

# Abstract

## Humanitarian intervention

Humanitarian intervention is defined as a threat or use of force across state borders by a state, group of states or international organization primary 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 and even without permission of the United Nations Security Council. The purpose of my thesis is to analyse legal status of humanitarian intervention. Question of legality humanitarian intervention is one of the most controversial topics in international law and represents conflict between two major values of international law – international peace and protection of human rights. Both of these values are under protection of peremptory rules.

The origins of humanitarian intervention can be tracked to natural law theoreticians in seventeenth century, but significant examples of humanitarian intervention occurred in nineteenth century. In accordance with traditional international law was humanitarian intervention lawful because the use of force wasn't forbidden by any legal norm. By virtue of adoption of the UN Charter was prohibited use of force and humanitarian intervention became illegal. But after the adoption of UN Charter occurred crucial development of human rights and standards in treatment with population. In addition, some states carried out successful humanitarian intervention. Are these circumstances sufficient to create customary rule of humanitarian intervention?

The thesis is composed of introduction, five chapters and conclusion. The introduction provides basic deliberations, purpose of the thesis, reasons for the choice of this topic and basic literature. Introduction also describes the structure of the thesis.

Chapter one concentrates on problems with definition of humanitarian intervention.

Chapter two examines the development of humanitarian intervention. This chapter consists of five parts. First part is focused on development of humanitarian intervention before First World War, second describes effort on limitation of use of force between First and Second World War. Third part briefly dedicate to adoption of UN Charter, fourth part deals with typical feature of modern international law – distinction between *ius dispositivum* and *ius cogens*

*cogens*. Fifth part is dedicated to protection of human rights contained in general international law.

Chapter three briefly examines legal consequences of internationally wrongful acts, the enforcement of international obligations is comprised in chapter four.

Chapter five is dominant part of the thesis and is addressed the issue of legality of humanitarian intervention in post-1945 international law. This chapter includes six parts. First part answers to the question, if the prohibition of use of force defined in UN Charter applies to humanitarian intervention. Second part briefly mentions the development of law of human rights after Second World War. Third part examines possibility of using UN Security council to prevent widespread and grave violations of the fundamental human rights. Fourth part answers to the question, if is possible existence of international custom of humanitarian intervention. It describes conditions of creation new customary norm and concentrates on state practice and attitude of states to humanitarian intervention. Fifth chapter illustrates, that even illegal conduct may be considered as legitimate. Sixth chapter is dedicated to concept Responsibility to Protect.

Conclusion express opinion, that humanitarian intervention is *de lege lata* illegal, because the conditions of creation of new customary norm weren't met. Nevertheless, many states are willing to tolerate humanitarian intervention.