

Is There an Islamic Ethic of Humanitarian Intervention?¹

Sohail H. Hashmi

Humanitarian intervention in the contemporary Western discourse on international law and ethics has emerged as the exception that confirms the rule. Only in the case where the moral issues are starkly framed, only when the stakes of nonintervention are potentially catastrophic in human terms, only in the case of a regime that oppresses its own people to the point of genocide or massive violations of human rights is a violation of the rule of nonintervention in the internal affairs of a sovereign state deemed legitimate—and it is legitimated by the qualifying designation “humanitarian.”

If framed in these terms, the problem of humanitarian intervention assumes quite a different dimension when considered from the perspective of Islamic theories of international behavior, both medieval and modern. Indeed, the very factors that make intervention—humanitarian or otherwise—a problematic issue in the current discourse lose their relevance within the framework of Islamic theory. The reason is that the nation-state enjoys at best an ambiguous status in contemporary Islamic legal thought and virtually no standing in Islamic ethical thought. Rather, there persists to this day a strong tradition among Muslim theorists to invest moral standing not in the fifty-odd Muslim-majority states, but in the collective Muslim community, the *umma* referred to by the Qur’an. Therefore, there is an a priori assumption in Islamic thought for the legitimacy of humanitarian intervention in collective action which has to be disproved rather than proved. In other words, the burden of proof lies with those who would challenge the right of intervention on grounds of state sovereignty rather than on those who assert it.

This discussion has three objectives: first, to elaborate the problematic status of the nation-state in modern Islamic thought; second, to consider various

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arguments on when and how humanitarian intervention may be considered legitimate in an Islamic framework; and third, to look at practical measures that have been or may be undertaken by Muslim states to implement the ethical injunctions of intervention.

A consideration of Islamic approaches to humanitarian intervention is significant and necessary for a variety of reasons. First, on the theoretical level, international norms of humanitarian intervention are still far from being either fully elaborated or universally accepted. The concept is perhaps most problematic in the countries of the Third World, where any form of intervention is still strongly resisted due to the lingering legacy of Western imperialism. It is vital, therefore, that during this period of development, principles of humanitarian intervention be based on as truly a universal and cross-cultural consensus of fundamental human rights, and the legitimate means to enforce them, as possible.

Second, on a practical level, the fact is that most of the current international crises demanding immediate attention involve significant Muslim populations. In the past two years alone, the United Nations and international relief agencies have been compelled to initiate humanitarian relief efforts in Iraqi Kurdistan, Bosnia, and Somalia. These cases, however, are only the most publicized; numerous other human disasters have been unfolding with scarce attention.² If humanitarian intervention is to become a viable instrument for the alleviation of severe human suffering, appropriate institutions must be created within the regions of the crises themselves for speedy relief and eventually for prevention.

Developing International Consensus on Humanitarian Intervention

The Persian Gulf War was fought, at least "officially," for the purpose of enforcing the principle of territorial integrity of sovereign states. It ended—as wars are prone to confound expectations—by unleashing a debate on the contemporary relevance and value of the very principle of state sovereignty. The Security Council's decision in April 1991 to intervene in Iraqi Kurdistan for humanitarian relief of people being massacred by their own state was indeed a significant departure from previous UN attitudes on the right of humanitarian intervention. For example, Michael Akehurst concluded in 1984 that the UN's 1979 condemnation of Vietnam's unilateral incursion into Pol Pot's Cambodia

² According to a recent report submitted by Médecins Sans Frontières to the United Nations, seven of the ten "most serious" crises threatening the imminent annihilation of entire populations due to war, disease, displacement, or famine involve large Muslim populations (Médecins Sans Frontières, *Populations in Danger* [London: John Libbey & Co., 1992]).

reflected "a consensus among states in favor of treating humanitarian intervention as illegal."³

Thirteen years later, that consensus is very much in doubt, if not totally reversed. In the aftermath of the Iraqi intervention, a UN Department of Humanitarian Affairs was created in order to coordinate more effectively the delivery of humanitarian assistance by the UN's various agencies. Among the first tasks of this new department was to address the growing crisis in the Horn of Africa, resulting in the adoption on April 24, 1992 of Security Council Resolution 751 establishing a small UN observer force in Somalia to assist in the delivery of relief supplies.

Simultaneous with UN actions in Somalia were Security Council resolutions providing for relief operations in the escalating conflict in Bosnia. Initial efforts aimed at maintaining the delivery of relief supplies into the capital of Sarajevo and other besieged parts of the country culminated in the adoption of Security Council Resolution 770 on August 13, 1992, authorizing the use of force to protect humanitarian operations. The language of this resolution is reminiscent of the earlier Security Council resolutions authorizing humanitarian relief operations in northern Iraq, although it is important to note a major difference that separates the Bosnian case from traditional cases of humanitarian intervention: the intervention in Bosnia has been at the request of, and not in opposition to, the national government.

However, the Security Council's painfully slow responses to the crises in Somalia and Bosnia are stark testimony to the limited consensus on the principles of humanitarian intervention. There is presently no agreement on either the criteria for declaring a crisis to be a humanitarian emergency or the appropriate means of intervention. The reason for this impasse is the apparent challenge that a right of humanitarian intervention—supported by military force if necessary—presents to the still sacrosanct notion of sovereignty, enshrined as the principle of noninterference in the domestic affairs of states under Article 2(7) of the UN Charter. As Richard N. Gardner has pointed out, the Security Council was loath to establish a principle of military intervention on human rights grounds alone in the Iraqi intervention (and, it might be added, in both the Bosnian relief operations and the recent Somali intervention), justifying UN operations instead on the enforcement of "international peace and security" under Chapter VII.⁴

³ Michael Akehurst, "Humanitarian Intervention," in Hedley Bull, ed., *Intervention in World Politics* (Oxford: Oxford University Press, 1984), 99.

⁴ Richard N. Gardner, *Three Views on the Issue of Humanitarian Intervention* (Washington DC: United States Institute of Peace, 1992), 21–27.

Thus codification of a principle of humanitarian intervention will require nothing less than a thorough review of the meaning of state sovereignty as the fundamental principle of international society. This process must inevitably include a more systematic and critical review and resolution of what Chopra and Weiss have identified as the twin contradictions "running through the United Nations Charter": 1) sovereignty versus human rights and 2) peace versus justice.⁵ The present bias in interpreting the Charter to favor values of state sovereignty and peace—i.e., order—is a vestige of the post-World War II Western realist tradition that produced the present UN system. However, in the aftermath of the Cold War, the moment is propitious for a reassessment of this dominant interpretation of the Charter and for a reappraisal of the value of human rights and justice in the international system. Islamic thought, I would suggest, may provide valuable contributions in this reappraisal.

Any discussion of "Islam" in the modern world must begin by emphasizing that most aspects of contemporary Islamic thought are in flux. This situation is particularly acute in the area of international relations, where the medieval theory elaborated by the thirteenth century A.D. has yet to evolve or be replaced by a coherent modern theory or even the foundations of such a theory. Instead, what we find is that the Muslim world is still struggling to reconcile itself with the Western-originated and -dominated international system. The Muslim countries that emerged from the retreat of European colonialism have without exception acceded to the prevailing international legal regime. All of the states, for example, are members of the United Nations; some, indeed, are charter members.

Although the medieval Islamic theory of public international law is today clearly in a state of disuse, it has been by no means repudiated by the majority of Muslim states. Indeed, the Organization of the Islamic Conference (OIC), which numbers forty-seven Muslim states as members, voted in 1980 to establish an International Islamic Law Commission with the goal being to "devise ways and means to secure representation in order to put forward the Islamic point of view before the International Court of Justice and such other institutions of the United Nations when a question requiring the projection of Islamic views arises therein."⁶

The commission has yet to materialize, largely because the state elites that embraced the idea in principle realize that in practice a review of Islamic law may open what would be for them a Pandora's box of unexpected and undesired

⁵ Jarat Chopra and Thomas G. Weiss, "Sovereignty Is No Longer Sacrosanct: Codifying Humanitarian Intervention," *Ethics & International Affairs* 6 (1992), 95–117.

⁶ Abdullah al-Ahsan, *OIC: The Organization of the Islamic Conference* (Herndon VA: International Institute of Islamic Thought, 1988), 36.

conclusions by the jurists. Even if it ever does convene, its mandate does not ostensibly include—for obvious reasons—the one question that is perhaps central to modern Islamic discussions of political order, simply: Is the present international system, based upon the primacy of the sovereign, independent nation-state compatible with Islamic law and, more importantly, with Islamic ethics? We will return to the OIC later, but it is necessary here to deal with this central question of the state—albeit briefly—before proceeding to the issue of humanitarian intervention.

Political Organization and Moral Obligation in Islamic Thought

Many students of the Christian and Islamic traditions have noted the different histories of each faith as a political community. Unlike the experience of Christianity, Islam did not evolve as a religious community apart from or in opposition to an established or hostile political order. Quite the opposite, Islamic civilization evolved from its formative phase very much as a political phenomenon, with politics thoroughly incorporated within and intrinsic to its moral order.

The Qur'an's approach to political organization is premised upon the common ontology of humanity, since all of creation is described as a unified whole with a single origin in the divine creator, a common purpose which is known only to that creator, and a common end. Thus all human beings are described in their origins as being *umma wahida* (one community) which, since that primordial state, have splintered according to their belief or disbelief in god or gods (2:213). Despite its fractured state, humanity is still fundamentally united in the Islamic view by virtue of its common beginnings and destiny. Thus the Islamic ethical framework is premised on the universality of its principles.

The duty to realize these principles falls, of course, upon the Muslim community by virtue of its submission to the divine injunctions, that is, by virtue of its *islam*. The Muslims form an *umma wahida* (21:92), “one community,” which is described at other points in the Qur'an as the “median” community (2:134) and the “best” community (3:110), a community that carries the moral obligation to order “that which is right and to forbid that which is wrong” (3:104). Among the many things which the Qur'an enjoins upon the Muslim *umma* is to retain its unity and avoid internal dissension or division (3:103–5).

Of course, this Qur'anic injunction—like many other political and ethical ideals—was never realized following the death of the Prophet Muhammad in A.D. 632. The most serious division and the earliest chronologically was the dispute on the Prophet's legitimate successor, leading ultimately to the evolution of the Shi'i tradition apart from the Sunni majority. Sunni law developed subsequently by maintaining the fiction of the united community under a single

head, the *khalifa* (caliph), but with a number of *walis* (agents) for the caliph administering his different realms. Even those jurists who attempted to reconcile theory with reality could never abjure the moral primacy of the unified community, the *umma*.⁷

In analyzing the current Muslim literature on this subject, one is struck by the degree to which the fundamentals of the discourse have remained unchanged. Modern approaches to the status of the nation-state in Islamic thought may be divided very generally into three strands.

First, there is a quite diffuse secular school of Muslim theoreticians and politicians whose members may be further subdivided into two groups. The first subgroup, including figures such as 'Ali 'Abd al-Raziq and Taha Hussein in Egypt and Sati' al-Husri in Syria, seek to operate within the framework of Islamic discourse. Their position tends to crystallize around the contention that the Qur'an and *sunna* (traditions of the Prophet) do not stipulate any political theory or specific political institutions and hence remove issues of political organization from the religious sphere. Ipso facto, the concept of the *umma* is stripped of any substantive political content in their thought. A second subcategory of secularists would include such authoritarian "state-builders" as Mustafa Kemal Atatürk in Turkey and Reza Shah in Iran, as well as the Iranian intellectual Ahmad Kasravi. These secularists quite consciously reject Islamic tradition as being antithetical to the creation of a "modern" state and society.

Although secular thought has arguably made profound and irreversible inroads into the political consciousness of Muslims, it nevertheless has remained extremely peripheral in influencing the content of Islamic thought. The clearest example of its marginality is the fact that not even Kemalist Turkey, the most advanced case of applied secularism in the Muslim world, has produced a single secularist ideology of international stature, let alone Islamic legitimacy.⁸

A second group of modernist intellectuals may be identified whose agenda is clearly reformist and whose object is to find some accommodation between Islamic ideals and the prevailing realities. Many figures could be cited as proponents of this school, including Muhammad 'Abduh and Rashid Rida in Egypt, and Ziya Gökalp in Turkey. But among the most influential and articulate is Muhammad Iqbal, the poet-philosopher whose thought is commonly cited as providing the ideological basis for the creation of Pakistan. Iqbal argued that

⁷ See Bernard Lewis, "Politics and War," in Joseph Schacht and Clifford E. Bosworth, eds., *The Legacy of Islam* (Oxford: Oxford University Press, 1974), 156-209; Hamilton A.R. Gibb, "Constitutional Organization," in Majid Khadduri and Herbert J. Liebesny, eds., *Law in the Middle East: Origins and Development of Islamic Law* (Washington DC: Middle East Institute, 1955), 3-27.

⁸ For a review and critique of the impact of secularism on Islamic political thought, see Fazlur Rahman, *Islam* (Chicago: University of Chicago Press, 1979), 212-34.

“tribal or national organizations on the lines of race or territory are only temporary phases in the unfoldment and upbringing of collective life, and inasmuch as I have no quarrel with them; but I condemn them in the strongest possible terms when they are regarded as the ultimate expression of the life of mankind.”⁹ Iqbal’s argument thus attempts to justify the emergence of Muslim states as a transitional, perhaps necessary phenomenon, but still far short of the ideal. The ideal for him is not a pan-Islamic state, but a confederation of Muslim nation-states acting in concert, a Muslim “League of Nations,” as he himself terms it.¹⁰ The League’s specific powers and purposes are left blissfully unelaborated in the corpus of Iqbal’s work. But his idealistic vision did significantly influence Pakistani foreign policy during its first decade, much to the annoyance of secular Arab leaders who were attempting desperately to inculcate the ideology of Arab nationalism as a counter to pan-Islamism and other competing loyalties within their own states.

The third strand of Muslim thought is avowedly and unabashedly pan-Islamic. This group not only denies the acceptability of the nation-state according to Islamic theory but condemns it as a vestige of European colonialism intended to perpetuate the weakness of the Muslim *umma*. Again, we could cite a number of proponents of this view, including the Egyptian leaders of the Muslim Brotherhood, Hasan al-Banna and Sayyid Qutb, and the Indian/Pakistani founder of the Jama‘at-i Islami, Abu’l-A‘la Mawdudi. Perhaps the most influential recent figure and certainly the best-known is Ayatollah Ruhollah Khomeini. Khomeini’s thought evinces the most uncompromising Islamic cosmopolitanism. The nation-state system with its emphasis on territorial integrity was described by him at one point as being the product of the “deficient human mind.”¹¹ Iran’s Islamic revolution was frequently described as the epicenter for the propagation of the universal Islamic revolution.

Much of Khomeini’s revolutionary rhetoric may be dismissed as revolutionary and wartime propaganda. Certainly the Iranian claim that Khomeini be acknowledged as the leader of the universal revolution met with less than enthusiastic support in most of the Muslim world. Nevertheless, the essential elements of Khomeini’s call for a unified political community resonates in the programs of most Islamicist groups in virtually every Muslim country today.

In short, the concept of the unified Muslim community, the *umma*, remains

⁹ Cited in Parveen Feroze Hassan, *The Political Philosophy of Iqbal* (Lahore: Publishers United Ltd., 1970), 203–4.

¹⁰ Muhammad Iqbal, *Reconstruction of Religious Thought in Islam* (Lahore: Institute of Islamic Culture, 1989), 126.

¹¹ Cited in Farhang Rajace, *Islamic Values and World View: Khomeini on Man, the State, and International Politics* (Lanham MD: University Press of America, 1983), 77.

very much a point of discussion and debate for most Muslim theorists and very much an aspiration for most Muslim activists. This fact is inevitable given the explicit moral value that the Qur'an invests in the one community and the condemnation it reserves for those who favor any moral worth to essentially linguistic, tribal, or ethnic ascriptions. As is evident in the thought of Iqbal, even modernist Muslim intellectuals cannot escape the conclusion that even a nation-state with liberal institutions cannot be embraced as the *summum bonum* of Islamic political life.

The Qur'anic Ethics of Just Intervention

So where does this lead us in trying to discern an Islamic approach to the issue of humanitarian intervention? First, it is important to emphasize that the rejection of the moral value of the nation-state does not necessarily negate the possibility of particularistic political communities short of the universal *umma*. The Qur'an states that God made mankind into "nations and tribes, so that you might come to know one another" (49:13). Thus the Qur'an embraces the validity of group identities, but only as a means of self-reference and facility of human interaction, not as the basis for racism, chauvinism, or extreme nationalism. Moreover, the argument that the Islamic *umma* may be realized by forceful intervention would be a distortion of even the radical Islamicist views. For example, Khomeini often asserted that the Islamic revolution must be propagated through nonviolent means, claiming that Islamic ideology, due to its self-evident truths, did not require enforcement upon anyone.¹² Of course, violent means are not rejected by all radical groups operating in the Muslim world today, some of whom justify their tactics on the religious obligation to resist tyranny even through violence.

However, if the right of unlimited violent intervention is not a necessary product of the rejection of the sovereign nation-state, humanitarian intervention, I would argue, is. The reason is that it is the collective community of Muslims that is endowed by the Qur'an with moral standing, so long as it enjoins the good and forbids the evil. The commandment to act justly and to enforce justice is a collective obligation devolving upon the community, not particular classes or divisions within the community. The justice that the Qur'an enjoins Muslims to uphold consists of universally applicable principles that emanate from a divine source and are invested in human beings by virtue of their humanity and not by their affiliation to any particularistic human grouping, whether it be racial, ethnic, or "national." It is in this context of enforcing justice that the Islamic theory of *jihad* was elaborated. Thus the ethics of hu-

¹² *Ibid.*, 82-85.

manitarian intervention in Islam must be seen as a subset of the general theory of *jihad*.

First, let us consider intervention on behalf of Muslims facing oppression by non-Muslims who constitute the majority population in a state or who control the means of coercion in a state. The Qur'an here suggests a two-step course of action. The first is physical removal (*hijra*) of the Muslims from the territory of the oppressors (4:97). The second is a collective response of the Muslim community in support of the grievances of the oppressed community. The verse reads:

And why should you not fight in the cause of God and of those who being weak are ill-treated and oppressed: Men, women and children whose cry is: "Our Lord! rescue us from this land whose people are oppressors. And raise for us by Your grace one who will protect; and raise for us by Your grace one who will help." (4:75).

In describing the oppressed community in both cases the Qur'an uses the same word, *mustad'afun*. The different recommendations it gives appear to be a tactical consideration. If the oppressed are able to relocate, it is better for them to do so and seek a propitious moment to reclaim their rights, presumably with the assistance of the Muslim community. This contention is supported by the verse that first permitted Muslims to use force collectively against the pagan Arabs, namely, "To those against whom war is made, permission is given to fight because they are wronged, and truly God is most powerful in His aid" (22:39). A subsequent verse converted the permission to an injunction with the statement that "persecution is worse than killing" (2:191).

This first case of intervention on behalf of Muslims being persecuted by non-Muslims is the most unequivocal example of *jihad* cited by both the medieval and modern jurists. In modern cases, it has, of course, been used to legitimate anti-colonial struggles and the Palestinian struggle against Israel. The latter conflict has evoked more just war rhetoric and concerted action than any other contemporary issue facing Muslims, especially since the 1967 Israeli occupation of Jerusalem.¹³

We need cite only two cases here as representative of the prevailing thought. The first is that of the Iranian scholar Ayatollah Murtaza Mutahhari, perhaps the second-most influential clerical figure after Khomeini in the revolution. Mutahhari defines *jihad* as "defensive" war on behalf of oppressed Muslims. He writes:

¹³ See Rudolph Peters, *Islam and Colonialism: The Doctrine of Jihad in Modern Times* (The Hague: Mouton Publishers, 1979).

We may be in a situation whereby a party has not transgressed against us but has committed injustice against a group from another people, who may or may not be Muslims. If they are Muslims—as in today’s plight of the Palestinians, who have been exiled from their homes, whose wealth has been seized, who have been subjected to all kinds of transgression—whereas for the moment the transgressor has no intentions against us, it is permissible for us to give assistance to the oppressed Muslims and deliver them. This is not only permissible, but obligatory, because they are Muslims. Such action would not be a case of commencing hostilities, but rather of rushing to the defense of the oppressed in order to deliver them from the clutches of oppression.¹⁴

Similar arguments were advanced by leaders of the Muslim Brotherhood in Egypt as reasons for denouncing the Egyptian-Israeli peace treaty as Islamically illegitimate. In their extended legal-ethical debate with al-Azhar, the Brotherhood repeatedly challenged the Sadat regime to answer to the charge that it was shirking a cardinal aspect of *jihad* by withdrawing from a conflict in which Muslims remained oppressed. Their arguments have found wide support in most Muslim countries.

Two other conflicts which have also evoked widespread support as cases of *jihad* against foreign aggression are the decade-long war in Afghanistan and the ongoing conflict in Bosnia. Both wars have elicited large-scale financial support by several Muslim governments, as well as the involvement of several Muslim NGOs providing relief services. Both conflicts have also involved the participation of volunteer, self-financed *mujahidin* units from a number of Muslim countries.¹⁵

Second, we turn to a far more problematic case but one perhaps more germane to our present topic: a conflict in which both parties are Muslims. Traditional Sunni discussions of this topic are ambivalent on whether to place such conflicts within the purview of *jihad*. Medieval jurists generally treated intra-Muslim disputes as a special category of legitimate warfare dealing with the suppression of *fitna*, or “civil discord.” This problem does not arise in Shi‘i thought given the fact that the first Shi‘i imam ‘Ali spent his entire tenure as caliph trying to suppress Muslim revolts. Thus for the Shi‘a the laws of *jihad*

¹⁴ Mehdi Abedi and Gary Legenhausen, eds., *Jihad and Shahadat: Struggle and Martyrdom in Islam* (Houston: Institute for Research and Islamic Studies, 1986), 96.

¹⁵ Reports of volunteer Muslim fighters in Bosnia range from four to five hundred. Many have had prior combat experience in Afghanistan. See *New York Times*, November 14, 1992; and December 5, 1992.

may be applied, with certain qualifications in *jus in bello*, to Muslims as well as non-Muslims.

Both the Sunni and the Shi'i legal traditions developed elaborate rules, known as *ahkam al-bughat*, for dealing with rebellion against the authority of the state.¹⁶ Faced with mounting internal political dissension and serious external challenges to the power of the caliphate, the medieval legal literature on this subject tended toward extreme conservatism, in the end virtually outlawing all challenges to the ruler in power with the argument that tyranny is preferable to civil strife. Thus medieval Islamic political treatises are conspicuously devoid of provisions to remove despotic rulers or counter the authoritarian bent of the political theory. However, it is important to emphasize that the jurists' desperate attempts to maintain the cohesiveness and authority of the caliphal institution were, in fact, attempts to uphold and enforce the rule of Islamic law, the *shari'a*. Widespread juristic consensus existed that no obedience was due any ruler that renounced or systematically violated the *shari'a*.¹⁷

Renewed interest in the nature of political authority and obligation reemerged as a central concern of Muslim scholarship in the nineteenth century. Of course, this topic figures quite prominently in the works of most contemporary revivalist thinkers. These thinkers have developed a right of rebellion against tyrannical and unjust rulers by returning to the Qur'anic and Prophetic sources that enjoin the establishment of a just political regime as a primary goal of the Muslim community on earth.¹⁸ However, this aspect of modern Islamic political thought remains still very much inchoate, as evinced graphically by the turbulent politics of virtually every Muslim state.

The operative Qur'anic verse on the subject of intra-Muslim disputes states:

If two parties of the believers fall into quarrel, make peace between them; but if one of them transgresses beyond bounds against the other, then fight all of you together against the one that transgresses until it complies with the command of God. But if it complies, then make peace between them with justice, and be fair: For God loves those who are fair (49:9).

¹⁶ For a review of the Sunni legal literature, see Khaled Abou El Fadl, "*Ahkam al-Bughat: Irregular Warfare and the Law of Rebellion in Islam*," in James Turner Johnson and John Kelsay, eds., *Cross, Crescent, and Sword* (New York: Greenwood Press, 1990), 149–78. For a review of Shi'i approaches to the same subject see Etan Kohlberg, "The Development of the Imami Shi'i Doctrine of *Jihad*," *Zeitschrift der Deutschen Morgenländischen Gesellschaft* 126 (1976), 68–78.

¹⁷ See the discussion by Gibb, "Constitutional Organization," 3–27.

¹⁸ See the review by Muhammad Salahuddin, "Political Obligation: Its Scope and Limits in Islamic Political Doctrine," *American Journal of Islamic Social Sciences* 3 (December 1986), 247–64.

This verse, and many interpretations of it, figured prominently in most of the Muslim discourse on the recent Gulf War.

The first stage prescribed in the verse is one of nonviolent intervention, seeking reconciliation between the parties. This presumes a *prima facie* right of the Muslim collectivity to engage in preventive intervention, to resolve a dispute before hostilities are commenced. The second stage is the permission—rather, injunction—to launch a collective intervention on behalf of the aggrieved party. It is interesting to note here that the verse maintains a neutral stance *vis-à-vis* the merits of either party. The justification for collective intervention is not so much an outgrowth of *ad bellum* but rather *in bello* criteria. The party to be collectively fought is the one that has resorted to unacceptable means to achieve its ends. This was certainly the justification of the Muslim coalition partners of the United States in the Gulf War for citing this verse. Iraq was the *baghi* (the rebel), not because it had crossed the territorial frontiers of a sovereign state (this argument was reserved for “secular” international fora such as the Arab League and the United Nations), but because it had employed unacceptable means in resolving its dispute with Kuwait.¹⁹

The same reasoning could and should have been applied with greater emphasis to justify collective Muslim intervention on behalf of Iraqi minorities. If the relative merits of the Kurdish or Shi'i positions versus the Iraqi government's position are discounted, as required by the Qur'anic verse, then the collective Muslim community has the obligation to intervene against the party employing unacceptable means. The killing of innocents, the use of chemical weapons, the forced expulsion and terrorizing of entire populations, all fall within the category of unacceptable means according to Islamic theories of *jus in bello*, applicable to Muslims and non-Muslims alike.

Finally, the verse concludes by stipulating the ends for which collective intervention is permitted, namely the cessation of hostilities, not the elimination of one or the other party to the original dispute. Arguably, cessation of hostilities is rarely possible in circumstances so grave as to justify humanitarian intervention, at least as it is justified by Western theorists. In the face of genocide is it not a moral solution to eliminate the perpetrator rather than risk a future resumption of his atrocities? Certainly, this is a very relevant question today in light of Saddam Hussein's uncanny ability to return yet another day to continue his murderous reign in Baghdad.

But the counterarguments themselves deserve careful consideration. First,

¹⁹ See, for example, the text of the “Declaration of Mecca,” a statement of Muslim scholars and activists meeting under the auspices of the People's Islamic Conference justifying collective Muslim action against Iraq (*Foreign Broadcast Information Service [Near East and South Asia]*, January 14, 1991, pp. 4–7).

it is rarely practical or prudent for outside forces to stipulate who should “rightly” rule a particular community. Moreover, evil on such a mass scale is rarely the responsibility of one or even a small group of people. Elimination of the perpetrators may not bring an end to the atrocities. Second is the moral issue itself. When the intervener sets about to decide the political future on behalf of the intervened, the humanitarian quality of the intervention is swiftly vitiated. Therefore, perhaps cessation of hostilities may not definitively eliminate the evil but it may forestall even greater evils that lurk in the uncertainty of human conflict.

Lastly, we turn to the case of Muslims oppressing non-Muslims. This topic raises a subsidiary but highly contentious issue, the question of who may legitimately enforce humanitarian principles in the Muslim world. Can Muslim powers collaborate with non-Muslim states in collective intervention against other Muslim regimes—who may be oppressing either their own Muslim or non-Muslim populations—or is the right of intervention limited to Muslim enforcement, thus vitiating its standing as a truly international principle?

This issue lay at the core of the vociferous debate in the Muslim world on the ethics of the Persian Gulf War. The deployment of an American-led military coalition in areas very close to the spiritual center of Islam effectively shifted the Muslim ethical discourse away from the Iraqi invasion of Kuwait to the American intervention in the dispute. Those *‘ulama* who had earlier cited the Qur’anic verse 49:9 in justifying a collective Muslim response to the Iraqi aggression were now faced with the task of answering criticism of the Western intervention based on the very same verse. As the critics pointed out, the verse commands *Muslims* to resolve disputes among themselves with justice; the Qur’anic injunction makes no mention of involving external parties, particularly those who had palpably demonstrated their antipathy for the Muslims. Moreover, this line of argument continued, the Qur’an explicitly proscribes Muslims from taking unbelievers (4:144) as well as Christians and Jews (5:54–56) as *awliya’*, a broad term meaning “friends,” “allies,” or “protectors.” These verses provided the basis for the widely-held juristic prohibition in *ahkam al-bughat* against taking non-Muslim allies to suppress Muslim rebellions, particularly if control of military operations was in non-Muslim hands. Thus, by designating the Iraqi regime as *bughat*, the pro-coalition *‘ulama* opened the door for strong condemnation of Western involvement on both ethical and legal grounds.

Echoes of the same argument against reliance upon non-Muslim powers for protection of oppressed Muslim peoples are commonplace in current Muslim attitudes towards the conflict in Bosnia. The contrast between the rapid mobilization and prosecution of the war to repulse the Iraqi aggression, coupled with continuing enforcement of UN sanctions against Iraq, is indeed stark when com-

pared with the relatively timid international response during nine months of Serbian aggression against Bosnia. The varying responses to each crisis are, of course, ultimately reflections of many complex political-military factors. But the varying responses cannot but seriously undermine the emerging moral and legal consensus on the principles of humanitarian intervention, particularly in Third World countries, where humanitarian intervention is still largely suspect as a guise for the pursuit of Western interests by military force.

This is precisely why the international discourse on humanitarian intervention must include non-Western ethical perspectives. Such discourse would enable the peoples of the Third World—including Muslims—to understand both the rights as well as the obligations inherent in the concept of humanitarian intervention. So let us turn to the question before us: Can Muslim states ally themselves with non-Muslim powers to fight another Muslim state that may be committing massive human rights violations against its own people?

The answer on a superficial level is self-evident: of course Muslim states should be foremost in undertaking humanitarian intervention and conflict resolution within the Muslim world. This is unambiguously demanded by Qur'anic ethical principles. Moreover, nothing in international law would prevent Muslim states organized in an international body from enforcing principles of collective security and humanitarian intervention. Indeed, Article 33 and Chapter VIII of the UN Charter emphasize the primacy of regional organizations in maintaining international peace and security.

The prosecution of the Persian Gulf War highlights the importance of strong and timely collective Muslim action to resolve intra-Muslim disputes. The absence of an effective Islamic organization created a power vacuum that made Western intervention in the dispute all too easy and all too necessary. Initial skepticism in the Muslim world about allied intentions for the intervention was replaced by outrage once the scale of the allied air campaign against Iraq became apparent. Iraq may have been the precipitator of the crisis, the *baghi*, but Islamic conceptions of *jus in bello* cannot countenance the suppression of *fitna* by means of the most sophisticated and—for all their “smartness”—lethal military hardware in the world today.²⁰ Ultimately, the lingering resentment in many parts of the Muslim world over the conduct of the Gulf War may be

²⁰ Many Western theorists have also argued the problematic conduct of the war according to *jus in bello* criteria. See Stanley Hoffmann, “Bush Abroad,” *New York Review of Books*, November 5, 1992, p. 56, and the essays by Jean Bethke Elshtain, Stanley Hauerwas, and Michael Walzer in David E. Decosse, ed., *But Was It Just? Reflections on the Morality of the Persian Gulf War* (New York: Doubleday, 1992). See also Middle East Watch, *Needless Deaths in the Gulf War* (New York: Human Rights Watch, 1991).

translated to constructive action on implementing a more effective Muslim collective security mechanism as well as to more principled application of the Islamic ethics of political behavior. The lesson of the war is clear: Muslims should have undertaken collective action against Saddam Hussein's megalomaniacal ambitions in September 1980 when he invaded Iran and not August 1990 when he turned against his erstwhile ally Kuwait.

If we approach the issue of Muslim cooperation with non-Muslims in opposition to an oppressive Muslim regime from a more complex theoretical level, we may once again firmly assert the principle of humanitarian intervention on the basis of the general argument thus far advanced. The duty of humanitarian intervention within an Islamic ethical framework derives directly from the obligation to struggle for justice, which the Qur'an specifically asserts to be of universal applicability. In the fourth chapter we find a clear exposition of what may be termed a deontological conception of justice: "O you who believe! Stand out firmly for justice, as witnesses to God, even as against yourselves, or your parents, or your kin, and whether it be against rich or poor" (4:135). Again, in the fifth chapter, is the admonishment: "O you who believe! Be ever steadfast in your devotion to God, bearing witness to the truth in all equity, and never let hatred of anyone lead you into the sin of deviating from justice. Be just: this is closest to piety. And remain conscious of God: surely God is aware of all that you do" (5:8).

These verses are addressed to the Muslim *umma*, but they do not preclude the relevance of their general moral principles to non-Muslims nor do they suggest any intrinsic moral superiority of Muslims to non-Muslims. For coupled with the Qur'an's warnings to Muslims not to take non-Muslims as associates against other Muslims are verses which elaborate that this caution should be exercised against those non-Muslims who have clearly demonstrated their hostility to Muslims and to Islam. But those who are not responsible for such enmity should be treated with "kindness" and "justice" (60:7-9).

But the Qur'an does not stop at mutual toleration or an uneasy coexistence of different communities, a religious cold war. Rather, it envisions a dynamic moral-political cooperation of the righteous, where all human beings are challenged to contribute positively and according to their own moral traditions to the building of a just and equitable human community on earth:

To each among you have We prescribed a law and an open way. If God had so willed, He could have made you a single community, but His aim is to test you in what He has given you. So strive as in a race in all the virtues. The goal of you all is to God. It is He who will show you the truth of the matters in which you differ (5:51).

What more urgent struggle or what more commonly held virtue can there be than the enforcement of the most fundamental human rights? To presume that Muslims alone are empowered to realize the purposes of humanitarian intervention in the Muslim states—whether the victims are Muslims or non-Muslims—is to presume a moral parochialism that is inherently alien to the Qur'an's catholic vision.

Ayatollah Mutahhari may once again be cited as a representative exponent of this principle. He writes: "No one should have any doubts that the most sacred form of *jihad* and war is that which is fought in defense of humanity and of human rights." He continues:

During the period in which the Algerians were at war with the French colonialists, a group of Europeans helped them in their war, either by actually fighting alongside the Algerians or otherwise.... The *jihad* of such people was in fact even more sacred than that of the Algerians, because the Algerians were defending the cause of their own rights, whereas the cause of the others was more ethical and sacred.²¹

Problems and Prospects for Humanitarian Intervention in the Muslim World

If we move from the theory to the practice of humanitarian intervention in the contemporary Muslim world, the situation is disheartening at best. The issue faces all the problems of implementation that it encounters elsewhere in our current international system: first, the lack of any clear and commonly supported conception of humanitarian crises requiring immediate collective intervention; second, the lack of any dependable institutional machinery for implementing international resolutions on collective intervention.

Earlier we mentioned the existence of the Organization of the Islamic Conference, an organization founded in 1972 on the rhetoric of universal Islamic ethics yet mired ever since in the reality of the politics of its constituents, forty-seven disparate and often mutually hostile states. The catalyst for the formation of the OIC was the Israeli occupation of Jerusalem in 1967. Its charter specifically acknowledges the centrality of the Palestinian-Israeli dispute in its stated objectives: "To coordinate efforts for the safeguard of the Holy Places and support of the people of Palestine, and help them to regain their rights and liberate

²¹ Abedi and Legenhausen, *Jihad and Shahadat*, 105.

their land.” In the next clause, the charter expands the scope of the OIC’s commitment to include support “of all Muslim peoples with a view to safeguarding their dignity, independence, and national rights.”²² However, beyond these rhetorical commitments, the charter is silent on the actual mechanisms whereby these goals may be realized. There is certainly no attempt to institute any collective security mechanism for the “safeguarding” of the human rights of Muslim peoples.

Not surprisingly, the record of the OIC in responding to international crises has been dismal to date. In 1971–72 it failed to respond to the Pakistani atrocities in Bangladesh; throughout the eight-year Iran-Iraq war, its peace initiatives were repeatedly rebuffed by Khomeini, who castigated the organization’s failure to condemn Iraq’s aggression; throughout the course of the war in Afghanistan, it was effectively paralyzed; and finally in the recent Gulf War, it took no concerted action to intervene inside Iraq.²³ Indeed, the August 1991 Council of Foreign Ministers meeting in Istanbul essentially absolved the OIC members of any responsibility for the miseries visited upon the Iraqi people and blamed them all on the Iraqi government. The communique also included the ritual condemnation of Israeli violations of Palestinian rights but was conspicuously silent on the flagrant abuses of human rights that Palestinians and others have faced in postwar Kuwait.

Similarly, in the unfolding tragedy of Bosnia’s destruction, the OIC’s role has primarily been one of verbal declarations from the sidelines. The meeting of foreign ministers on June 17–18, 1992 in Istanbul yielded nothing more than calls for the strengthening of UN economic sanctions against Serbia. There was, indeed, much hinting prior to and during the conference of collective Muslim intervention, either unilaterally or through the United Nations, in order to check the Yugoslav army’s military assistance to local Serbian militias.

Spurred by mounting domestic outrage at reports of Serbian atrocities in Bosnia, the OIC states initiated measures in early November to exempt Bosnia from the UN arms embargo against Yugoslavia in effect since September 1991. This request was formally incorporated into a resolution adopted by the foreign ministers’ conference in Jiddah, Saudi Arabia, on December 1–2, 1992. The resolution also included demands for UN enforcement of the no-fly zone over Bosnian territory and for immediate measures “against Serbia and Montenegro

²² Al-Ahsan, *OIC*, 128.

²³ For reviews of the OIC’s role in the conflicts in Bangladesh, Iran-Iraq, and Afghanistan, see *ibid.*, and Haider Mehdi, *Organization of the Islamic Conference (OIC): A Review of Its Political and Educational Policies* (Lahore: Progressive Publishers, 1988).

including the use of force prescribed under Article 42 of Chapter VII of the United Nations Charter.” There were again intimations by some OIC foreign ministers that unilateral Muslim action might be taken if the Security Council failed to adopt sterner measures to curb the Serbian aggression.²⁴ However, to date, other than limited arms shipments by individual OIC states and support for the quite limited UN peacekeeping operations in Bosnia, the OIC member-states have not undertaken any joint intervention.

In short, as it is presently constituted, the OIC cannot be expected to play any decisive role in implementing the principle of humanitarian intervention in Muslim countries, even if a consensus could be developed among the ruling elites that such a right exists. However, the OIC—like the United Nations itself—cannot long remain immune to the current forces of change in the international system. The crisis in Bosnia, as well as the many other humanitarian crises in other parts of the Muslim world, have created a popular climate that not only permits but demands consideration of principles of intervention. Indeed, in all of the crises to date, the OIC member-states have been moved to whatever belated action they have taken by strong internal pressures.

What then can we realistically expect from the OIC in the short term? First, the OIC could potentially play an important supportive role to humanitarian efforts of the United Nations. With strong impetus and leadership being provided by the Security Council, the OIC, in conjunction with other regional organizations, could be encouraged to develop within the UN system a series of guidelines establishing the conditions or “emergency threshold” that would trigger collective intervention. Such regional organizations are much better suited to maintain—again under ultimate UN sanction—standing peacekeeping forces that are empowered to intervene rapidly, not only after the fact, as at present, but prior to the onset of hostilities. Such a proposal would also better meet the needs of most humanitarian crises, for regional organizations, and not ad hoc UN peacekeeping forces, are much better suited to provide the long-term presence in a crisis situation necessary for any meaningful conflict resolution.

In the long term, the OIC needs to define with much greater clarity its own place and the place of Islamic thought in the international system. One essential first step toward this goal would be the convening of the International Islamic Law Commission and for a truly open and systematic discussion of the place of Islamic theory in the contemporary international system. With greater ideological consensus on its own role and given its large constituency—approximately one-fourth of the United Nations’ total membership and one-fifth of

²⁴ *Impact International*, December 11, 1992, p. 21.

humanity—a reconstituted OIC could potentially play a crucial role in the preservation of international peace and security generally, and not just in humanitarian intervention. As the world community evolves toward a more universalist ethics based on the rejection of traditional concepts of state sovereignty, the OIC and Muslim peoples generally are uniquely positioned by virtue of the Qur'an's universalist ethics to contribute to a new international society.