Abstract in English

The doctrine of "humanitarian intervention" has long been a controversial subject, both in law and in international relations, and remains so today.
For humanitarian intervention is typical that it is a multidisciplinary issue. This problem is questionable not only from the point of view of law; however there also arise many ethic and moral dilemmas.

The study handles the humanitarian intervention from the view of international law hence my aim is to outline the legal questions connected with this issue.
At first it must be said that humanitarian intervention exists for a very long time although it has been subject of discussions for last ten or twenty years.
What makes the humanitarian intervention such controversial point in question in contemporary international law?

First of all the concept of humanitarian intervention must be distinguished from related concepts, such as "humanitarian action", "humanitarian operations", "humanitarian assistance", "intervention to protect nationals abroad", "intervention to facilitate self-determination", " pro-democratic intervention" and more other concepts closely link to humanitarian intervention

If we start to concetrate just on humanitarian intervention there are questions to think about:
Firstly, the main question is: What is the humanitarian intervention? We need the legal definition if we want to answer. But there is no generally accepted definition of this term. For the purpose of this article which deals with the military intervention, the humanitarian intervention is mostly understood as: the use of force by a state, or group of states or international organization in a third state for the purpose of protecting the nationals of the target state from massive violations of the most fundamental human rights, especially mass murder and genocide. The victims are not nationals of the intervening state.
Secondly, the question of legality of humanitarian intervention
The humanitarian intervention is not the issue of customary law, there exists only treaty law. The relevant treaty law can be found in UN Charter.
The problem of humanitarian intervention lies in three legal absolutes:

a) peace – according to the articles (23 – 51) of the UN Charter, the Security Council is the body whose primary purpose is to maintain international peace and security. The massive deprivation of fundamental human rights within territory of one state can threaten international peace. But one of the basic principles of international law is the principle of state sovereignty which means the obligation of non-intervene in matters that are essentially within the domestic jurisdiction of any state.
b) human rights – the rapid development of human rights ideology in the second half of 20^{th} century gave rise to a number of approaches under which the human rights are not only the matter within the domestic jurisdiction of the state.
c) use of force – according to the articles (2(4)) of the UN Charter, the use of force is illegal. The qualifications to this rule are claims made in the name of self-defence or collective security with the authorization by Security Council under the Chapter VII. But most international lawyers have agreed that intervention for the purposes of humanitarianism and democracy building did not pass these two exceptions.

Thirdly, the question of the right authority.
Who has the right to covered action by the mandate? In general, Security Council is the right body which may authorize the use of force. But this is not so evident. History proves a great

deal of situations where the condition of mass violation of human rights was fulfilled but the Security Council was inactive. It is also questionable if the action covered by the mandate is the humanitarian intervention in the right meaning of this concept.

From this reason it must be underlined that the humanitarian intervention is not only the legal question but also the question of political will of the state. Although the development has tended from humanitarian intervention to responsibility to protect the fact of political will still remains.

This study seeks to contribute to the scholarly debate regarding the values that should prevail when widespread human rights deprivations accur within the domestic juristiction of states. On the one hand there are the "state-system values" of state sovereignty, non-intervention and the prohibition of the use of force. These principles are said to constitute the bedrock of contemporary international law. On the other hand there are other equally legal norms engrained in international human rights and humanitarian law. One of the main issues that the study attempts to tackle is: Which of the two sets of values should be prevail in the face of mass and atrocious violations of human rights? In addressing this issue, the study highlights the dilemma of the competing interests of humanity *vis-a-vis* the need to adhere to traditional paradigmas that constitute basic international law. Ultimately, the study defines when, if at all, the international community acting in concert may exercise the right or duty exists, how and by whom it may be exercised. The study attempts to challenge some of the deeply held assumptions about the efficacy, legality and legitimacy of collective humanitarian intervention.

The study provides a theoretical analysis of the concept of humanitarian intervention and examines the legal status of humanitarian intervention under treaty law. The aim of the study is also to establish the position of humanitarian intervention under customary international law, by exploring the relevant state practice and *opinio juris*. It establishes clearer procedures and criterias relating to when and how intervention should take place and makes recommendations regarding legal and institutional issues requiring consideration if the right or duty of humanitarian intervention has been exercised.