International Rules on Violence

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Introduction

Violence is central to an understanding of human subjectivity and social interaction; modern subjectivity in particular cannot be understood without reference to organized violence. Modern societies have produced highly developed organizational mechanisms and ideological doctrines that allow for organized violence in general and war in particular (Malesevic, p. 4). In fact the relation between the modern state and organized violence has been widely studied (Giddens, 1985) and the classical weberian definition of the modern state stresses its capacity to monopolize the legitimate use of violence within given territorial boundaries (Weber, 1919). The study of international relations in particular has been marked by the idea that organized violence is a feature of the anarchic system or society.

Philosophical and political debate for the last 300 years has focused on the relation between the social world and violence, often concentrating on forms to limit the use of violence. The state, moral values, changes in the distribution of wealth and power, law and political institutions have been offered as means to eliminate or diminish the use of violence. In the international sphere, the peaceful settlement of disputes, collective security and collective defense, arms control and disarmament and humanitarian law are devices for the curtailment of the use of violence in relations between states.

The mechanisms or institutions that can curtail the use of violence may also enable its presence among us. Rules that have been devised and proposed for the elimination or curtailment of the use of violence are often the same rules that

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generate the condition of possibility for the enactment of violence. Here I look into changes in social practices that have been taking place since the end of the last century and discuss them in terms of rules that limit and generate the conditions of possibility for the generation of violence. The suggestion and concern that guide this article is that the conversation about violence has become more intense, more generalized and more present in our lives. We tend to deal with violence as a problem since expectations for stability and predictability increase but in the process create the rules that enable violence. As several texts since the 1990s point out the liberal peace has been a powerful platform for policies developed by the UN and several states fostering liberal democracy, commercial liberation, access for foreign investment and stability. Peace operations in particular have been shaped by the vision of social relations and their "civilizing" perspective has been criticized (Paris, 1997 2002; Richmond, 2004). The analysis offered here is complementary to this bibliography but focuses specifically on the conceptual moves that allow for a more intense conversation on violence.

In pursuing this objective I depart from a sociological perspective looking into rules as social practices that are both the result of social interaction and shape social interaction (Onuf, 1989). These rules include beliefs about how the world functions and changes, norms regarding the appropriateness of ideas and behaviors and representations of relations between self and other or identities. The sets or rules analyzed have been institutionalized in different historical periods leaving us with a significant inheritance by the end of the twentieth century. The endurance in time of these sets of rules is thus relevant for the debate put forward here.

More specifically I look at processes of social construction and rules that allow for narratives on the use of violence. Thus four sets of rules will capture our attention: humanitarian law, humanitarianism, the human rights regime and the collective security regime. These sets of rules, in one way or another, deal with the appropriateness of the use of violence and with forms of violent behavior deemed appropriate and with the role of violence in social interaction. The changes that have been taking place since the end of the Cold War, associated with the changing meaning of security, will be the historical processes under scrutiny. These changes take place in several sites but confluence is clearest in debates taking place within the United Nations and policies authorized or implemented by the United Nations. I am interested in the implications of this confluence regarding the rules that govern the use of violence. The rules that govern the use of violence in the international and globalized environment will in turn generate limits and possibilities for humanitarian work. I start by presenting these four sets of rules and then proceed to discuss the changes that have taken place since the 1990s.

Humanitarian Law

International humanitarian law, the law of armed conflict (as used by the U.S. military), or *jus in bello* is rooted in nineteenth century distinctions between peace and war, public and private spheres and actors, civilians and combatants, military action and police action. These distinctions are aimed at limiting the use of violence by the sovereign in wartime and protecting the individual. Human suffering is the focus and the means and methods of waging war are ruled for this purpose. Humanitarian law established rules on how to fight the enemy armed forces and how to protect the enemy´s civilian population.

A number of rules codified in the 1899 and 1907 Hague Conventions, in the four 1949 Geneva Conventions[1], in various treaties and conventions dealing with weapons, more recent codifications, such as the 1977 additional protocols, and being part of customary international law form this set. These rules were worked out with military and diplomatic authorities and humanitarians, firstly as a reaction to violence in the Crimea war and American Civil War and latter as a reaction to World War II and further conflicts.

The creation of the International Committee of the Red Cross, an organization that is considered the guardian of IHL, in 1863, led the way for the 1864 Geneva Convention on the treatment of the sick and wounded. The Hague Conventions and several other conferences and treaties dealt with the use of weapons and other issues pertaining to the conduct of war and the four 1949 Geneva Conventions dealt with the wounded and sick on land, the wounded, sick and shipwrecked at sea, prisoners of war and protected civilians. This set of rules can be categorized as, on one hand, the Law of The Hague, relating to the conduct of war and on the other as, The Law of Geneva, concerned with the conditions of war victims in enemy hands (Kalshoven & Zegveld, 2001 p.15). The Nuremberg and the Tokyo Tribunals were an important building block of this set of rules, establishing the concepts of international criminal enforcement although this topic would only gain relevance again at the end of the century. The UN has also been a forum for the development of IHL, particularly since the approval of resolution 2444 which invited the Secretary –General, in consultation with the ICRC, to undertake studies on the respect for human rights in armed conflicts. Finally, the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law, convened in 1974 in Geneva, produced the 1977 additional protocols which deal with both aspects of these rules.

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1 See http://www.icrc.org/ihl.nsf/CONVPRES?OpenView

inclusion of article 3, pertaining to "armed conflict not of an international character" in all 1949 conventions is an expression of the understanding of the need to include conflicts in one country into the social arrangement we are analyzing here. After the Second World War, the protection of civilians and holding individuals as well as states responsible for violations were included in this social arrangement.

According to the classic view of humanitarian law, the legitimate and non legitimate use of violence can be discerned, and a battlefield with clear boundaries can be put under the rule of law. In order to maintain the distinction between civilians and combatants, specific rules on who is a soldier and how this should be represented were created. This development allowed for the creation of rules of engagement for the military and for rules for action by the humanitarians.

The principles of military necessity, humanity, distinction and proportionality are the pillars of this set of rules. Weakening the military forces of the enemy is to be the only legitimate object during war and military necessity must be balanced against the costs for humans and the principles of humanity. Attacks must be directed to identified military targets and combatants may be attacked directly, civilians (and medical personnel and chaplains working with combatants), on the other hand, may be killed only as a side effect (Rogers 2004 p.9). Avoiding incidental damage or loss to civilians is considered a crucial parameter and preferably warnings must be given when an attack may generate civilian loss (Blix, 1978). Moreover Protocol I establishes the rule of precaution, targets have to be identified with some certainty and the methods used must be chosen based on some degree of likelihood of hitting the target. Nevertheless military objectives are wider than weapons and soldiers; they may include targets that " by their location, nature, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization in the circumstances ruling at the time, offers a definite military advantage" (Rogers 2004 p.64).

Thus immunity from violence was created as a special privilege for some groups, such as civilians, the wounded, the sick and prisoners of war. A debate on which are the legitimate targets in a situation of war is one of the most significant legal consequences of this set of rules.

This set of rules can be seen as part of a broader process of rule generation regarding the practice of war involving the rituals of war, arms control and disarmament measures, symbols of demarcation of war situations, and after the creation of the UN, the idea that wars are only legitimate if authorized by the Security Council or characterized as self defensive.

By the end of the nineteenth century, peace and war were two different legal universes and the debates on the legitimate or just reasons to go to war were left

aside. Having accepted that the role of war in international politics was not a moral issue, those involved in the development of international humanitarian law were interested in behavior in war. Only after the creation of the UN would the law of force reinstates this concern.

In the twentieth century the formal distinctions of classical legal thought lost ground. Nevertheless the classical tradition and the clear distinctions that were put forward are still a relevant reference for the arguments about the use of force today.

Humanitarianism

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Humanitarianism stems from an ethical principle regarding the care for distant strangers. The creation of the ICRC in 1863, mentioned earlier, the first official international humanitarian organization is, of course, revered as a founding moment. When it emerged as a culture in the early nineteenth century, according to Michael Barnett three "marks of distinction" can be pointed out: "assistance beyond borders, a belief that such transnational action was related in some way to the transcendent and the growing organization and governance of activities designed to protect and improve humanity" (Barnet p.10).

The protection of humans that are victims of conflict or natural disaster is the conventional description of this social arrangement and much of the activities of humanitarian organizations can be included in these categories. Humanitarianism is based on principles of impartiality as aid must be given to those in need, neutrality, as aid must be given without regard for sides in a conflict and with independence, as those providing aid must not be connected to parties with a stake in a conflict. Moreover humanitarianism traditionally focuses on relief and on keeping people alive in situations of crisis. In the 1960s the ICRC made these principles part of their codes of conduct.

Humanitarian practices are deeply embedded in the Enlightenment concepts of progress and humanity and in the social movements for reform that marked the XIX century and sought the abolition of slavery or better conditions for the working class and women. The belief in responsibility towards the basic rights and needs of humans and in our capacity to interfere and change the course of events is a basis for humanitarianism and for its expansion. According to humanitarian practices produced since the second half of the XIX century the rights and needs of humans should be approach disregarding any distinctions of race, religion, gender, nationality or others. Reform through legislation, education or moral enhancement is both possible and desirable as both rationalism and certain Christian religious movements would defend.

An understanding of the expansionary logic is crucial for our grasp of the changes in humanitarian practices. As Barnett puts it "the humanitarian feeling" is "by definition

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unlimited" (Barnett 2011 p.26) thus it can apply to relations with an infinite number of groups or spaces. In fact humanitarian practices have had from the beginning an international dimension, assistance was to be given across boundaries. But at the same time they are "victims" of the changing definition of human or humanity (Douzinas, 2007). Humanitarianism of course presupposes a universal common ground for this definition in opposition to more relativist positions and does not allow for an historical understanding of the political struggles for the definitions of the human and their rights.

Barnett writes about three ages of humanitarianism: an imperial age, from the early nineteen century to World War II, a neo-humanitarian age, until the end of the Cold War and the present liberal age (Barnett 2011 p.29). The first period was marked by religious and liberal ideas and by perception of the need for compassion and is part of the civilizing perspective of the European elite. States only got involved by the World War I. The second period saw the growth of state and intergovernmental humanitarianism. The last period, which is of interest to this article, can be characterized by involvement in pos-conflict reconstruction and peace-building and by the concern with the causes of suffering.

Humanitarianism has become an important social arrangement and some would say ideology (Walzer, 2011) and also the set of rules that produced several non-governmental organizations such as Oxfam, Save the Children, Christian Aid and Médicin San Frontières. Combining humanitarian law and humanitarianism, the Red Cross adopted, in 1965, seven fundamental principles which became the rule-book of humanitarian action: humanity, impartiality, neutrality, independence, voluntary service, unity and universality (Douzinas 2007 p.5). The rules of humanitarianism establish access to the space of violence and universality in the approach towards the suffering generated by violence and distance from responsibility for violence.

International Human Rights Regime

Rights promoting freedom, dignity and equality were initially found in state legislations, constitutions and jurisprudence. The American and French revolutions had generated national polities based on the idea of inalienable rights shared by humans and this rule was incorporated by many other national legislations. Since 1945 they are increasingly found in international and regional treaties, conventions and case law. The international human rights rules extended to the international space the protection of individuals from the power of the state and others and put forward a cosmopolitan perspective on humanity at the same time changing the concept of sovereignty on which the international system is base (Donnelly, 2003) .

 According to the discourse on international human rights progress represented by law, reason, order and civilization was to be generated within the international

sphere and transferred to the national environment. Individuals were given rights regarding participation and procedure referring to political, social, civil, cultural and economic social life by international rules. A moral framework within which states and other actors must act was generated. State jurisdiction regarding citizen had been internationally ruled to a very limited degree before 1945, only pertaining to the treatment of prisoners of war, treatment of laborers and certain minorities (Forsythe 2006 p.21). Since the II World War these international rules have expanded and the mechanisms that should guarantee respect of these rules have become more robust. Moreover the existence of international rules on human rights have functioned as a reference often moving the political domestic process aside, presenting ideas that are taken to be universal an neutral .

The state, although under suspicion according to these rules, is put at the center of the prospects for progress as it establishes how the relation between the individual and the state should take place. These rules, although often international, most certainly strengthen rather than weaken the structure and the roles of the national state.

 The human rights regime is based on a liberal philosophy of rights, on its conception of the relation between the individual and the state and on its concept of common humanity. Liberal principles establish that personal rights matter, that public authority should respect personal autonomy and integrity. Legal rights, independent court judgments and peaceful policy making should be the basis of the polity. The natural law tradition maintains there is an underlying moral foundation that supports universal rights. The faculty of reason which unites humanity in a common nature allows individuals to understand and make decisions based on universal human foundations. A liberal natural right thinking is the epistemological basis for the international human rights regime. But one can also argue, as Jack Donnelly does, that they are based on a normative consensus on rights to life, liberty, security of the person, guarantee of legal personality, protection against slavery, arbitrary arrest, detention, or exile and inhuman or degrading treatment (Donnelly, 1989 p. 122). Either way the human rights discourse has a civilizing role in dealing with states or other actors that choose to repress individuals. This logic has raised much criticism in terms of disrespect for diversity and denial of politics. Communitarians will focus on the morality is culturally bound (Chris Brown, 2006), But we are here interested in the expansionist e metaphysic basis for this logic.

The UN Charter, the 1948 Universal Declaration of Human Rights, the 1966 International Covenants on civil political and economic/social rights and other legal documents are the pillars of the regime. What began, in the Charter, with the association between threats to peace and disrespect for basic human rights became an elaborate social construction on political, civil, social rights. Specific

treaties and conventions refer to the status of refuges, slavery, political rights of women, status of stateless persons, racial discrimination, rights of children, torture, freedom of association for workers and from social discrimination and the protection of indigenous peoples.The United Nations System has played a crucial role in the process of internationalization and institutionalization of human rights. In 1993 the High Commissioner for Human Rights was created and in 1998 the statute for a standing international criminal court was approved.

The relation between legality, morality and politics is intensely debated by human rights specialists but we would like to point specifically to the relation between legality and the moral vision and in particular between a cosmopolitan morality and legal systems politically negotiated. As Douzinas points out "…the great power of human rights lies in their rhetorical ambiguity and oscillation between extant state of law and absent and desired state of perfection. (Douzinas, 2007 p.10) The regime establishes a wide set of rules on the use of violence by the state and gears our focus towards the rights individuals and citizens, it raises the limits of the concept of the modern state as an entity concentrating the access to the means of violence. The relations between self as citizen and other as state changed dramatically as it evolved and was internationalized and the identity of a citizen with rights internationally guaranteed emerged.

Collective Security Regime

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The concept of international security (in contrast to the concept of national security that shall not be the focus of this discussion) involved during most of the twentieth century a debate, negotiations and the generation of institutions geared towards the maintenance of international order understood in terms of the administration of conflict between states and the regulation the use of violence. Thus the United Nations Charter establishes clear limitations on the use of violence by states. Self defense is considered legal under this order but other forms of the use of violence should be authorized by the Security Council under its Chapter VII. Hence the use of violence is, apart from the cases of self defense, subsumed under the collective security system. Even in the cases of self defense the Security Council is to be informed and it could take any action considered necessary (Gray 2008 p.87).This system generates a hypothetical coalition in the form of a binding commitment to react collectively against threats to international security and is generally analyzed in contrast to alliances. The proponents of the system of collective security stress that it can generate more cooperation, less violence and mitigate the security dilemma (Claude 1962).

The system did not function as expected during the Cold War, although the use of force was authorized in the cases of Korea and Rhodesia, partly due to the use of

the veto by the five Permanent members and partly due to the different nature of the wars that took place. In fact over 100 major conflicts occurred during the period. The generation of mandates for peace operations became a major contribution of the Security Council to peace and security although during most of the Cold War they were lightly armed and functioned as buffer and monitoring forces.

The Security Council, primary organ of the UN System responsible for peace and security, may authorize the use of force by one state, a group of states or a regional organization. But it also deals with threats to peace and through negotiations and other conflict resolution mechanisms, apart from the use of sanctions.

The Covenant of the League of Nations established a collective security system earlier in the century, calling upon states to react collectively to any form of aggression. A powerful deterrent was believed to have been created as an automatic reaction was to be institutionalized, congregating the power of all states against hypothetical aggressors (Claude, 1984). After the failure of the system in the 1930s and the horrors of World War II the new international organization devised to maintain order and stability would generate a new collective security system more universal and more adapted to the power relations between states, effectively treating the sovereignty of the five permanent members of the Security Council with a distinct criteria expressed in the veto power.

The Covenant of the League of Nations referred to the commitment "to respect and preserve against external aggression the territorial integrity and existing political independence of all members of the League".[2] An "act of war" against one member of the organization would be considered an act of war against all. In contrast, the 'UN Charter refers to the purpose of maintaining "international peace and security"and to threats to the peace, breach of the peace, or act of aggression" that shall generated measures "to maintain or restore international peace and security"[3]. At this point I would like to highlight the potential for expansion of the actions authorized under the UN Charter in contrast to the earlier definition, as threats to peace can be widely interpreted.

After the end of the Cold War the Security Council became much more active authorizing the use of force under Chapter VII several times. When Iraq invaded Kuwait in 1990 it authorized member states to use "all necessary means" to secure the withdrawal of the invading army. This case was a landmark as the collective security system was seen to be working and as the term "all necessary means" became the standard for the authorization of the use of force. The interpretation of

2 The Covenant of the League of Nations article 10 and 16, The Avalon Project http://avalon.law.yale.edu/20th_century/leagcov.asp

3 Charter of the United Nations, June 26 1945 The Avalon Project http://avalon.law.yale.edu/20th_century/unchart.asp

threats to peace and security was widened and the council authorized the use of force in the case of a civil war in Somalia and the overthrow of democracy in Haiti. Thus expansion will be dealt with in the next section.

International Rules on Violence after the 1990s

In the last decade of the twentieth century we can observe an increasing expansion of the realm of social life covered by these sets of rules; at the same time they have become increasingly intertwined. Let us look at the first movement and then at the second, although this separation is useful only for the purpose of presentation in fact disturbing the process of argumentation.

International Humanitarian Law became a more central theme in the international agenda as civil wars spread after the end of the Cold War. The nature of the civil wars in the 1990s and the flow of information about these wars raised questions about the distinctions of IHL, in particular the distinction between war and peace and between combatants and non combatants. It is interesting to note that despite the contrast between the discourse on "new wars" (Kaldor, 2007) and IHL the distinctions and questions it put forward in the nineteenth century were still part of the conversation on violence and legality. We are still discussing the disrespect for immunity from violence granted to non-combatants and other groups and places.

The concept of international criminal enforcement mentioned earlier was one of the important moves towards a broader role for IHL. The *Ad Hoc* tribunals that were generated during the last years of the twentieth century and the Rome Statute conferred new strength and relevance to IHL. The establishment of the *ad hoc* International Criminal Tribunals for the prosecution of the violation of IHL in the former Yugoslavia in 1993 and in Rwanda in 1994 led to the creation of the International Criminal Court in 2002 which was a turning point in the process of generation of individual responsibility for crimes against humanity and war crimes. The rule on the use of violence in war situations could now be prosecuted by a permanent court.

Since the 1990s humanitarian practices have expanded significantly both in terms of the activities they were involved in and in terms of the causality connections they were focused on. They became concerned with the root causes of violence "including a culture of violence, a lack of respect for human rights, and the absence of democratic institutions" (Barnett p.3). Humanitarian practices are no longer solely geared towards emergency situations they span towards the political and social structure of society. Statecraft and politics became part of their agenda. Furthermore a process of institutionalization of humanitarian practices took place involving the rationalization of organizations and operations.   At the same time the involvement of humanitarian agencies in political debate and military operations is often mentioned as a hazard for their operations as they lose the mantel of neutrality and universal

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virtue. In this context, Barnett calls our attention to the growing governance of humanitarianism; it is increasingly public, hierarchical and institutionalized (Barnett, p.29).

In the 1990s, human rights rules moved towards the center of the international agenda and into the Security Council. Human rights came to have a central, and according to some (Kennedy, 2004 p.9) to acquire a dominating role vis a vis the discourse on emancipation, often clouding other aspects.

Human rights rules became part of a liberal concept of governance that was exercised in several UN operations expressing the growing international base for human rights practices. The wider concept associated with the respect for human rights is democratic governance. Democracy characterized in specific liberal terms with a focus on electoral processes, separation of executive, representative and judicial processes and freedom of expression was transformed into a universal rule on political organization (Zannoti 2005). Moreover the association between democracy and peace became a crucial part of the discourse of political leaders and academics (Doyle 1996).

Human Rights rules were further internationalized as domestic human rights records were zoomed into the international agenda. The cable and information technology revolutions and the proliferation of NGOs dedicated to the theme ignited this tendency. As Kennedy puts it " …suddenly an elaborate presence pulls local elites away from their base, or consigns them to the status of local informants, the elites turning their attention like sunflowers to Geneva, New York, to the Center, too the Commission; to the work of resolutions and reports."(Kennedy, 2004 P.27) .

The expansion of the role of the three sets of rules mentioned above is very significant as rules that pertain to the use of violence acquire greater relevance and presence in international life. As the table at the end of this article shows these sets of norms limit and enable violence. But the expansion of the role of the collective security system has the greatest impact on our conversation about violence. It is only possible to understand this move towards expansion if we first consider the broadening and internationalization of the concept of security.

 The aspects of the debate on the redefinition of security that express a process of "internationalization" of the concept are the roles played by collective security, the new scope of interventionism and the growing web of international norms. It is acknowledged that the growing interdependence between societies has reached the security dimension. This is apparent in the discussions on the menace posed by nuclear, chemical and biological weapons, the fleeing of refugees from domestic conflicts, transnational crime, terrorism, environmental crises, and humanitarian abuses. The flow of goods and information has gained speed and range. At the same

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time, the growing web of international norms that constitute international society significantly limits the autonomy of states in the security sphere, as well as in other dimensions of international coexistence.

The incorporation of economic, social and environmental issues to the security agenda stems, on the one hand, from the violent conflicts and major disruptions to normalcy that may result from the dispute over resources, while on the other hand, it stems from a conceptual redefinition of threats to life and the "acknowledgement that threat and response are no longer within the sole or even primary purview of the military (Dewitt 1993) . Epidemics, global warming, environmental pollution, energy supply and demographic growth are some of the issues which have become security issues on the national level and in some cases and globally. The concept of human security, devised in the UNDP Human Development Report of 1994, incorporating economic, personal, community, health, food, political and environmental security is a crucial moment in this move towards a wider concept of security (UNDP 1994).

Emma Rothschild produced a geometrical synthesis of these tendencies (Rothschild,1995 p.57) :

> "The extension takes four main forms. In the first, the concept of security is extended from the security of nations to the security of groups and individuals: it is extended downwards from nations to individuals. In the second, it is extended form the security of nations to the security of the international system, or of a supranational physical environment: it is extended upwards, from the nation to the biosphere. The extension, in both cases, is in the sorts of entities whose security is to be ensured. In the third operation, the concept of security is extended horizontally, or to the sorts of security that are in question. Different entities (such as individuals, nations, and "systems") cannot be expected to be secure or insecure in the same way; the concept of security is extended, therefore, from military to political, economic, social, environmental, or human security. In a fourth operation, the political responsibility for ensuring security (or for invigilating all these "concepts of security") is itself extended: it is diffused in all directions from national states, including upwards to international institutions, downwards to regional or local government, and sideways to nongovernmental organization, to public opinion and the press, and to the abstract forces of nature or of the market. "

The extension of the concept of security involves the redefinition of sources of threats and referent objects. Economic, ecological, social, cultural processes are seen to produce threats. In contrast to a previous focus solely on threats to the state, the threats faced by individuals, identity groups, regions, civilizations or the environment

are taken into account. The meaning of security itself is no longer restricted to physical survival.

The move away from state centric view of security can be detected although states remaine at the center of the debate on threats and what to do about them. Individuals, different social and cultural groups, the environment or identities could be under threat. Individuals, different organizations, diseases, poverty could be the source of threat. The state could even be a major source of insecurity. New terms emerged in this context food security, environmental security, health security and human security.

As the 1995 Agenda for Peace clearly states that the UN is to be engaged in conflict prevention and on violence within states. Expansion thus involves sources of threats, referent objects and forms of security but it also involves a concept of time, threats are focused in a prevention mode as danger is found in all spaces and social relations. The preventive mode with which threats are approached is not a novelty of the pos-Cold War period, but has acquired central stage and been institutionalized on intergovernmental and governmental levels.

In this context new themes were treated at the Security Council as threats to international peace and security, such as famine, disrespect for human rights and humanitarian law, humanitarian crisis and state failure. The collective security system at the UN is not only freed from the Cold War paralysis but finds new forms of actualization as the concept of security expands and as the original UN Charter allows for a broad understanding of its objectives, i. e. "threats to international peace and security" . The number of UN Security Council resolutions based on Chapter VII grows at a previously unimaginable pace allowing for suspensions of the rights of sovereignty and non-interference and the authorization of the use of force.

I turn now to the conflation of the four sets of rules discussed in this article. The first conflation I would like to point out is that between humanitarianism, international humanitarian law and international human rights. The separation between human rights on one hand and humanitarian law and humanitarianism on the other were clearly challenged by the end of the twentieth century (Teitel, 2002).

In fact the relations between these social arrangements was strong earlier, as we can observe looking at the intersection represented by the 1948 Genocide Convention, which involved humanitarian law practices and human rights practices and the expansion of humanitarian law to civilians which represented the treatment of the law in battle in terms of humanitarian discourse (Kennedy 2004 p.258). Furthermore in the 1960s and 1970s the United Nations began to get involved in the promotion and production of IHL as a manner of dealing with human rights in armed conflict and this "marked the increasingly important relationship between the law of armed conflict

and human rights law" (Kalshoven & Zegveld p.19).

But the role the blurring of distinctions plays during the period in focus here is very different. Human rights refer to the right to life whereas humanitarian law refers to the right to kill in certain ways. Human rights discourse is based on rights whereas humanitarian discourse is based mostly on needs. In the 1990s, needs and rights can no longer be separated and the agency implied in the concept of rights as it pertains to a social relation is lost in the idea of the human with needs. The responsibility toward humans in fear and in need , threatened by violence, hunger, complex emergencies, tsunamis and epidemics, dictators, terrorists and weapons of mass destruction leads to a constant question on when, where and who will deal with the disrespect for rules on humans.

Since the 1990s the independence of humanitarian logic has become increasingly difficult to maintain (Barnet Kennedy, 2004), the logic of virtue and the logic of ruling were intertwined. Different actors, such as the military, development agencies (for example the United Nations Development Program and the World Bank) and the state apparatus incorporate humanitarian discourse and practices. Humanitarianism became part of governance and an intimate relation between humanitarianism and power and influence within national societies and international spheres developed. The separation between those that govern and those that hold those that govern responsible became increasingly difficult to sustain (Kennedy, 2004 p.XIX). The increased capacity to contribute, given logistical improvements and transportation technology, also allowed these agencies to become multidimensional and participate in complex operations.

Moreover in view of the conflations of these sets of rules, the organizations dealing with these needs and fears could no longer maintain functional distinctions. Humanitarian organizations linked relief and protection to the human rights agenda. Intergovernmental and non-governmental human rights organizations have become increasingly involved in dealing with IHL violations as very often they are working in areas where conflict is taking place (Kalshoven Zegveld, 2001, p.200). The United Nations historically dealt with human rights and the ICRC with HIL. The increased interaction between UN bodies and the ICRC is an expression of the move towards new forms of synthesis. More importantly military organizations became involved in the human rights and humanitarian issues. On the other hand, humanitarian rules were incorporated to military strategy in both Afghanistan and Iraq - now part of the strategy to win over hearts and minds. A new relationship between humanitarian NGOs and the American army in particular ensued, and military provincial reconstruction teams combined military and humanitarian objectives (Barnett 2011 p.193).

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particularly since the 1990s- a well studied subject- is a crucial building block of the process we are discussing. The UN Security Council resolutions regarding the South African Apartheid regime are considered a turning point in the history of this association as for the first time disrespect for basic human rights was considered a threat to international peace and security. The Council invoked Chapter VII in dealing with the situation in Zimbabwe (then southern Rhodesia) and apartheid in South Africa.

The confluence of security, human rights, humanitarianism and humanitarian law allowed for the move towards humanitarian interventionism. The response to the plight of the Kurds in northern Iraq in 1991 was the first instance of authorization of the use of force based on these sets of rules in the period we are looking at. The rules governing violence would from that point on face new challenges, dilemmas and tensions. A few years later the war in Kosovo was named a humanitarian war by NATO in its first military encounter.

The four sets of rules discussed here are based on an infinite potential for expansion; all humans can and should have rights and needs, threats to security can be anything and come from anywhere. This internal similar logical structure facilitated the conflation we are talking about.

The conflation of rules on solidarity towards humans across borders and beyond any form of discrimination, rules on humans´ need for protection from violence, on their rights against violence and on our collective responsibility for international peace and security have transformed our conversation on violence, generating new limits and possibilities. The possibilities deserve greater attention, particularly in view of the profoundly unequal relations of power that are conforming this process.

The debate about sovereignty has always been affected by these sets of norms as they, in different ways, question the myth of supreme sovereignty. The sovereign is limited in its choices by all these sets of rules and in particular in its choices on the use of violence. The role state sovereignty played in the construction of these distinctions is crucial and will have implications for a proper understanding of the changes that have and are taking place as sovereignty itself changes, the role of the state changes and new actors interact in environments without clear borders. Nevertheless the changes discussed must be understood in the context of new pressures on the concept.

The attempts to redefine the concept of sovereignty interpreting the rights of sovereignty as conditional on responsibilities towards citizens, implying a movement from the focus on sovereignty as authority towards sovereignty as responsibility redraws the prospects for the use of violence in international society. The International Commission on Intervention and State Sovereignty delivered its report in 2001 that

proposed the transfer to the international community of those responsibilities[4]. Prevention, relief and rebuilding are part of this new concept but here we are interested in the international responsibility to use force if a state does not protect the lives of its people. In 2004 the UN´s High-level Panel on Threats, Challenges and Change issued a report titled A More Secure World: Our Shared Responsibility endorsing this collective and international responsibility. Finally the 2005 report *In Larger Freedom* produced by the UN secretary-general Kofi Annan endorsed the concept and it received unanimous support of the 2005 UN World Summit.

There is of course great debate and disagreement about how far we have actually moved in this direction but no doubt a discourse on new limits to the use of violence by the sovereign are accompanied by new discourses on possibilities for the use of violence in view of the options made by the sovereign or perhaps the options it is not capable of making.

The expanded security agenda led to an emphasis on prevention and protection and both met with the tendency of humanitarianism to look into the root causes of suffering. The move towards prevention mode mentioned earlier in the context of the conflation of these sets of rules is another dimension of our growing conversation about violence.

Conclusion

These changes have generated a new conversation on violence. I do not refer here to the problems posed specifically by humanitarian intervention or the doctrine of the "responsibility to protect", although these concepts are part of the story I am highlighting. I refer to the manner in which narratives on the use of violence have become embedded in our debates on international life. Humanitarian organization concerned with the delivery of relief and the protection of civilians are more open to the use of force. In Somalia and Bosnia the focus was on the need to deal with needs and the use of force became increasingly presented as a means of access to victims of suffering and form of protection if they were being attacked. The use of force is considered when refugees from Haiti move north, when the Somali state is failing, when the Libyan state threatens to use violence against its citizens. In fact this account should include not only the instances in which force was actually used but the instances in which it was part of the debate.

Warfare has a acquired a new role in global governance. The human rights rules, humanitarian law, the humanitarianisms and the expanded concept of security are part of the discourse that supports the role of warfare but also other forms of violence.

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4 In 2000 the *International Commission on Intervention and State-Sovereignty* (ICISS), presided by Gareth Evans and by Mohamed Sahnou was created under the auspices of the Canadian government. The report Responsibility to Protect was launched the following and became a reference of the debate on the subject. Finally in 2005 the UN World Summit made the term official language. The principle establishes that individual state has the primary responsibility to protect its populations from genocide, war crimes, crimes against humanity and ethnic cleansing and was first applied by the Security Council in its resolution on Darfur.

A number of Security Council resolutions mandated the use of force based on Chapter VII since the 1990s and "all necessary means" , safe heavens, no-fly zones became part of our everyday agenda. The needs of humans were targeted in the context of a collective security system.

The concept of international criminal enforcement of IHL and human rights violations came to the center of the international conversation on violence by the 1990s delivering new tasks to the Security Council or other international actors regarding the personal responsibility of leaders and/or criminals that should be judged by the new Court.

The change in rules for peacekeeping operations is part of these processes as the rules of consent, impartiality and neutrality were abandoned in several cases. The interconnection between peace-building, pos-conflict reconstruction and humanitarianism and human rights mechanisms is another trend of the pos-Cold War world much discussed by the specialized literature.

Warfare has a acquired a new role in global governance. The human rights rules, humanitarian law, the humanitarianisms and the expanded concept of security are part of the discourse that supports the role of warfare but also other forms of violence. The modern law of force is associated with the new role of the international treaties as constitutional schemes for global governance (Kennedy, 2004 p.237). A recuperation of just war debate since the 1990s is part of this process.The legitimacy and presence of war in our lives has changed significantly. There is a legitimate form of war and use of violence established by the intertwining of humanitarianism, humanitarian law, human rights and an expanded collective security mechanism. Given the rules on conduct of war and the international community decision to go to war on grounds consistent with the UN Charter the use of violence acquires a new legitimacy. This is not to say controversy is not widespread about how, when and where these rules can be applied but an international discourse to speak about military power was produced merging the UN Charter, humanitarian law and the human rights regimes. Restraining the use of violence and producing violence were part of this change. The decision to go to war and the arguments on the conduct of war became part of the same set of arguments.(kennedy 2004 p. 262-267). This process has had a profound impact of activities and behavior of military personnel, humanitarian organizations and political leaders.

The conversation about war and about violence occupies today a much broader social space, arguments about the need to use force are part of everyday social interaction, war has become more mundane, no longer a reality legally and conceptually distant as it was when the distinction between the legal universe of war and the legal universe of peace were defined in the nineteenth century. The proximity between humanitarian workers, humanitarian lawyers and the military reminds us of

the earlier engagement between the Red Cross and the military for the development of humanitarian law but the context is very different. Their interaction plays a new and key role in the definition of their collective subjectivity. More significantly marching into war following rules in order to protect and produce the needs of humans can become a substitute for proper political debate.

Table 1. On Rules

	Limiting Violence	Enabling Violence
Human rights	Protecting the citizen from the repressive state	Human rights as a threat to international security
Humanitarian Law	Limiting the use of violence in war	Using force in a legal form
Humanitarianism	Protecting Humans from pain	Dealing with the sources of pain
Colective security	Limiting the use of violence in inter state relations	Dealing with multidimensional threats to international security
Conflation of these sets of rules	The use of violence against individuals or groups monitored and sanctioned internationally	The use of violence in a humanitarian

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