms. The common ground for state behaviour since the end of the Cold War speaks in favour of a protection against grave human rights violations occurring consistently over time that posed threats to international peace and security, and in cases of genocide, but there seem to be less consensus on other human rights abuses failing to meet the international standards set up in the various treaties. Since international solidarist theory builds on the foundations laid down by pluralism, it is also, in large, dependent on the conciliation of human rights with the norm of state sovereignty. As outlined in the theoretical part, solidarism signifies that there is a substantial degree of convergence in norms, rules and institutions. Therefore, we turn to the area in focus for this thesis, international law, human rights and the norm of humanitarian intervention.

\textbf{4.2.3 Institutions and Values}

The debate takes place against the backdrop of the changed international environment following the end of the Cold War, with its new notions of security, the revived interest in normative matters, non-state agenda-setting and new demands and expectations for international action. I start by looking at human rights as an institution, to later move on to a discussion on a norm of humanitarian intervention and its subsequent effect on state sovereignty.

\textsuperscript{224} Smith (2005), p. 5.
\textsuperscript{225} Vesel (2004), p. 25.
The argument put forward in this paper is that the key to solidarism and cooperation lies within developing international law: enhancing human rights values and perhaps as a precondition redefining sovereignty. Although the UDHR is not formally international law, as it is a declaration and not a resolution, it is nonetheless viewed as part of the international law of human rights, providing direction in the development and codification of HR norms. Different conceptions of human rights have, however, clouded the contemporary debate. Although a UN membership requires states to promote human rights there is no international consensus on the issue; governments differ in the priority they assign human rights in international affairs.

International law allows for two important processes: multilateralism, and the language and practice of justification through which states and other actors use the rhetorical and analogical reasoning to interpret existing norms or license new ones, thus constructing and reconstructing the bounds of normatively permissible agency and action. The international human rights program is “more than a piecemeal addition to the traditional corpus of international law”. As seen earlier, there is a vast and steady growing stream of human rights declarations and conventions, together with a growth in the number of countries adopting them. Multilateralism facilitates this growth, and hence, has grown into one of the fundamental institutions of contemporary international society. The Vienna Declaration of 1993, however, had major shortcomings. The respect for human rights is ultimately dependent on the underlying political and cultural values of the international community, and the failure to come to agreement reflects the strength of the pluralist foundation of international society. Nonetheless, human rights are very much a reality in today’s international relations.

Instead of focusing on how to try to come to agreement over a universal definition of human rights, we need to look at what change the growth in human rights has brought about in terms of the structure of the international society, and its effect on sovereignty as a core institution. How far have we come in pursuing the joint project of human rights?

The problem lays in the fact that active enforcement of human rights through intervention conflicts with the sovereignty of states. So how far has the international society come in establishing a norm of humanitarian intervention? The view on international law for this paper is as a dynamic process; international law is seen as the arena in which states are able to address, make and assess justifications, and the discourse within which such claims finds resonance. Any norm establishing the right to use force, is therefore seen as an exception from the prohibition on the use of force established in the Charter. The establishment of a norm of humanitarian intervention would lead to a development of law, as it undoubtedly conflicts with state sovereignty, also protected under international law.

What conclusions can be made based on the case studies; does state behaviour confirm the pluralist structure of international society, or does it point in favour of a norm in support of active enforcement of human rights rendering the traditional definition of sovereignty obsolete? State practice shows great inconsistencies, and the question is if any general trends can be drawn from the body of state practice regarding a right to humanitarian intervention and the erosion of Westphalian sovereignty. As the studies of Reus-Smit shows, the concept of sovereignty has existed all throughout history; however, its definition has not been lapidary, it has changed according to context it has functioned in. One should keep in mind

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that as changes occur, some terms survive, whereas others change into being used in a more modern context:

“a word is not crystal, transparent and unchanged; it is the living skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used”²²⁸

Both in the ICISS and Saving Strangers the argument is made that the right of use of force, albeit as a last resort, is derived from a fundamental shift in the understanding of sovereignty in international relations. Sovereignty as a “dual responsibility”: externally, to respect the sovereignty of other states, and internal, to respect the dignity and basic rights of all the people within the state, has been put forward. In the ICISS this redefined form of sovereignty is described as sovereignty as a responsibility, rather than the Westphalian sovereignty by authority. States are under responsibility to protect their citizens, and if they fail, international community can and should take the responsibility for human security. This shift has been partly accommodated by the conventions, and by UN and state practice, as “the defence of sovereignty, by even its strongest advocates, does no longer include any claim of unlimited power of a state to do what it wants to its own people”.

On the subject of Kosovo, Havel argued that “human rights have become globalized, and no state can justify violation of those rights by saying “this is our internal concern”?.²²⁹ With the background of the UN Charter, the UDHR, and various other human rights treaties, the notion that governments can claim immunity from international concerns when they violate the rights of their citizens, is rejected on the basis that no member of the UN can mistreat their citizens and treat it as their “own business”.²³⁰ In short, a pressure is put on those committing atrocities, as intervention cannot be ruled out, and perpetrators are put on notice as they can come to be held accountable for their actions, as shown in the trial of Milosevic.

Human rights norms have fundamentally and irrevocably challenged tradition views on the concept of sovereignty. As Joschka Fisher said, in connection with Kosovo, the conflict “marks a change in the direction of the development of international relations – one in which human rights are valued as much as sovereignty”.²³¹ On the same matter, Vaclav Havel argued that it was probably the first war fought in the name of values and that “[…]this war gives human rights precedence over the rights of states[…]”.²³² Although the Kosovo case arguably is seen as an important precedent of a right to humanitarian intervention put on the agenda through the interventions in northern Iraq and Liberia, contemporary state practice, as shown, is inconsistent and in many cases uncertain. Nevertheless, the quotes by Havel and Fisher, illustrates a change in the normative environment, as sovereignty is being questioned, not only as the supreme source and location of important values, but also as a commanding value and as the organizing principle of international relations.²³³

The cases of northern Iraq and Yugoslavia illustrates the continued controversy surrounding humanitarian intervention and the relationship between human rights and sovereignty, as both of these cases were of greater strategic interests to their respective intervening forces. On the

²²⁸ Reisman (1990), p. 875.
²³⁰ Derian (1979), p. 4.
²³² Smith (2005), p. 3.
²³³ Ibid., p. 3.
other hand, the case of so-called failed states, Liberia, Sierra Leone and Somalia, shows that in cases where no efficient government has been in place, intervention on humanitarian grounds has become more accepted. The international community seems more prone to accept such a right in cases where intervention does not pose a threat to the traditional definition of sovereignty. Furthermore, this argument is supported by the “need for invitation” from Indonesia for France to intervene in East Timor.

The crisis in Chechnya doubtlessly casts a shadow over the post-Kosovo heightening of human rights. Together with the situation in Darfur, it provides us with the insight that despite current tendencies of advocating human rights, “the fact remains that strategic and political considerations still override human rights concerns”.234

4.2.4 Enforcement Mechanisms

Because international society is anarchic, international institutions do not have the authority to ensure compliance with human rights norms. As a result, the international enforcement of human rights ultimately depends on the policies of foreign states, especially the major powers, and the ability to broker consensus on actions within international organizations. Following the end of the Cold War, the S.C actually has had a genuine prospect of fulfilling the role initially envisioned for it in the UN Charter.

Despite accusations of the ineffectiveness of the UN, humanitarian disasters over the last decades has not been caused by UN incompetence; but rather grew from the failure of member states to act quickly, reasonable, or honourably. It was the member states that turned their back on Rwanda, not the UN; it is the division among the member states that impedes taking action through the UN. This additionally points to a lack of solidarity.

Human rights now constitute real international law supported by widespread demand for enforcement, but the question is how well these are really enforced. The only UN organ with real enforcement powers is the S.C, but the absence of consensus on human rights among the P-5 renders S.C remedial unlikely, as shown in the cases of Kosovo and northern Iraq.

The solidarist conception seeks to subordinate the use of force to “the collective will of the society of states”.235 Collective security requires organization, as well as, commitment and consensus. Over the years, two different situations of commitment have developed: situational vs. non-situational commitment. The first is determined by the immediate interests at stake and whether or not these proscribe actual commitment. The latter, on the other hand sees commitment as imbued and governed by principles, ideology and obligation. The collective security imbedded in the UN Charter is so-called “police action” of the international community, in response to law-breaking behaviour by states that exhibits solidarity.

The problem of agency is two-folded: first, there is a problem with who constructs and codifies human rights, and secondly, who enforces them. For both of these, the political will of the states becomes crucial, and for the enforcement, the problem of selectivity needs to be tackled. In absence of a standing multinational force, the answer has been to bring the state “back in”. Military intervention, nevertheless, is considered illegitimate if one single state provides the bulk of the force, yet the reality is that the nature of military action in these

cases, in absence of a standing international army, often requires one power to provide the bulk of a particular force.

Humanitarian intervention is in large part about the choice of either enforcement, through intervention, or non-enforcement, through favouring non-intervention and thereby also the principle of state sovereignty. In general, then, any case of intervention for humanitarian reasons should support solidarism, and cases such as Chechnya and Darfur, support the principle of state sovereignty. The answer, however, is not that clear-cut. Cases like Rwanda and East Timor, where interventions have taken place rather late, provides evidence that the decision of enforcement is more problematic. In addition, the fact that alternative and mixed motives has contributed to the decisions, and the disagreement within the S.C, supports the pluralistic considerations at play.
5. CONCLUSIONS

5.1 Solidarist Standards in Contemporary Theory and Practice

Human rights have long been a subject of international relations, but it is during the last decades that human rights have grown to be a major concern. Human rights can no longer be seen as “the preserve of visionaries, they are pressing concerns which are vital and relevant to the lives of every human being”. This growth and development of human rights within international law, along with the quotes of statesmen and others alike, illustrates an important change in the normative environment. Solidarism and our common humanity form the basis for calls of humanitarian intervention, and the rise of human rights concerns, has led to a major leap in international relations as states can no longer claim that how they treat their citizens is solely their own business. In other words, “the state’s duty to protect human rights is not only owed to individuals within its jurisdiction but to the international community as a whole”.

As argued in this paper, solidarism depends on how and why values are shared, to what degree states have converged, to what the values are, and to what degree they are enforced. The empirical part of the paper has been devoted to analysing solidarism in the particular area of humanitarian intervention. Humanitarian intervention is very much a question of enforcement, and the establishment of a right to humanitarian intervention would hence have decisive effect on the normative content of international society.

The deciding factor in whether or not an identity is shared, regardless if it is shared through means of coercion, calculation or belief, is unity around a certain value or a certain institution. When it comes to humanitarian intervention, the value of humanity is the pivotal value on which unity must be based. Mixed motives for intervention, the CNN-effect and mere cost-benefit calculations, therefore undermines the claim that humanitarian intervention takes place mainly for humanitarian reasons. Cases such as Rwanda, Yugoslavia and in parts Somalia, points to the lack of humanitarian conscience or impulse as international community hesitated to take any action. In sum, the security of others was separated from our own security, sustaining different identities. The situations in Chechnya and Darfur further support this view. On the opposite, the cases of Sierra Leone and East Timor, supports that humanitarian incentives do have impact on whether or not intervention takes place. Perhaps, the cases of Liberia and Kosovo come closest to illustrating the contemporary stand: identity is not yet shared on the global, or international level. Instead, any progress is limited to regional groupings, and in many cases driven by non-humanitarian motives.

In order to uphold a certain degree of solidarism when it comes to humanitarian intervention, a large group of states must have converged to a high degree within the joint project of human rights. Certainly the vast body of human rights supports the argument that states have converged. However, the differentiation in both apprehension and application of human rights on the national level, such as the focus on social, economic and cultural rights in the south and on political and civil rights in the north, shows the opposite. Over the last decade, several attempts has been made to forge convergence on the issue of human rights, but as the shortcomings and disagreement over the Vienna Declaration and the Millenium Declaration goes to show, such progress has remained disputed and at best aspirational. Cultural, political

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237 Ibid., p.630.
and domestic values are not similar enough for the domestic systems to be categorized as converged.

The core of the solidarist argument for humanitarian intervention lies in the prominence given to human rights over the sovereign rights of states. Any development towards a more solidarist international society therefore needs to, at least in part, make sovereignty conditional, and give room for the equity of people and justice as the deciding values. As states, however, continues to be potent force in international relations, and the perhaps best guarantee and most effective enforcer of human rights, the key to solidarism lies in developing international law as to resolve the balance between when sovereignty should be upheld, and when it should give way to human rights values. “Realizing that our realities, our way of interpreting the world are socially constructed, and thus imbued with social purpose, we can recognize that any view of law or any social idea, such as sovereignty, is contingent, but the firmness or ephemeral nature of this contingency is based upon the idea, structure, or institutions we concerned about”. Including the protection of human rights as the state’s social purpose thereby allows for a re-conceptualization of the concept of sovereignty.

Humanitarian intervention, as pointed out earlier, is very much a question about enforcement of human rights standards. Hence, case where intervention has taken place supports solidarism in this aspect, while non-action based on support of state sovereignty and the non-intervention principle supports pluralism. The increased willingness to defend human rights in both words and actions, points to at least a partial solidarism. The case studies, however, show great inconsistency in the application of international law, and in almost every case, the S.C has been careful in pointing out the exceptional and unique character of each instance. Instead, any transformation has been incremental rather than fundamental and remains “hamstrung by the absence of consensus on the relationship of human rights to international peace and security”. Given this case-by-case approach “the normative scene is still cloudy, and the extent to which we have move beyond traditional norms is dubious”. In the absence of a global government, essentially no enforcement mechanisms which work in a timely, efficient and consistent manner has been available, and states have remained the only actors that are able to engage in intervention. As a result, inconsistency, selectivity and abuse have permeated the development of cohesive enforcement in response to humanitarian crisis. This tentative and ambiguous nature of forceful intervention has presented itself in the cases of northern Iraq, Somalia, Yugoslavia and Rwanda. In the case of northern Iraq it was the consequences of human rights violations, rather than the violations themselves, that formed the basis of intervention. An indirect connection between human rights and UN action can be found in the case of Somalia, where human rights violations were the main rationale for intervention. Both Somalia in the later stages of intervention, and the additional case of East Timor, proves that major powers has become involved in forceful action in cases where no direct economic or strategic interests were at stake. The cases of Yugoslavia and Rwanda further highlight the selectivity in international response. Both these dealt with cases of documented genocidal behaviour, where the international society has failed to act. In both these cases, humanitarian or solidarist sentiments alone, were not sufficient to warrant any forceful response.

However, Weiss concludes that “the concept of domestic jurisdiction has changed in substance, if not in law…” and the respect for the traditional norm of non-intervention has made way for “a more subtle interpretation according to which, on occasion, the rights of

238 Mills (1997)
239 Ibid.
individuals take precedence over the rights of repressive governments and the sovereign states they represent.\textsuperscript{240} Human rights help states redefine their interest and identities, one example is the Soviet Union with its “glasnost” and “perestroika” policy. Increasingly human rights are also becoming embedded in institutions. The general conclusion to be made here is that the international society seems more willing to approve of a norm establishing humanitarian intervention in cases where either the target state is a so-called “failing state”, or in cases where the humanitarian crisis can be considered a threat to international peace and security: a sort of modified security perspective. However, there remains a lack of consensus regarding both the legitimacy and appropriate circumstances under which interventions may take place.\textsuperscript{241}

5.2 Final Conclusions

“Real problems, like the problem posed, are not amenable to simple solutions.”\textsuperscript{242}

Adopting pluralism as the normative status of contemporary international society does not account for cases of intervention where the motives, actions and outcomes are dominantly humanitarian, and hence not subject to “mixed motives”. It does not account for the beginning of intervention in Somalia, the persistency in the case of Sierra Leone, or the case of East Timor. Solidarist sentiments exist as proven by the vast body of international, regional and national law in forms of conventions and declarations, as well as the behaviour of states - but to what degree?

The cases of humanitarian interventions can be seen as part of a larger trend where increased prominence and weight has been given to human rights and humanitarian norms as matter of international concern. Human rights have come to override any narrow view of state sovereignty and have re-conceptualized sovereignty to include human rights. In cases such as northern Iraq and Liberia, the S.C has chosen to characterize humanitarian concerns as threats to international peace and security, and in cases like East Timor and Kosovo, the motives, the interventions itself and the consequences remained in large part humanitarian. State sovereignty and non-intervention, however, still limits solidarist progress, and many interventions, such as Somalia, Yugoslavia, and Rwanda, took place after the crises had assumed catastrophic proportions.\textsuperscript{243}

The perhaps most vivid example of the lack of solidarist engagement is the case of Rwanda. Likewise, the response to the crises in Yugoslavia and the lack of persistency in Somalia, was decisively half-hearted. Wheeler and Dunne states that the post-Cold War crisis in Rwanda and Bosnia bear witness to, at best, a minimum solidarism, whereas Buzan reaches the conclusion that international society is “modestly cooperative”.\textsuperscript{244} International society seems to have come to agreement that “sovereignty is no longer an inviolable barrier behind which abuses can go on ignored”, but yet it seems reluctant to act on the concept of sovereignty as a


\textsuperscript{242} Wiessner and Willard (1999), p. 316.


\textsuperscript{244} Wheeler and Dunne (1996), p. 103.
“dual responsibility”, including guaranteeing citizens certain rights. As a result, nevertheless, a redefinition of sovereignty is currently taking place through state practice, if not yet expressed in positive international law.

New opportunities and possibilities for common action have arisen from the end of the Cold War, and calls for humanitarian intervention is deeply rooted in moral thought. It is wrong, however, to conclude a legal right directly from the moral argument, because such an argument neglects the value of institutions. A norm establishing a right to humanitarian intervention is yet to be reconciled with the structures of the contemporary international society, including international law, sovereignty and political expediency.  

In other words, the international society is not yet solidarist enough to accommodate and legitimize a norm of humanitarian intervention, and intervention continues to be undertaken and accepted due to the particular set of circumstances surrounding each case of humanitarian crises. In addition to the deep contradiction between the supposed norm of non-intervention and the interventionist practices of states, states are inconsistent in the way they interpret the relationship between sovereignty and human rights. Furthermore, the international society has failed to establish any coherent solidarist international policy, as interventions in the end depends more on the political will of states which leads to selectivity and abuse than on solidarist standards.

The pressure to intervene steams from three directions, according to Falk. First, the rising prominence given to the implementation of fundamental standards of international human rights, second, the multi-dimensional erosion of state sovereignty as the basis for ordering the relations between states and society, and third, the media-induced awareness of humanitarian responses (the CNN-factor). The first two clearly identifies the solidarist progress that has taken place in contemporary international society, whereas the third has visualized the need for response by appealing to the solidarist sentiments of state leaders, global society, and individuals. The deficit in international consensus, and the lack of validation of human rights norms, together with the absence of cohesive international response to human rights abuses, leads us to conclude that it is within a minimal solidarist conception we can best comprehend contemporary commitment to humanitarian crisis. Minimal solidarism, hence, shows some progress away from pluralist thinking towards solidarist normative thinking rooted in the norm of justified humanitarian intervention found in the UN Charter, the UDHR, human rights covenants as well as state practice, while lacking any real empirical commitment in support of such solidarist standards. As expressed in April 2005 by the UN Secretary General Kofi Annan:

> “the gap between what we seem to promise, and what we actually deliver, has grown. The answer is not to draw back from an ambitious human rights agenda, but to make the improvements that will enable our machinery to live up to the world’s expectations.”

Focusing on international law as the key to increased solidarism, helps to overcome some of the idealism traditionally associated with the concept of human rights and humanitarian

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246 Ibid., p. 502.
intervention. Solidarism as a feature of international society accepts some differences between the units, as it can be achieved either through homogenization, or through differentiated units developing a high degree of shared and advanced rules and norms, such as the body of internationally recognized human rights. The variables brought forward in this paper indicates that the question of humanitarian intervention is not necessarily in opposition with the principle of state sovereignty, but that a redefinition of the concept of sovereignty to include human rights protection is necessary. To a large portion the issue of humanitarian intervention depends, not on the principle of state sovereignty, but on the political will of states, and as concluded solidarism has not yet been translated to sustained state behaviour to the degree that we can speak of a solidarist international society. Despite various developments and agreements on human rights, international society is not solidarist enough to legitimize a norm on the right to humanitarian intervention. As we continue to perpetuate divisions and cling on to pluralist principles, we do not just fail to gather the will of the world - we also fail the test of our common humanity.
5.3 Recommendations for Further Research

Following the argument made in this paper, a detailed analysis on the processes through which we recognize social, cultural and economic rights, continues to be welcomed. More focus should be put on regional levels, and joint projects like the EU, and how these have succeeded in bringing solidarist progress. If solidarism cannot expand at these levels, it is unlikely to progress at the international level. Works on how to work towards agreement of inclusion of a humanitarian consensus into the national and regional interests and developing criteria sensitive to human rights developments in order to measure progress, and on the question of accountability, are other areas of proper concern. Research focusing on the importance of the role of NGO’s and how to incorporate them, along with humanitarian values, into the constitutive process, would also be welcomed, in order to come to terms with the problem of abuse.

As always, one should keep in mind that the use of force should remain a last resort, and continued focus should be put on trying to avoid or resolve conflicts.
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