THE RIGHT TO HUMANITARIAN ASSISTANCE

Yoram Dinstein

It is impossible to assert, at the present point, that a general right to humanitarian assistance has actually crystallized in positive international law. Such a general right, had it consolidated, could be invoked in all circumstances: in peacetime (either in the face of endemic problems of famine, malnutrition, and disease, or—perhaps especially—when natural disasters occur) as well as in the course of armed conflicts (either international or internal). In reality, however, there is no clear-cut right under existing international law to humanitarian assistance in peacetime, not even when natural disasters strike.[1] To the extent that the right to humanitarian assistance is vouchsafed by binding norms of international law (customary or conventional), this is so only in certain contexts of armed conflict.[2]

Professor Dinstein, now a Humboldt Fellow at the Max Planck Institute in Heidelberg, was the Stockton Professor of International Law at the U.S. Naval War College in the 1999–2000 academic year. He earned M. Jur., LL.M., and Dr. Jur. (1964) degrees at The Hebrew University in Jerusalem and New York University and has been awarded honorary doctorates by the University of Buenos Aires, the University of Chile, and Hebrew Union College. He is a member of the Institut de Droit International. Aside from innumerable articles and monographs, he is the author of War, Aggression and Self-Defence *(2d ed., 1994) and editor of* International Law at a Time of Perplexity: Essays in Honour of Shabtai Rosenne *(1989),* War Crimes in International Law (1996), *and* The Protection of Minorities and Human Rights *(1992), among other books.*

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During an armed conflict (whether international or internal), the issue of humanitarian assistance arises solely as regards the indispensable needs of the civilian population. That is to say, first, that when offered or requested, humanitarian relief must be confined to civilians—it cannot be extended to combatants. Second, relief consignments can include only essentials, such as food, water, medications, clothing, bedding, and means of shelter. Clothing, bedding, and means of shelter are of particular relevance to refugees and displaced persons, but all civilians in a devastated area (including those with roofs over their heads) may be in dire need of food, water, and medications.

There are principally three scenarios in which the issue of humanitarian assistance may come into focus in armed conflict (whether international or internal).

- A belligerent party controlling the territory inhabited by civilians possesses the essential provisions required and, given good will, could distribute them without undue difficulty to meet the demand. Yet, it pursues a deliberate policy of denying supplies to those in need (primarily, enemy civilians or persecuted minorities).
- Essential provisions are available to a belligerent party that is desirous of distributing them to the civilians in need, but distribution is obstructed by the enemy.
- Essential provisions within the territory controlled by a belligerent party are generally scarce, or the distribution system has collapsed owing to the ravages of the armed conflict.

In the first two instances, the situation can be remedied by the belligerents themselves (acting alone or in tandem). In the third, humanitarian relief can come only from outside sources—neutral states or charitable nongovernmental organizations—which must gain access to the afflicted area.

RIGHTS AND OBLIGATIONS

It is useful, at least from the perspective of juridical theory, to distinguish in armed conflict between a right of the civilian beneficiaries to demand or obtain humanitarian assistance and a right of states (or impartial humanitarian organizations, like the ICRC [International Committee of the Red Cross]) to insist on providing such assistance.[3] Should it be recognized that civilians have a right to demand or obtain humanitarian assistance, it is necessary to pinpoint the party bearing the corresponding duty to render that assistance. In the first two instances mentioned above, a duty can be imposed by international law on one or another of the belligerent parties. In the third instance, the situation is more complex. Surely, civilians do not have an absolute right to demand relief from the outside, applicable *erga omnes* (that is, vis-à-vis the entire international community). In other words, it would be absurd to contend that every state in the world is duty bound to come up, on demand, with relief aid to civilians embroiled in any armed conflict, wherever it is raging.[4] However, if relief is offered by a neutral state (or an impartial humanitarian organization), civilians may have a right to insist that shipments reach their destination, and belligerents may have a corresponding duty to enable free passage. Moreover, the neutral state may have a right vis-à-vis the belligerents—and, as circumstances dictate,

vis-à-vis other neutral states through whose territories the shipments must be routed—to expect that relief consignments will actually be allowed to get through to the civilian beneficiaries.

SETTINGS FOR HUMANITARIAN AID

No customary norm has so far crystallized in the international law of armed conflict to establish a general right to humanitarian assistance (of whatever type) solely because provisions are scarce. It is, therefore, proposed to address here different factual settings arising in armed conflict. Each presents its own problems and its own solutions. These discrete settings are: occupied territories, siege warfare, maritime blockade, aliens in the territory of a party to the conflict, general relief supplies from the outside, and noninternational armed conflicts. Additional issues to be discussed are germane to enforcement measures and the responsibility of the Security Council of the United Nations.

Occupied Territory

When enemy territory is subject to belligerent occupation, the legal position as regards humanitarian assistance to the local civilian population is the clearest. Article 55(1) of the 1949 Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War prescribes that "[T]o the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores, and other articles if the resources of the occupied territory are inadequate."[5]

The authoritative ICRC commentary on this convention sets forth that according to article 55(1), the occupying power incurs "a definite obligation to maintain at a reasonable level the material conditions under which the population of the occupied territory lives."[6] Article 69(1) of the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), broadens the list of objects specified in article 55(1) by itemizing also clothing, bedding, means of shelter, and any other supplies essential to the survival of the civilian population.[7]

In employing the phrase "[T]o the fullest extent of the means available to it" in Article 55(1) of Geneva Convention (IV), as well as in article 69(1) of Protocol I, the framers of the two instruments show their awareness of the predicaments in which the occupying power is likely to find itself in time of armed conflict (indeed, it may itself be exposed to a maritime blockade imposed by the enemy). Assuming a paucity of supplies at hand, the question is whether the occupying power must allow humanitarian relief (when offered) from the outside.

Article 59(1)–(2) of Geneva Convention (IV) sets forth that "[I]f the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal. Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing."[8]

As stressed in the ICRC commentary on article 59, the obligation imposed on the occupying power to enable such relief consignments to reach the civilian population "is unconditional."[9]

A violation of article 59 of Geneva Convention (IV) is not enumerated in article 147 as one of the "grave breaches" of the convention.[10] On the other hand, "wilfully impeding relief supplies as provided for under the Geneva Conventions" is categorized as a war crime in article 8(b)(xxv) of the 1998 Rome Statute of the International Criminal Court (which is not yet in force).[11]

Siege Warfare

The legality of siege warfare was not contested in classical international law; the legitimacy of attempting to reduce a besieged place through starvation was "not questioned."[12] Article 17 of the Geneva Convention (IV) deals with siege warfare in a very peripheral way, proclaiming, "The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas."[13] Obviously, only limited categories of civilians benefit from this stipulation. Besides, "[T]he words 'The Parties to the conflict shall endeavour' show that under the Convention evacuation is not compulsory"; article 17 amounts merely to a strong recommendation to belligerents to conclude an agreement effecting the removal of those enumerated.[14]

The legal position is radically altered in article 54 of Additional Protocol I, which reads:

1. Starvation of civilians as a method of warfare is prohibited.

2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.

3. The prohibitions in paragraph 2 shall not apply to such of the objects covered by it as are used by an adverse Party:

   (a) as sustenance solely for the members of its armed forces; or

   (b) if not as sustenance, then in direct support of military action, provided, however, that in no event shall actions against these objects be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement.[15]

The starvation of civilians is not enumerated in Protocol I itself as a "grave breach" (and therefore a war crime).[16] Nonetheless, it is noteworthy that article 8(2)(b)(xxv) of the Rome Statute of the International Criminal Court includes the following in the list of war crimes: "Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions."[17] The last words are of particular importance, inasmuch as they specifically stigmatize as a war crime a deliberate denial of humanitarian assistance in breach of the Geneva Conventions.

A siege laid to a defended town (inhabited by civilians) must be distinguished from one encircling a military fortress.[18] In the latter case, since the sustenance only of members of the enemy armed forces is at stake, starvation is a legitimate method of warfare, and it is permissible to destroy systematically all foodstuffs that can be of use to the besieged. By contrast, in the former case, inasmuch as civilians are directly affected, starvation and the destruction of foodstuffs are interdicted. In conformity with Protocol I, "A food supply needed by the civilian population does not lose its protection simply because it is also used by the armed forces and may technically qualify as a military objective. It has to be used exclusively by them to lose its immunity."[19] Yet, even pursuant to article 54 of the protocol, the besieging force can probably prevent supplies from getting through if civilians are guaranteed safe passage out of the besieged area.[20]

Maritime Blockade

Article 23(1) of Geneva Convention (IV) enunciates, "Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases."[21]

Although no explicit reference to blockade is made in article 23(1), there is no doubt that blockade constitutes the background of this clause.[22] The obligation

created in it is extremely limited in scope. Apart from being subjected to various conditions spelt out in other paragraphs of article 23, free passage of consignments for all civilians is confined to medications, and other items (food and clothing) are circumscribed to certain segments of the population deemed singularly vulnerable.[23] There is plainly no requirement to allow the supply of food and clothing to the civilian population in general.[24]

Other provisions pertaining to blockades appear in article 59(3)–(4) of the Convention. Paragraph (3) states that "[A]ll Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection."[25] According to paragraph (4), "[A] Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power."[26] These stipulations must, of course, be read together with paragraphs (1) and (2) of article 59 quoted above, dealing with relief consignments to occupied territories. Paragraph (3) is viewed by the ICRC commentary as "the keystone of the whole system"; its thrust is that such consignments must be allowed to cross through a blockade, subject to verification and supervision.[27]

It would be absurd to contend that every state in the world is duty bound to come up, on demand, with relief aid to civilians embroiled in any armed conflict, wherever it is raging.

The prohibition—incorporated, as noted, in Protocol I—of starvation of civilians as a method of warfare does not by itself render blockade unlawful as a method of warfare, provided that such starvation is not the sole purpose of the blockade.[28] This follows from the language of article 49(3) of the Protocol: "The provisions of this Section [articles 48–67] apply to any land, air or sea warfare which may affect the civilian population, individual civilians or civilian objects on land. They further apply to all attacks from the sea or from the air against objectives on land but do not otherwise affect the rules of international law applicable in armed conflict at sea or in the air."[29]

As the ICRC commentary on the protocol explains the paragraph, "In general the delegates at the Diplomatic Conference were guided by a concern not to undertake a revision of the rules applicable to armed conflict at sea or in the air. This is why the words 'on land' were retained and a second sentence clearly indicating that the Protocol did not change international law applicable in such situations was added."[30]

Even those advocating the illegality of a blockade giving rise to starvation of civilians are forced to concede that their position collides head-on with the

original intention of the diplomatic conference that the instrument it produced have no impact on the law of blockades.[31]

Aliens

As far as aliens in the territory of a party to the conflict are concerned, article 38(1) of Geneva Convention (IV) confers upon them the right "to receive the individual or collective relief that may be sent to them."[32] As the ICRC commentary expounds:

> Relief as meant here will consist, for example, of consignments of food, clothing and medical supplies sent to the protected persons individually or collectively. Such consignments may come either from the country of origin of the protected persons or from any other country and may be sent by private individuals, humanitarian organizations or governments.
>
> The right of protected persons to receive relief implies an obligation of the country of residence to allow the consignments to enter its territory and to pass them on intact to the addressee.[33]

Relief from the Outside

Article 70 of Protocol I pronounces:

1. If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies mentioned in Article 69, relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as an interference in the armed conflict or as unfriendly acts. In the distribution of relief consignments, priority shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who, under the Fourth Convention or under this Protocol, are to be accorded privileged treatment or special protection.

2. The Parties to the conflict and each High Contracting Party shall allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this Section, even if such assistance is destined for the civilian population of the Adverse Party.

3. The Parties to the conflict and each High Contracting Party which allow the passage of relief consignments, equipment and personnel in accordance with paragraph 2:

   (a) shall have the right to prescribe the technical arrangements, including search, under which such passage is permitted;

(b) may make such permission conditional on the distribution of this assistance being made under the local supervision of a Protecting Power;

(c) shall, in no way whatsoever, divert relief consignments from the purpose for which they are intended nor delay their forwarding, except in cases of urgent necessity in the interest of the civilian population concerned.

4. The Parties to the conflict shall protect relief consignments and facilitate their rapid distribution.

5. The Parties to the conflict and each High Contracting Party concerned shall encourage and facilitate effective international co-ordination of the relief actions referred to in paragraph 1.[34]

In contradistinction to article 23(1) of Geneva Convention (IV) cited earlier, article 70(1) of Protocol I "expands relief entitlement to the whole population, and not only to vulnerable segments" thereof.[35] Furthermore, article 70(1) employs the phrase "shall be undertaken," which—when taken alone—"clearly implies an obligation to accept relief offers meeting the requirements mentioned in the article."[36] However, one cannot disregard the glaring fact that implementation of the implied obligation is explicitly subject to an agreement between the parties concerned. "Consent—the expression of sovereignty—is hence a basic principle in the exercise of the right to humanitarian assistance in armed conflicts."[37]

As long as an agreement by all concerned lies at the root of relief actions, one cannot speak of a genuine obligation to allow, or a genuine right to obtain, humanitarian assistance. At best, article 70(1) may be construed as precluding refusal of agreement to relief for arbitrary or capricious reasons.[38] Regrettably, there are a host of nonarbitrary and practical reasons that can be invoked by a belligerent in armed conflict if it chooses to withhold its consent from the delivery of relief supplies to civilians. The upshot is that the framers of article 70(1) created "the impression of an ironclad obligation, and at the same time took the bite out of that rule."[39]

Noninternational Armed Conflicts

For the legal position in noninternational armed conflicts, it is necessary to consult two sources. First, there is common article 3 of the four Geneva Conventions of 1949, which states, "An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict."[40] Undeniably, the pivotal word here is "offer." Hence, the parties to the conflict can always choose to decline it.[41]

The second source is the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).[42] Article 14 of Protocol II prohibits both

starvation of civilians as a method of combat and attacking objects indispensable to the survival of the civilian population.[43] However, it must be taken into account that the 1998 Rome Statute on the International Criminal Court—which, as mentioned, brands as a war crime the starvation of civilians in an international armed conflict (including the deliberate denial of humanitarian relief supplies as provided for by the Geneva Conventions)—does not treat in the same manner the starvation of civilians in a *non*international armed conflict. The omission was by no means accidental.[44] It is conspicuous in light of the long catalogue of war crimes in internal armed conflicts encompassed in article 8 of the statute.[45]

Even those advocating the illegality of a blockade giving rise to starvation of civilians are forced to concede that their position collides head-on with the original intention of the diplomatic conference.

Article 18 of Protocol II prescribes:

1. Relief societies located in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations, may offer their services for the performance of their traditional functions in relation to the victims of the armed conflict. . . .

2. If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.[46]

A leading role in the field of international humanitarian assistance is traditionally played by the ICRC.[47] Yet, interestingly enough, article 18 of Protocol II does not mention the ICRC by name. Thus, if one looks for a legal niche to accommodate the ICRC, it is necessary to fall back upon common article 3. "Paradoxically, it can thus be said that in this respect it is common article 3 which 'develops and supplements' the Protocol rather than vice versa."[48]

Article 18(2) appropriately imposes the condition of nondiscrimination in the distribution of humanitarian assistance from the outside; supplies cannot be sent solely to one section of the civilian population and be denied to other groups. But once more, the core issue is that of consent, which is emphatically required. The ICRC commentary suggests that if the survival of the civilian population is threatened, the authorities responsible cannot withhold their consent without good grounds (implying that such action would constitute a violation of article 14).[49] The trouble is that as long as consent is essential, those

authorities can usually find plausible excuses for delaying humanitarian assistance, and even for frustrating it altogether.

UN SECURITY COUNCIL RESOLUTIONS

Occasionally, the Security Council of the United Nations adopts resolutions calling upon the parties to an armed conflict to allow unimpeded delivery of humanitarian supplies to civilians. Such calls must be analyzed carefully. More often than not, they are couched in merely hortatory terms, as recommendations, in which case they do not per se introduce any change in the legal situation. Where relief is contingent on the consent of the parties concerned, consent remains the crux of the issue. Still, at times the Security Council resorts to binding language, citing specifically chapter VII of the Charter of the United Nations (devoted to the maintenance or restoration of international peace and security).[50] Pursuant to article 25 of the Charter, all members of the United Nations must "accept and carry out" the decisions of the Security Council, in accordance with the Charter.[51] It is not entirely clear which decisions of the Council are covered by article 25, but decisions under chapter VII are indisputably binding.[52] Thus, when the Security Council decides to exercise the powers vested in it by virtue of chapter VII, the legal rights and obligations of the parties to the conflict undergo a fundamental transformation; their freedom of action is curtailed.

It is only natural that the Security Council tends to move gradually in this field (as in others), first urging parties (in a nonbinding fashion) to allow unimpeded delivery of humanitarian supplies to civilians, and only subsequently (when its appeal remains unheeded) moving to assert itself under chapter VII in a binding fashion and even imposing sanctions. A good illustration can be found in a series of resolutions of 1992 relating to Bosnia-Herzegovina. The Security Council first adopted Resolution 752, simply calling upon the parties to ensure that conditions be established for the effective and unhindered delivery of humanitarian assistance.[53] Then, the Security Council demanded in Resolution 757—specifically referring to chapter VII—that the parties immediately create these conditions.[54] In Resolution 770, the Security Council—again acting under chapter VII—expressed its determination to create as soon as possible the necessary conditions for the delivery of humanitarian assistance wherever required in Bosnia-Herzegovina.[55] When all else failed, the Security Council decided, in Resolution 781, to establish a ban on military flights in the airspace of Bosnia-Herzegovina, considering the measure to constitute "an essential element for the safety of the delivery of humanitarian assistance."[56] It is possible to say that in Bosnia-Herzegovina the protection of humanitarian aid became "the de facto raison d'être of the UN mission."[57]

THE USE OF FORCE TO ENSURE RELIEF

A separate question is whether forcible measures can be used against a state contravening the right to humanitarian assistance (in the specific circumstances in which that right exists). There is a school of thought holding that states may use force at their discretion to coerce a recalcitrant nation to respect international humanitarian law (so-called "humanitarian intervention").[58] However, "humanitarian intervention is not an exception to the [UN] Charter prohibitions on the use of force."[59] The Charter prohibits any use of unilateral force in interstate relations, except in circumstances of self-defense in response to an armed attack.[60] The International Court of Justice in 1986, in the *Nicaragua* case, rejected the notion that forcible humanitarian intervention is permissible on a unilateral basis.[61]

On the other hand, article 39 of the Charter of the United Nations instructs the Security Council to determine when a threat to the peace occurs.[62] Upon concluding that a situation amounts to a threat to the peace, the Security Council is empowered to resort to enforcement action against the state concerned. "[A] threat to the peace in the sense of Article 39 seems to be whatever the Security Council says is a threat to the peace."[63] The Security Council definitely can decide that the deliberate blocking of humanitarian assistance to civilians in dire need of it amounts to a threat to the peace and that an enforcement action is the proper remedy.

Inaction by the Security Council does not amount to authorization for collective security measures, even by a regional organization.

Indeed, in Resolution 794 (1992), the Security Council authorized member states to use "all necessary means" to establish "a secure environment for humanitarian relief operations in Somalia."[64] The expression "all necessary means" has become a commonly employed euphemism for the use of force (which indeed followed, in the Somalia case, although success proved elusive).

Pursuant to article 53(1) of the Charter, the Security Council can, where appropriate, utilize regional organizations "for enforcement action under its authority."[65] Article 53(1) does not diminish from the monopoly of the Security Council, as established in the Charter, in the realm of collective security. The legality of the enforcement action by a regional organization is entirely contingent on Security Council authorization.[66] The Security Council can launch or approve a genuine humanitarian intervention, in order to counter breaches of the right to assistance—or of any other norm of international law—that it deems threats to peace. However, no state acting solitarily—nor even a regional organization—can arrogate the powers of the Security Council.

In March–June 1999, the North Atlantic Treaty Organization launched a continuous campaign of severe and sustained aerial attacks against Yugoslavia, with a view to compelling a settlement of the issue of Kosovo. It is true that prior to

the attacks, in Resolution 1199 (1998), the Security Council, acting under chapter VII of the Charter, had affirmed that "the deterioration of the situation in Kosovo, Federal Republic of Yugoslavia, constitutes a threat to peace and security in the region."[67] That affirmation was repeated in Resolution 1203 (1998), also based on chapter VII.[68] Resolution 1199 noted a Yugoslav commitment "to ensure full and unimpeded access for humanitarian organizations, the ICRC and the UNHCR [UN High Commissioner for Refugees], and delivery of humanitarian supplies."[69] The Security Council, alarmed by what it termed an "impending humanitarian catastrophe" in Kosovo, was fully competent to take or authorize enforcement action against Yugoslavia, by identifying a threat to the peace.[70] However, absent authorization from the Council, the North Atlantic Treaty Organization had no right to resort to enforcement action. The members of the Organization, individually or collectively, are entitled to invoke self-defense when faced with armed attacks by (or at least from) other states. But when there is no armed attack against a sovereign state, and in the face of humanitarian repression amounting only to a *threat* to the peace, only the Security Council is empowered by the Charter to use, or to authorize the use of, force.

It is true that the Security Council did not condemn the air campaign in Serbia and Kosovo.[71] All the same, inaction by the Security Council does not amount to authorization for collective security measures, even by a regional organization.[72] The language of Resolution 1244 (1999), adopted by the Security Council following the agreement between the parties that ended the air attacks, did not imply retroactive ratification of the use of force by the North Atlantic Treaty Organization.[73] In any event, the Security Council's authorization must be sought before, not subsequent to, regional enforcement action.[74] Otherwise, a permanent member of the Security Council could "shift the burden of the veto" by acting unilaterally and then blocking any resolution terminating the action.[75]

It appears that the right to humanitarian assistance—as it exists under contemporary international law—is quite limited in scope. There is no doubt that there is a growing demand by world opinion for extension of the right. Such an extension would require new international legislation, in the form of a new treaty, which in turn should address the problems arising both in peacetime and in time of armed conflict (either international or internal).

It is regrettable that instead of addressing this core issue, the substance of the law of humanitarian assistance, recent debate has focused on the question of enforcement. Humanitarian assistance must not be confused with unilateral or regional "humanitarian intervention." The moral duty of providing relief to

innocent victims of armed conflict and natural disasters devolves on the entire international community. Enforcement, where necessary, should be authorized by the central organ of that community—the Security Council.

NOTES

1. See R. J. Hardcastle and A. T. L. Chua, "Humanitarian Assistance: Towards a Right of Access to Victims of Natural Disasters," *International Review of the Red Cross,* vol. 38, 1998, p. 589 at pp. 598–9.
2. See Peter Macalister-Smith, *International Humanitarian Assistance: Disaster Relief Actions in International Law and Organization* (Dordrecht: Nijhoff, 1985), p. 163.
3. For an even larger list of potential sub-rights, see B. Jakovljevic, "The Right to Humanitarian Assistance: Legal Aspects," *International Review of the Red Cross,* vol. 27, 1987, p. 469 at p. 473.
4. At most, one could argue that states in a position to offer relief action should make reasonable efforts to undertake them where appropriate. See M. Bothe, "Article 70," in *New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949,* ed. M. Bothe, K. J. Partsch, and W. A. Solf (The Hague: Nijhoff, 1982), p. 433.
5. Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 1949 [hereafter Geneva Convention (IV)], in *The Laws of Armed Conflict: A Collection of Conventions, Resolutions and Other Documents,* 3d ed., ed. D. Schindler and J. Toman (Alphen ann den Rijn, Neth.: Sitjoff and Noordhoff, 1988), p. 518.
6. O. M. Uhler and H. Coursier, eds., *Commentary, IV Geneva Convention* (1958), p. 310.
7. Protocol I Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, 1977 [hereafter Protocol I], in Schindler and Toman, eds. (*supra,* note 5), p. 621 at pp. 662–3.
8. Geneva Convention (IV) (*supra,* note 5), p. 519.
9. Uhler and Coursier, eds. (*supra,* note 6), p. 320.
10. Geneva Convention (IV) (*supra,* note 5), p. 547.
11. Rome Statute of the International Criminal Court, 1998 [hereafter Rome Statute], *International Legal Materials,* vol. 37, 1998, p. 999 at p. 1008. On the ICC, see Michael N. Schmitt and Peter J. Richards, "Into Uncharted Waters: The International Criminal Court," *Naval War College Review,* Winter 2000, pp. 93–106.
12. Charles C. Hyde, *International Law Chiefly as Interpreted and Applied by the United States,* 2d ed., vol. 3 (Boston: Little, Brown, 1945), p. 1803.
13. Geneva Convention (IV) (*supra,* note 5), p. 507.
14. See Uhler and Coursier, eds. (*supra,* note 6), pp. 138–9.
15. Protocol I (*supra,* note 7), pp. 652–3.
16. See ibid., art. 85, pp. 671–2.
17. Rome Statute (*supra,* note 11), p. 1008.
18. See Yoram Dinstein, "Siege Warfare and the Starvation of Civilians," in *Humanitarian Law of Armed Conflict Challenges Ahead: Essays in Honour of Frits Kalshoven,* ed. A. J. M. Delissen and G. J. Tanja (Dordrecht, Neth., and Boston: Nijhoff, 1991), p. 145 at p. 150.
19. H. Blix, "Means and Methods of Combat," in *International Dimensions of Humanitarian Law,* ed. UNESCO (Geneva: Henry Dunant, 1988), p. 135 at p. 143.
20. See A. P. V. Rogers, *Law on the Battlefield* (Manchester, U.K.: Manchester Univ. Press, 1996), p. 63.
21. Geneva Convention (IV) (*supra,* note 5), pp. 508–9.
22. See Uhler and Coursier, eds. (*supra,* note 6), pp. 178–9.

23. Geneva Convention (IV) (*supra,* note 5), p. 509.
24. E. Rosenblad, "Starvation as a Method of Warfare—Conditions for Regulation by Convention," *International Lawyer,* vol. 7, 1973, pp. 261–2.
25. Geneva Convention (IV) (*supra,* note 5), p. 519.
26. Ibid.
27. See Uhler and Coursier, eds. (*supra,* note 6), pp. 321–2.
28. See Louise Doswald-Beck, ed., *San Remo Manual on International Law Applicable to Armed Conflicts at Sea* (Cambridge, U.K.: Cambridge Univ. Press, 1995), p. 179.
29. Protocol I (*supra,* note 7), p. 650.
30. Yves Sandoz et al., eds., *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva: International Committee of the Red Cross, Nijhoff, 1987), p. 606.
31. See Dieter Fleck, ed., *The Handbook of Humanitarian Law in Armed Conflicts* (New York: Oxford Univ. Press, 1995), p. 471.
32. Geneva Convention (IV) (*supra,* note 5), pp. 512–3.
33. See Uhler and Coursier, eds. (*supra,* note 6), pp. 246–7.
34. Protocol I (*supra,* note 7), p. 663.
35. See R. Provost, "Starvation as a Weapon: Legal Implications of the United Nations Food Blockade against Iraq and Kuwait," *Columbia Journal of Transnational Law,* vol. 30, 1992, p. 577 at p. 612.
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