

**STRATEGY
RESEARCH
PROJECT**

The views expressed in this paper are those of the author and do not necessarily reflect the views of the Department of Defense or any of its agencies. This document may not be released for open publication until it has been cleared by the appropriate military service or government agency.

**SOVEREIGNTY CONSIDERATIONS
FOR THE MILITARY STRATEGIST:
LESSONS FROM DESERT STRIKE**

BY

**COLONEL DAVID P. CAREY
United States Army**

DTIC QUALITY INSPECTED 3

DISTRIBUTION STATEMENT A:
Approved for public release.
Distribution is unlimited.

USAWC CLASS OF 1997



U.S. ARMY WAR COLLEGE, CARLISLE BARRACKS, PA 17013-5050

19970623 199

UNCLASSIFIED

USAWC STRATEGY RESEARCH PROJECT

The views expressed in this paper are those of the author and do not necessarily reflect the views of the Department of Defense or any of its agencies. This document may not be released for open publication until it has been cleared by the appropriate military service or government agency.

SOVEREIGNTY CONSIDERATIONS
FOR THE MILITARY STRATEGIST:
LESSONS FROM DESERT STRIKE

By

Colonel David P. Carey
United States Army

Colonel Donald Morgan
Project Adviser

DISTRIBUTION STATEMENT A:
Approved for public
release. Distribution is
unlimited.

U.S. Army War College
Carlisle Barracks, Pennsylvania 17013

UNCLASSIFIED

ABSTRACT

AUTHOR: David P. Carey

TITLE: Sovereignty Considerations for the Military Strategist:
Lessons from Desert Strike

FORMAT: Strategy Research Paper

DATE: 15 April 1997 PAGES: 41 CLASSIFICATION: Unclassified

A fundamental precept of international law is the notion of territorial sovereignty. International states are permitted to impinge on the territory of another state, that is, intervene, only in carefully circumscribed instances. To ignore this well-established principle is to dangerously sanction future interventions and to invite less respect for law and good international order. Desert Strike, a U.S. intervention into Iraq, illustrates the dangers of flaunting international law. Although superficially appealing, this action carries the potential for unwelcome long range foreign policy consequences, of which military strategists must be keenly aware.

TABLE OF CONTENTS

INTRODUCTION	1
DESERT STRIKE	2
LEGAL PRINCIPLES	6
Sovereignty and International Law	6
Sovereignty and the United Nations	12
Nonintervention	13
U.S. Interventionism	15
Exceptions to Principle of Nonintervention	16
Individual States	16
Humanitarian Interventions	17
To Protect Nationals	17
Intervention by Invitation	17
Intervention to Advance Democracy	18
The United Nations	19
ANALYSIS OF OUR INTERVENTION: DESERT STRIKE	21
The UN and the Iraqi/Kurdish Situation	21
Announced U.S. Justification for Desert Strike.	22
Other Potential Justifications for the Strike	24
Self-Defense	24
Reprisals	25
Dangers in the U.S. Position	25
CONCLUSION	28
ENDNOTES	31
BIBLIOGRAPHY	37

Introduction

The United States is struggling to find a comfortable fit with its role as the world's sole surviving superpower. With the former Yugoslavia, Somalia, Haiti, Rwanda, and most frustratingly Iraq, we have dealt not only with political, moral, and logistical issues, we have also had to contend with legal issues. International law regulates the rights of states, both individually and collectively, to intervene in conflicts which occur in other states. In so doing, the law must attempt to balance the interests of individual states to conduct their internal affairs as they see fit against the interests of specific countries in particular and the international community in general.

What is the relevance of sovereignty and international law in the post-Cold War era? In particular, should military strategists be troubled by such legalistic considerations? In our contemporary world order, a thorough comprehension of international legal principles that affect state sovereignty is not only helpful, it is essential if we are to pursue a successful foreign policy into the new millennium. In an era that portends more and varied opportunities for the use of armed interventions, military strategists may not leave these legal considerations to politicians or diplomats; rather they must

recognize and calculate how these legal principles affect their assessments, plans, and recommendations.

Operation Desert Strike is a timely example to illustrate the dimensions of the notion of sovereignty and to underscore its current relevance. In September of 1996, President Clinton dispatched cruise missiles to target military sites in southern Iraq.¹ Was this a legitimate, proportional military operation,² or a high-minded, yet misguided trespass on the territorial sovereignty of Iraq; was it a permissible intervention or not? What are the implications of this intervention for both the future world order and U.S. military strategy?

Desert Strike reveals an apparent lack of foresight in the manner our actions impact international law. For the military strategist, this illustration shows that international legal issues have broader consequences than may be detected upon cursory consideration of policy options. These troubling ramifications must be factored into the sensitive policy determinations involving interventions in the post-Cold War world. Failure to understand and communicate these concerns to policy makers may not necessarily have short term ramifications, but precedents set by ill-advised interventions may well carry unwelcome long term consequences.

Desert Strike

The decision to intervene militarily in Iraq stemmed from our long-standing involvement with the Iraqi Kurdish population. The U.S. saw in the Kurds an opportunity to counter the power of the Iraqi leader and regional nemesis, Saddam Hussein. Thus, we pursued a policy that would protect and empower this would-be ally, despite its difficult history which has habitually defied ethnic unification.

Of the three and a half million Kurds in northern Iraq, many seized the opportunity after Iraq's loss in the Persian Gulf War finally to attempt the establishment of an independent Kurdish state.³ Although lightly armed, a Kurdish rebellion seriously challenged Iraq before heavy armored forces crushed their resolve, forcing millions to flee. The ensuing humanitarian disaster caught the attention of the world; and with the U.S. in the lead, Operation Provide Comfort shielded Kurds from further Iraqi retribution.⁴

In 1991, the UN Security Council passed Resolution 688, demanding that the Iraqi leader respect the human rights of all Iraqi citizens.⁵ The U.S. used this resolution as justification for its actions to protect the Kurds in the northern part of Iraq.⁶ Under then President Bush, the U.S. established a "no-flight" zone (above Iraq's 36th parallel) to protect the Kurds from Iraqi harassment. For a while, the safe haven guaranteed by U.S., British and French air power helped the Kurds set up a

virtually autonomous enclave for the Kurdish population. They held democratic elections and set up a parliament in their nominative capital of Erbil.⁷ With the resumption of old internecine rivalries among the Kurds, however, the situation fell apart. Since that time, American interests have been complicated by infighting among two factions.⁸

By late-summer of 1996, one side, the Patriotic Union of Kurdistan, accepted arms from Iran, while the leader of the other, the Kurdistan Democratic Party, appealed to Iraq to attack its rival.⁹ After the U.S. received intelligence reports that Iraq intended to intervene in the rivalry, President Clinton dispatched strong warnings against any such move.¹⁰

Iraq had always considered the exclusion zone as a violation of its sovereignty, but until this time it had respected the demarcation line established between its forces and the Kurds. Now, however, Saddam Hussein wasted no time accepting an invitation to assist the Kurdistan Democratic Party. Led by elements of the elite Republican Guards, Iraq overran Erbil, a few hundred miles north of Baghdad. The armored attack into Erbil left approximately 2,000 dead.¹¹ Iraqi Deputy Prime Minister Tariq Aziz claimed that the action was a "limited military operation" in response to an appeal by the Kurdistan Democratic Party.¹² Expounding, he said Iraq was blocking an

intervention from Iran on behalf of the other faction, the Patriotic Union.¹³

The UN reacted immediately to the Iraqi offensive into Erbil. The Secretary-General announced the suspension of a recently negotiated agreement to permit Iraq to sell its oil to fund food and medicine purchases.¹⁴

The U.S. elected to send a stronger message and made good on its vows of retaliation. U.S. B-52s launched 13 cruise missiles and battleships in the Persian Gulf launched 14 Tomahawks on military targets in Iraq on September 3, 1996. The Pentagon announced that anti-aircraft batteries and command centers were targeted.¹⁵ The next day, American battleships and a submarine in the gulf fired 17 more Tomahawk cruise missiles at the same targets in a "mop-up" operation.¹⁶ Then, while on a routine patrol, Iraqi radar targeted a U.S. F-16. The fighter pilot fired HARM missiles,¹⁷ disabling the radar.

In addition to the missile strikes, the U.S. extended the no-flight zone by 60 miles, effectively extending the zone to within 30 miles of Baghdad.¹⁸ Finally, the U.S. dispatched more troops into the region, culminating the operation dubbed "Desert Strike."

In an attempt at brinkmanship, Saddam insisted that Iraq would disregard the flight restrictions and would shoot down any foreign aircraft over Iraqi territory.¹⁹ He did not follow

through with his threats. Although Iraq did withdraw the Republican Guard from Ebril, the fact that Iraq left behind a network of spies and enhanced influence left many believing that Saddam had prevailed.²⁰ By the time the Iraqi tanks had withdrawn under the pressure of the cruise missile attacks, the Kurdish unity that the U.S. spent the last five years trying to preserve had been torn apart.

The Clinton Administration's articulated justifications for the missile strikes will be examined later in this paper. The central theme of the U.S. position, however, was to check, if not actually punish Saddam.²¹ Because his actions occurred entirely within the sovereign territory of Iraq and at the invitation of an Iraqi ethnic faction, the propriety of the U.S. intervention must be measured in the context of contemporary notions of sovereignty.

Legal Principles

Sovereignty and International Law

No omnipotent international sovereign exists to oversee and enforce international order. Rather, the responsibility for the application of legal rules lies with the states themselves, the principal subjects of that law. This is even more so with respect to those rules that govern interstate conflict and those that spell out the fundamental character and duty of states. An analysis of fundamental historical and philosophical

underpinnings of the concept of sovereignty will illustrate its constructive effect on international law.²²

On cursory examination, sovereignty and international law are like oil and water. State sovereignty means that a state ought to be able to govern itself without threat of outside interference. The gravamen of international law is that external rules ought to be able to limit state behavior. In practice, neither sovereignty nor international law can prevail completely without threatening the extinction of the other.²³ Thus, both sovereignty and international law must coexist in a state of balance.²⁴ With the demise of the Cold War and the attendant easing of superpower relations that had stressed this balance, both notions can lay claim to a more prominent stature in the new world order.²⁵

For example, sovereignty is one of the reasons for the resurgence of the former Soviet satellites and now newly independent states in Eastern Europe. Because of either the decolonization of Africa and Asia or the disappearance of the constraining influence of the former Soviet Union, "new states are being born almost daily."²⁶

On the other hand, the end of superpower competition has left international law the major influence on international organizations. International organizations are able to thrive in the vacuum that was once dominated by U.S.-Soviet spheres of

influence. The United Nations, the European Union, the International Monetary Fund, and the World Bank exert more influence now than ever.²⁷ Also, the International Court of Justice has its heaviest caseload in history. International arbitration and adjudication is enjoying new-found respect in the new world order.²⁸

The development of international law in the 21st century will be determined by the continuing evolution of these organizations and the concept of sovereignty.²⁹ Therefore, both evolving principles of international law and sovereignty must be understood and an appreciation developed of how the two interrelate in the contemporary world situation to pursue successful foreign policy strategies.

The principle of sovereignty does not lend itself to easy explanation,³⁰ but major precepts can be stated: As a concept, sovereignty implies supremacy or independence from external control.³¹

Various concepts of state sovereignty are traceable as far back as Aristotle.³² The Peace of Westphalia in 1648 ended the 30 Years War and legitimized the right of sovereigns to govern their peoples free of outside interference, whether based on political, legal, or religious principles.³³ Thomas Hobbes grappled with lingering questions about the definition and character of sovereignty. Envisioning the great "Leviathan," Hobbes believed

that all men required ". . . a common power, to keep them in awe and to direct their actions to the common benefit."³⁴ This common power required one single authoritarian state. The ". . . multitude so united in one person, is called a Commonwealth, in Latin Civitas . . . that great Leviathan."³⁵ That person, whether one man or an assembly representative of the multitude, commonwealth, civitas, or leviathan ". . . is called Sovereign, and said to have Sovereign Power; and everyone besides, his subject."³⁶ According to Hobbes, the sovereign is to provide security through peace and common defense of the individuals who have covenanted for that purpose.³⁷

The Peace of Westphalia was so successful and Hobbes' notion of the sovereign state so useful that they became standards to follow in the future. Although sometimes taken for granted, sovereignty became a concept of significant utility for the next three and a half centuries (celebrating its 350th birthday in 1998).

On the international law front, Hugo Grotius (the father of international law³⁸)--living through the excesses which led to the Thirty Years War--wrote of the barbarity of war and, hence, the need for restraint before rushing into armed conflict.³⁹ Grotius wrote authoritatively of sovereignty in his 1625 work, The Law of War and Peace.

Grotius contended that each state's sovereignty was absolute within itself, including complete control of its subjects and complete independence from external restraint.⁴⁰ But he also felt that there was an authentic law of nations, based on the mutual agreement of states acting in the context of "a great society of states."⁴¹ Grotius believed that sovereigns not only made rules, but were also obliged to live with the rules one made--covenants and contracts were legally and morally binding.⁴² In contrast to private contracts, treaties were ". . . a more excellent kind of agreement" and though made by the sovereign, binding on all subjects.⁴³

Laws of nations were not just legally and morally binding; they were also planned out rationally to enure to the long term benefit of the state. In this regard, Grotius equated the sovereign state with a reasonable person:

The national who in his own country obeys its laws is not foolish, even though, out of regard for that law, he may be obliged to forgo certain things advantageous for himself, so that nation is not foolish which does not press its own advantage to the point of disregarding the laws common to nations.⁴⁴

His argument was based on natural law in the sense that he believed that sovereign states, like individuals, naturally relied upon communities for their well-being. Compacts made within these communities needed to be respected for the benefit of all, even the greatest individual or state. "Law is not

founded on expedience alone, there is no state so powerful that it may not some time need the help of others outside itself, either for purposes of trade, or even to ward off the forces of many foreign nations united against it."⁴⁵

How did the development of international law affect traditional notions of sovereignty? The very notion of international law as a body of rules of conduct binding upon states, irrespective of their municipal law and legislation, implies the idea of their subjection to international law and makes it impossible to accept their claim to absolute sovereignty in the international sphere.⁴⁶

On the other hand:

[O]wing to the weakness of International Law, its supremacy over the states composing the international community is limited to the duty it imposes upon them to observe and, within a restricted sphere, to submit to the enforcement of the existing rules created by custom or treaty or flowing from the very existence of the society of states.⁴⁷

One of the classic elements of sovereignty retained in international law into the 20th century was a state's right to go to war to settle disputes.⁴⁸ The post-World War I recognition of a general obligation to seek peaceful settlement of disputes has matured into the prohibition on the threat or use of force, dealt with in the ensuing discussion of the UN. This would carry major implications for the ability of sovereign states to provide peace

and security. By removing a key impediment to peaceful international relations, it facilitates efforts to pursue the ultimate goal of sovereignty. Ideally, then, a sovereign state can be assured that force will not be available to threaten its own sovereignty, ostensibly because the international community has usurped some of that sovereignty for the purpose of preserving international order.

Sovereignty and the United Nations

Because of their sovereignty, states participate in the international system and are both permitted a number of international legal rights and likewise obliged by international legal duties. One of the key rights is the status of international legal equality.⁴⁹ Sovereign states are equal in the sense that each has an equal right to be free from the threat or use of force against its territorial integrity.

The collapse of the League of Nations and the horrors of World War II prompted a desire for creation of a better form of collective security for the postwar world. Fifty nations met in San Francisco to agree on the structure of a United Nations,⁵⁰ its charter being signed there in 1945.⁵¹ The UN Charter and the obligations it imposes are patently at odds with the notion of absolute sovereignty. Although states might be described as sovereign, their true sovereignty is that accorded them in consonance with the UN Charter. Thus, sovereignty may be best

understood in the context of maintaining international law and order. States have to a large degree given up their right to "take the law into their own hands."⁵² "An individual state may, indeed, defy the law; it may refuse to cooperate in putting the procedures of pacific settlement into effect; but it cannot offer in justification of its conduct any claim of 'sovereign right.'"⁵³ In other words, the international community will treat with skepticism a spurious claim of sovereignty for sovereignty's sake.

Nonintervention

Nonintervention, which generally proscribes involvement in the affairs of another country,⁵⁴ is a fundamental principle of international law that is based on the sovereignty, equality, and political independence of states.⁵⁵ As stated above, sovereignty includes exclusive jurisdiction over a territory and the permanent population living there. It entails obligations arising from customary international law and treaties, both of which are based on the consent of the states.⁵⁶ The jurisdiction of international tribunals is dependent on state consent, as is membership in international organizations.⁵⁷ Accordingly the state is the master of what transpires within its own territory.⁵⁸

The principle of nonintervention is codified in Article 2, paragraph 4, of the United Nations Charter, which provides that all ". . . members shall refrain in their foreign relations from

the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the with the Purposes of the United Nations." This provides minimum conditions for public order which is now regarded as the core provision of the Charter with respect to the use of force. Contemporary international law characterizes a state's violation of Article 2(4) through an act of intervention as an act of aggression, unless legitimizing circumstances clearly exist.

Intervention is also proscribed in the Declaration of the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty. The first two paragraphs of the General Assembly statement unmistakably confirm the impermissibility of intervention in the modern international situation:

1. No State has the right to intervene, directly or indirectly, for any reason whatever, in the affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are condemned.
2. No State may encourage the use of economic, political, or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages of any kind. Also, no state shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another State, or

interfere in civil strife in another State.
(Emphasis added.)⁵⁹

Although the General Assembly resolutions do not carry the full weight of legally binding international commitments, they still carry considerable weight and evidence a consensus of international legal thought condemning the illicit use of intervention.

U.S. Interventionism

Despite the general prohibition on intervention, the U.S. has often intervened in conflicts around the world. The primary legal justification for our interventions during the Cold War was "self-defense" against the spread of the Soviet Union's ideological influence.⁶⁰ Although noble in purpose and very much in our interests, these interventions skirted the fundamental issues of legal propriety: To what extent does such intervention, irrespective of well-intentioned purposes, properly comport with the recognized tenets of international law? Perhaps as a legacy from the Cold War, we sometimes adopt convenient legal license to interpret international law in a way to meet our own interests as a supportive foreign policy instrument rather than as a force of constraint consistent with a world order built around the norms of international law. Our current interventionist policy, especially as it is directed against Iraq, appears motivated more by perceived national necessity and

political expediency than by international responsibility and legal rectitude. This policy is dangerous and contrary to our long term interests.

Exceptions to the Principle of Nonintervention

As with most rules, the historical experience of dealing with intervention in international law has caused certain exceptions to be acknowledged. Interventions occur and they cannot be "wished away."⁶¹ Exceptions condoning interventions, however, must be selectively applied or they risk subverting international law and creating disorder. Such were the cases of interventions by India into Sri Lanka, Vietnam into Cambodia, and Cuba into Angola.⁶² Unrestricted license to intervene cannot be sanctioned whenever governments find it advantageous or politically convenient.

Two general types of exceptions have developed: those which individual states advance as justifications and those which allow the UN to intervene in armed conflicts. All of these exceptions have varying degrees of support in the international legal community and must thus be scrutinized closely before acting with the expectation of international approbation.

Individual States

Recent interventions have implicated at least four exceptions to the general rule of nonintervention: 1)

Humanitarian Interventions; 2) Protection of a State's own nationals abroad; 3) Intervention by Invitation; and 4) Intervention to advance democracy.⁶³

Humanitarian Interventions. When atrocities or deprivations become widespread or severe, intervention might be permitted.⁶⁴ This rationale requires a pressing need to act in the over-riding interest of humanitarian concerns. As a result of the widespread, well-broadcast examples of Croatia and Bosnia, sentiment in the world community may be leaning toward more intervention for humanitarian causes.⁶⁵ Humanitarianism notwithstanding, this exception should not be adopted as a pretext for intervention into a matter of internal civil strife.

To Protect Nationals. The protection of a state's own nationals could be a subset of humanitarian interventions. Examples from recent U.S. experience include the Dominican Republic in 1965, Grenada in 1983, and Panama in 1989.⁶⁶ Of course, we had no U.S. nationals at risk in the Iraqi drive on Erbil.

Intervention by Invitation. When a legitimate government explicitly and genuinely invites an external state, that external state may justifiably intervene. Because an outside state's right to intervene in a conflict by the use of armed force is contingent on a request for such intervention, it is not a right that can be exercised unilaterally. Obviously situationally

dependent, the motives of the intervenor are critical to ascertaining its legality. Inasmuch as these motives may be difficult to discern, this type of intervention may well depend on political realities as opposed to tidy legal sureties.

Intervention to Advance Democracy. The United States, the former Soviet Union, and other countries have proclaimed the right to intervene on behalf of insurgents if rebels were deemed to be "democratic" or fighting against a "repressive regime."⁶⁷ The door was thus opened to intervention by different foreign states to fight on opposing sides in the same country; one nation justifying its conduct on the grounds of supporting a legitimate regime, another arguing that it is legally permitted to bolster the cause of freedom-fighting revolutionaries. As for this doctrine, most international lawyers agree that intervention should normally be illegal, and there cannot ordinarily be a good case made on behalf of any state's military intervention in any other state on this ground.⁶⁸

In no case does international law sanction interventions merely because of heightened international concern over internal conditions. To place this in context, however, the principle of nonintervention does not mean states cannot respond to human rights violations or humanitarian needs. Nonintervention only means that states cannot use armed force to interfere in the affairs of other states. They are still free to impose economic

boycotts, withhold economic aid, deliver diplomatic messages, recall diplomatic personnel, and suspend diplomatic relations as a means of attempting to influence the outcome of an internal conflict; international law does not regulate such conduct.⁶⁹

The United Nations

Although unilateral interventions are generally frowned upon, the situation is different when an international organization is the intervenor.⁷⁰ With the end of the Cold War, the United Nations is being called upon to resolve a myriad of conflicts.⁷¹

A principle purpose of the UN is the maintenance of international peace and security, which has always been thought essentially to mean peace between nation states. The UN Charter states:

The purposes of the United Nations are: 1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means and in conformity with principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.⁷²

Internal power struggles and conflicts have always been thought of as within the jurisdiction of the state where they took place. The Charter does not refer specifically to internal conflicts. Rather, it refers to the domestic jurisdiction of states in

Article 2(7),⁷³ proscribing international, but not domestic conflict.⁷⁴ Arguably, then, unless there are international implications, the purpose of the UN is not to keep internal peace or intervene in civil wars.

Because the Charter contains a specific prohibition on intervention in matters that are essentially within the domestic jurisdiction of member states, unless there is need for enforcement measures under Chapter VII,⁷⁵ the issue becomes what matters fall within the domestic jurisdiction of a state.

Domestic jurisdiction is a malleable concept based on the current state of international relations.⁷⁶ Given the historical conditions which have internationalized internal conflicts,⁷⁷ as well as recent conflicts in Somalia, Rwanda, and Haiti, the international community may regard civil strife of any significance as no longer "essentially within the domestic jurisdiction of member States." The world community's insistence on action in such cases may have blurred the demarcation line.

The Security Council has jurisdiction to mandate forcible military measures when there is a "potential" threat (such as a danger to the peace) or "actual" threat to peace.⁷⁸ Given this vague concept of "potential threat," only minor, limited duration frictions would fall outside the definition of danger to the peace. Stated conversely, not much is needed to transform an internal threat to a danger to the peace. This could be

something less than even the potential for incursions across the border.

Analysis of our Intervention: Desert Strike

The UN and the Iraqi/Kurdish Situation

The Security Council concluded that the conflict between Iraq and its Kurdish population threatened international peace and security, and was thus a matter for international concern.⁷⁹ By passing Security Council Resolution 688, the UN approved the "right to interfere" in the internal affairs of a member state on humanitarian grounds for the first time. Even though cross border humanitarian aid by nongovernmental organizations has been tolerated to get food and medicine to those in need, the UN vote openly gave approval to such a practice. As for Iraq's treatment of the Kurds, the Resolution condemned the repression and expressed hope "that an open dialog will take place to ensure that the human and political rights of all Iraqi citizens are represented."⁸⁰ Despite the Resolution's "interference" language, the Council specifically raised the issue of its duty not to interfere in the domestic affairs of sovereign states,⁸¹ indicating its awareness that, under most circumstances, a war between the Iraqi government and its Kurdish citizens would properly be considered a civil war.

Upon analysis, it is clear that the member states gave limited reading to Resolution 688. The UN did not intend to

stretch the meaning of humanitarian intervention.⁸² Indeed, the U.S. maintained that another resolution would be necessary in order to ensure longer-term protection for the Kurds, a resolution which then President Bush deemed unlikely.⁸³ Further, Resolution 688 was clearly not read to permit military intervention on behalf of the Kurds, as apparently argued by the Americans in launching Desert Strike.⁸⁴

The Resolution was not so expansive as to permit armed intervention for a very important fear. The UN member states would be creating a precedent for indiscriminate intervention based on human rights violations. No doubt it was this fear that prompted the drafters of the Security Council Resolution not only to reiterate respect for territorial sovereignty throughout the Resolution, but also to focus on the threat to the international community posed by the regional threat rather than the Kurdish repression itself.⁸⁵

Resolution 688 did not justify the American missile attack. No other basis exists to bring the attack under the auspices of a UN-sanctioned mission. Absent justification as collective security or even a multilateral action, our attack must therefore be judged as a unilateral intervention.

The Announced U.S. Justification for Desert Strike

The announced justification for the offensive strikes into southern Iraq was that the U.S. had "'limited' objectives but a

clear national interest" in the strike: "to demonstrate that once again reckless acts have consequences, to reduce Saddam's ability to strike out against his neighbor, to increase America's ability to prevent future acts of violence and aggression."⁸⁶

President Clinton added that "[w]hen our interest in the security of our friends and allies is threatened, we will act with force as necessary."⁸⁷

The president's spokesman announced that the American actions were calculated to "further restrict Saddam's use of his air power in the region and quite frankly, to humiliate him in front of his own military."⁸⁸ From the State Department: "You cannot have agreed-upon rules flouted by international outlaws."⁸⁹ Finally, the Secretary of Defense announced that the action was undertaken in pursuit of our own security interest, citing the danger if the free flow of oil were disrupted.⁹⁰

The Administration's justifications were internally inconsistent. Depending on which Administration spokesman you listened to, our intervention was designed to protect our allies, guarantee free flow of oil, or to simply humiliate Saddam. Beyond being perceived as disingenuous, the rationale does not stand up well to logical scrutiny. The President said, "[w]hen you abuse your own people or threaten your neighbors, you must pay a price"⁹¹ But Saddam has been abusing his people since the ruling Baath Party assumed power in 1968; since the end of the

Persian Gulf War, he has continued to assassinate his political enemies without American intervention. As for threatening Iraq's neighbors, the Administration never fully articulated how Iraq's seizure of Erbil was a threat to the stability of the region or the free flow of oil.

Other Potential Justifications for the U.S. Strike

Self-Defense

One of the justifications for the attack was to protect our interest in the security of our friends and allies.⁹² In the past, we have relied on the notion of self-defense when striking out at Iraq.⁹³

Under international law, states have the legal right to use force in self-defense against an armed attack by another country. Article 51 of the UN Charter provides that "[n]othing in the present Charter shall impair the inherent right of self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security." However, this right of self-defense does not automatically permit armed intervention into the territory of another country. There are qualifications on the application of force in self-defense. Among these qualifications are, first, that the force used must actually be necessary to defend the interest threatened, and, second, that it must be reasonably proportionate to the danger to be averted.⁹⁴

It is doubtful that any claim of self-defense by the U.S. would survive serious scrutiny. The U.S. was obviously not threatened directly by the Iraqi action in the Kurdish zone.

Reprisals

There is a growing willingness to use force in various "just" circumstances on the basis of reprisal. A reprisal is a quick, limited forcible action by one state in response to a prior action by another state that did not rise to the level of an armed attack.⁹⁵ Unlike the typical situation taken in self-defense, the purpose of a reprisal is not the immediate protection of a state from an ongoing attack. Instead, "reprisals are punitive in character: they seek to impose reparation for the harm done, or to compel a satisfactory settlement of the dispute created by the initial illegal act, or to compel the delinquent state to abide by the law in the future."⁹⁶ Because the injury precipitating a reprisal falls short of an armed attack, scholars have generally agreed that the UN Charter prohibits reprisals.⁹⁷ However appealing as a practical device, reprisal is too tenuous a justification for Desert Strike.

Dangers in the U.S. Position

In cases when a government opts to pursue its own policy priorities at the expense of intruding into the domestic affairs of another State, serious questions are raised about the

propriety of such actions. This arguably arrogant behavior not only shirks international responsibility, it also invites less respect for and greater abuse of the law. In this age of greater political, economic, and sociocultural interdependence, such a disturbing trend hardly would be in our long term interest of promoting world public order through legal recourse.

None of the proffered justifications for Desert Strike measure up under international law. No currently accepted exceptions under international law justified our intervention. Desert Strike was not a UN-sanctioned mission; it was not a humanitarian mission; a mission to protect Americans; an invited intervention; or one to advance democracy; it clearly was neither a matter of our self-defense nor a legitimate reprisal. Without dangerously encroaching further on the rule of nonintervention, the international community cannot sanction our intervention; indeed it could rightfully challenge our missile strike into Iraqi territory as unlawful

Any contrary precedent could well be dangerous in the longer run. For example, Great Britain would not want interference in its control of Northern Ireland. And by similar analogy, we would not want outside interference into American territorial sovereignty--or for that matter anywhere in the Western Hemisphere--based on some colorable claim of human rights violations against a supposed "repressed" minority on our soil.

If we intervene on questionable legal grounds, we jeopardize our right to credibly challenge future questionable interventions by other countries. For example, Russians could rightfully scoff at American objections to the Chechnya intervention by merely citing to the American justification for its intervention in Panama, Just Cause.

In the case of the Iraqi attack on Erbil, the US administration confronted an obvious dilemma. Saddam seemingly acted out of his own domestic motivation, not for any international adventure. While instinctively hostile to the Iraqi government, the U.S. has to acknowledge that Saddam Hussein acted within his country's internationally recognized borders and in response to an invitation from one of the Kurdish factions. Surely the reason European and Middle Eastern allies who had formed part of the 32-nation Persian Gulf coalition stayed away from punishing Iraq was their determination that Iraq's distasteful action may have nevertheless been legal and properly sovereign.

The U.S. has been preoccupied with Saddam Hussein throughout its six-year "war of attrition." The war has featured unflagging tests of wills in which Saddam, driven by powerful motives of survival and revenge, routinely seeks to frustrate the U.S., while the U.S. seeks to contain his disruptive ambitions. Whenever Saddam sends out his military forces, Americans seem

bound to respond with military might under the unwritten rules of engagement heavily determined by American politics.⁹⁸ This type of foreign policy, driven as it seems to be by presidential proclamation, has two shortcomings. First, it is a unilateral pronouncement, leaving the U.S. as its sole interpreter. Second, the U.S. insists on exclusive right of interpretation for determining when action against Saddam is necessary and the dimensions of that need, conceived in terms of U.S. diplomatic and security interests. The explicit view of international law clearly rejects the propriety of any such self-serving legal precept.

American logic in retaliating against Iraq is not completely fanciful: If Saddam gained control over the Kurdish northern part of his country, a large part of his military which now patrols that line would be free to seek some other misadventure. Thus, he could pose a regional threat; and hence, our concern.

All of our well-intentioned goals, however, still have to stack up under international law. Desert Strike, even as a quick, safe, surgical intervention, violated the norms of international law. Sovereignty is still with us; and nonintervention is a fundamental aspect of sovereignty.

Conclusion

Senior military strategic leaders provide advice and counsel to high-level policy makers on the deployment and employment of

American military power.⁹⁹ Before resorting to the use of military means, those policy makers should be fully informed on all dimensions of the use of force. Although the principle of sovereignty may be thought of as something to concern only the politician or diplomat, the rule of nonintervention carries too many far-reaching ramifications to be ignored by the military planner.

The erosion of the principle of sovereignty is a consequence that must not be taken lightly. Short term attainment of political or even humanitarian objectives may not be deemed worth the long term impact on the international situation. Second or third order effects could be as simple as lost credibility among the international community or as disastrous as suffering another state's intervention at the expense of some vital U.S. interest.

The military strategist must be wary of tripping over the paradox of state sovereignty in international law. If an order to launch a military intervention is dispatched, military leaders will obey unless patently illegal under the laws of armed conflict;¹⁰⁰ but they should first ensure that issues of sovereignty and the consequences of violating territorial integrity are at least considered. Given the precedential aspect of each successive military intervention that stretches international law, the danger is a consideration worthy of sober debate.

ENDNOTES

¹ This was actually the second time in the Clinton Administration that missiles were launched on Iraq. In June 1993, President Clinton ordered a cruise missile attack to destroy an intelligence headquarters in Baghdad. Gwen Ifill, "U.S. Fires Missiles at Baghdad, Citing April Plot to Kill Bush," N.Y. Times, June 27, 1993, 1.

² As President Clinton purportedly told his Chief of Staff: "This is a measured, very disciplined and firm approach." Alison Mitchell, "U.S. Launches Further Strike Against Iraq After Clinton Vows He Will Extract 'Price,'" N.Y. Times, September 4, 1996, A8.

³ Jane E. Stromseth, "Iraq's Repression of its Civilian Population: Collective Response and Continuing Challenges," in Enforcing Restraint: Collective Intervention in Internal Conflicts, ed. Lori Fisler Damrosch (New York: Council on Foreign Relations Press, 1993), 81.

⁴ Elaine Sciolino, "Staying in Power, How Saddam Hussein Survives by Losing," N.Y. Times, September 8, 1996, 17; Lawrence Freedman and David Boren, "'Safe Havens' for Kurds in Post-War Iraq," in To Loose the Bands of Wickedness: International Intervention in Defence of Human Rights, ed. Nigel S. Rodley (London: Brassey's (UK), 1992), 43.

⁵ Stromseth, 85.

⁶ The Security Council Resolution does not on its face give the U.S. the right to use force. Fernando R. Teson, "Changing Perceptions of Domestic Jurisdiction and Intervention," Beyond Sovereignty, ed. Tom Farer (Baltimore: Johns Hopkins University Press, 1996), 41. See p. 21-22.

⁷ Stromseth, 93; Marvin Zonis, "And the Winner Is . . . Iran?," N.Y. Times, September 5, 1996, A23.

⁸ Stephen Kinzer, "History's Losers Fight Neighbors and Each Other, Often Assisted by Foes," N.Y. Times, September 4, 1996, A9.

⁹ Steven Lee Myers, "A Failed Race Against Time: U.S. Tried to Head Off Iraqis," N.Y. Times, September 5, 1996, 1.

¹⁰ Ibid., 6.

¹¹ Ibid.

¹² Steven Lee Myers, "U.S. Calls Alert As Iraqis Strike a Kurd Enclave," N.Y. Times, September 1, 1996, 8. The two factions, the Kurdistan Democratic Party and the Patriotic Union of Kurdistan, have periodically requested help from both Iraq and Iran in their conflict.

¹³ Ibid.

¹⁴ Steven Lee Myers, "U.N. Halts Deal for Iraq Oil Sales as U.S. Pledges Action on Attack," N.Y. Times, September 2, 1996, 1. UN Secretary General Boutros Boutros-Ghali stated the suspension of the oil deal had more to do with security of the deal's monitoring officials and less to do with punishing Iraq. *Ibid.* The deal to sell \$2 billion worth of oil every six months to buy food and medicine for Iraq--without Iraqi involvement in the distribution of supplies-- may itself raise issues of sovereignty, although beyond the scope of this paper. T.D. Allman, "Saddam Wins Again," New Yorker 72 (June 17, 1996): 60.

¹⁵ Steven Lee Myers, "U.S. Attacks Military Targets in Iraq," N.Y. Times, September 3, 1996, 1.

¹⁶ Alison Mitchell, "U.S. Launches Further Strike Against Iraq After Clinton Vows He Will Extract 'Price,'" N.Y. Times, September 4, 1996, 1.

¹⁷ High-Speed Anti-Radar.

¹⁸ Mitchell, 1; Eric Schmitt, "Air Zone Enforced," N.Y. Times, September 5, 1996, 1.

¹⁹ *Ibid.*, 6.

²⁰ Andrew Phillips, "Why Saddam Won," Macleans, September 16, 1996: 24; Tim Weiner, "Iraqis Leave Spies Behind, U.S. Says," New York Times, September 6, 1996, 1; Phebe Marr, "Striking Iraq Isn't the End of It," N.Y. Times, September 7, 1996, 21.

²¹ Eric Schmitt, "Targets Were Chosen to Punish and Weaken Hussein, U.S. Officials Say," NY Times, September 4, 1996, A10.

²² Some scholars argue that defining the limits of permissible intervention by reliance on the conceptual notion of sovereignty is outdated. John Norton Moore, "Low-Intensity Conflict and the International Legal System," in International Law Studies 1995: Legal and Moral Constraints on Low-Intensity Conflict, vol. 67, ed. Alberto R. Coll, James S. Ord, and Stephen A. Rose (Newport, RI: Naval War College, 1995), 25. I believe it is still a useful if not prevalent means for analysis. Fernando R. Teson, "Low-Intensity Conflict and State Sovereignty: A Philosophical Analysis," *Ibid.*, 87.

²³ C.E. Merriam, Jr., History of the Theory of Sovereignty Since Rousseau (New York: AMS Press, 1968), 211; Robert F. Turner, "State Sovereignty, International Law, and the Use of Force in Countering Low-Intensity Aggression in the Modern World," in International Law Studies 1995: Legal and Moral Constraints on Low-Intensity Conflict, vol. 67, ed. Alberto R. Coll, James S. Ord, and Stephen A. Rose (Newport, RI: Naval War College, 1995), 56.

²⁴ Werner Levi, Contemporary International Law, A Concise Introduction (Boulder: Westview Press, 1991), 79.

²⁵ Various scholars claim that the notion of sovereignty has outlived its usefulness. Hurst Hannum, Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights

(Philadelphia: University of Pennsylvania Press, 1990), 26. Others say that with its ebbs and flows, it will survive the foreseeable future. Michael Ross Fowler and Jukie Marie Bunck, Law, Power, and the Sovereign State: The Evolution and Application of the Concept of Sovereignty, (University Park, PA: The Pennsylvania State University Press, 1995), 4-8.

²⁶ Martin van Crevald, "The State of the State," Parameters XXVI, No.1 Spring 1996, 16 5-18.

²⁷ Helmut Steinberger, "Sovereignty," 10 Encyclopedia of Public International Law, ed. R. Bernhardt (The Netherlands: Elsevier Science Publishers B.V., 1987), 413; Ronald A. Brand, "External Sovereignty and International Law," Fordham International Law Journal 18 (May 1995): 1693. This article contains an excellent bibliography of sources that have addressed current notions of sovereignty. Ibid., 1685, n.2.

²⁸ Lois B. Sohn, Jay M. Vogelsson, Kathryn S. Mack, "Report on Improving the Effectiveness of the United Nations in Advancing the Rule of Law in the World," International Lawyer 29 (Summer 1995): 293-295.

²⁹ Lewis W. Goodman, "Democracy, Sovereignty, and Intervention," American Journal of International Law and Policy 9 (1993): 27-32.

³⁰ Steinberger, 397.

³¹ Turner, 53; Levi, 80.

³² Merriam, 1; Steinberger, 399.

³³ The Peace of Westphalia, which involved the Pope and political leaders of Western Europe, utilized the Pope's prestige to grant leaders of nation states the authority to exercise power within their national borders. The assistance of the Pope was vital to the success of the treaty; with the fall of the Roman Empire, political leaders in Europe experienced difficulty exercising power over interlopers, not to mention their own population. Lewis W. Goodman, "Democracy, Sovereignty, and Intervention," American Journal of International Law and Policy 9 (1993): 27-32.

³⁴ Thomas Hobbes, Leviathan, (Indianapolis: Bobbs-Merrill Educational Publishers, 1980), 142.

³⁵ Ibid.

³⁶ Ibid., 143.

³⁷ Brand, 1686.

³⁸ Levi, 10.

³⁹ Benedict Kingsbury and Adam Roberts, "Introduction," Hugo Grotius and International Relations, ed. Hedley Bull, Benedict Kingsbury, Adam Roberts (Oxford: Clarendon Press, 1990), 1,7; Michael H. Hoffman, "War, Peace, and Interventional Armed Conflict: Solving the Peace Enforcer's Paradox," Parameters 15 (Winter 1995-96): 43.

⁴⁰ Hidemi Suganami, "Grotius and International Equality," in Hugo Grotius and International Relations, ed. Hedley Bull, Benedict

-
- Kingsbury, Adam Roberts (Oxford: Clarendon Press, 1990), 221-240; R.J. Vincent, "Grotius, Human Rights, and Intervention," *Ibid.*, 241-256.
- ⁴¹ Hugo Grotius, De Jure Belli ac Pacis Libri Tres, trans. Francis W. Kelsey, The Classics of International Law Series, ed. J.B. Scott (New York: Oceana, 1964), 15.
- ⁴² Merriam, 22.
- ⁴³ Grotius, 391-408.
- ⁴⁴ *Ibid.*, 16.
- ⁴⁵ *Ibid.*, 17.
- ⁴⁶ L. F. L. Oppenheim, International Law: A Treatise, vol. 1, Peace, 8th ed. (London: Longmans, 1955), 123.
- ⁴⁷ *Ibid.*
- ⁴⁸ Steinberger, 407-08, 410-11.
- ⁴⁹ *Ibid.*, 397.
- ⁵⁰ I.L. Claude, Swords Into Plowshares: The Problems and Progress of International Organization, 4th ed. (New York: Random House, 1971), 57-60.
- ⁵¹ Charter of the United Nations (hereinafter the "UN Charter"), reprinted in Appendix II, Claude.
- ⁵² Charles G. Fenwick, International Law, 4th ed. (New York: Appleton-Century-Crofts, 1965), 48.
- ⁵³ *Ibid.*, 49.
- ⁵⁴ Linton F. Brooks and Arnold Kanter, "Introduction," in U.S. Intervention Policy for the Post-Cold War World, ed. Kanter and Brooks (New York: W.W. Norton & Company, 1994), 15.
- ⁵⁵ Ian Brownlie, Principles of Public International Law, 4th ed. (Oxford: Clarendon Press, 1990), 287; Levi, 84-86.
- ⁵⁶ Brand, 1685.
- ⁵⁷ *Ibid.*
- ⁵⁸ Lori F. Damrosch, "Politics Across Borders: Nonintervention and Nonforcible Influence Over Domestic Affairs," American Journal of International Law 83 (1989): 36.
- ⁵⁹ General Assembly Resolution 2131, 20 United Nations General Assembly Official Records, Supplement No. 14, 11, United Nations Doc. A/6014 (1966), as cited in Levi, 85.
- ⁶⁰ Examples include Grenada, Nicaragua, Vietnam, and the Dominican Republic. Levi, 188.
- ⁶¹ Levi, 86.
- ⁶² Stanley Hoffmann, "The Politics and Ethics of Military Intervention," Survival 37, no. 4 (Winter 1995-96): 45.
- ⁶³ William V. O'Brien, U.S. Military Intervention: Law and Morality, The Washington Paper Series, Washington, D.C.: The Center for Strategic and International Studies, Georgetown University, 1979), 19; The Center for Strategic Wargaming,, Theater Planning and Operations for Low Intensity Conflict Environments: A practical Guide to Legal Considerations (Carlisle, PA: U.S. Army War College, 1993), 41-48.

⁶⁴ Rosalyn Higgins, Problems and Process, International Law and How We Use It (Oxford: Clarendon Press, 1994), 245: Hoffmann, 32.

⁶⁵ For a good discussion of this subject and bibliographical sources, see Note, "Unilateral Humanitarian Intervention: Legalizing the Use of Force to Prevent Human Rights Atrocities," Fordham International Law Journal 16 (1992-93): 120; David Y.M. Kresock, "'Ethnic Cleansing' in the Balkans: The Legal Foundations of Foreign Intervention," Cornell International Law Review 27 (1994): 211.

⁶⁶ Thomas E. Behuniak, "The Law of Unilateral Armed Intervention by Armed Force: A Legal Survey," Military Law Review 79 (1978): 157, 172-74.

⁶⁷ Lloyd N. Cutler, "The Right to Intervene," Foreign Affairs 64 (Fall 1985): 106-112.

⁶⁸ Oscar Schachter, "The Legality of Pro-Democratic Invasion," American Journal of International Law 78 (1984): 645.

⁶⁹ Tom J. Farer, "Political and Economic Aggression in Contemporary International Law," in The Current Legal Regulation of the Use of Force, ed. Antonio Cassese (Dordrecht, The Netherlands: Kluwer Academic Publishers, 1986), 121.

⁷⁰ Higgins, 257; Claude, 181-90.

⁷¹ Paul Lewis, "Peacekeeper to Peacemaker: UN Confronting New Roles," N.Y. Times, Jan 25, 1993, A1.

⁷² UN Charter, Art 1, para 1.

⁷³ Paul C. Szasz, "Role of the United Nations in Internal Conflicts," Georgia Journal of International and Comparative Law 13 (1983): 345.

⁷⁴ UN Charter, Art 2, para 4.

⁷⁵ *Ibid.*, Art 2, para 7. Enforcement measures are permissible only upon a Security Council finding that, at a minimum, there is a clear threat to the peace or upon a finding of a breach of the peace or act of aggression. *Ibid.*, Art 39; Teson, "Changing Patterns of Domestic Jurisdiction and Intervention," 30.

⁷⁶ Steven R. Ratner, The New UN Peacekeeping (New York: St Martin's Press, 1995), 31-32.

⁷⁷ Szasz, 245-51.

⁷⁸ UN Charter, Arts 39, 41, and 42.

⁷⁹ S.C. Res. 688, U.N. SCOR 46th Sess., Res. & Dec., 31-32, U.N. Doc. S/INF/47 (1991) (stating that the consequences of the "repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas . . . threaten international peace and security in the region").

⁸⁰ *Ibid.*

⁸¹ *Ibid.* The resolution "recalls the provisions of Article 2, paragraph 7 of the Charter," and expresses grave concern at "the repression of the Iraqi civilian population in many parts of Iraq, including most recently in the Kurdish-populated areas,

which led to a massive flow of refugees towards and across international frontiers and to cross border incursions which threaten international peace and security in the region."

⁸² Stromseth, 98.

⁸³ John E. Young and Barton Gellman, "U.S. Forces to Set up Refugee Camps in Iraq; Expanded Kurdish Relief Effort Represents Fundamental Shift," The Washington Post, April 17, 1991, A1.

⁸⁴ Higgins, 256, 259; Teson, "Changing Patterns of Domestic Jurisdiction and Intervention," 41.

⁸⁵ Stromseth, 97.

⁸⁶ Alison Mitchell, "U.S. Launches Further Strike Against Iraq," N.Y. Times, September 4, 1996, 1.

⁸⁷ Ibid.

⁸⁸ Ibid., A8.

⁸⁹ Ibid. State Department spokesman Nicholas Burns may have been referring to the UN Resolution, but again that resolution does not authorize the use of force. See p. 21-22.

⁹⁰ Mitchell, A8.

⁹¹ "Words of Clinton and Saddam Hussein: Fiercely Clashing Views," N.Y. Times, September 4, 1996, 6.

⁹² See n. 86 and accompanying text.

⁹³ Gwen Ifill, "U.S. fires Missiles at Baghdad, Citing April Plot to Kill Bush," N.Y. Times, June 27, 1993, 1, 13.

⁹⁴ Oppenheim, 298-99.

⁹⁵ Higgins, 240.

⁹⁶ Derek Bowett, "Reprisals Involving Recourse to Armed Force," American Journal of International Law, 66 (1972): 1, 3.

⁹⁷ Brownlie, 466.

⁹⁸ Missile attacks obviously represent safe low-intensity conflict options. The higher up the scale of conflict intensity, the less acceptable the operation becomes in terms of public support.

⁹⁹ A recent work makes numerous recommendations that include "key considerations for military interventions." Although insightful, no mention is made of this critical notion of sovereignty.

Andrew Goodpaster, When Diplomacy is not Enough: Managing Multinational Military Interventions (A Report to the Carnegie Commission on Preventing Deadly Conflict) (New York: Carnegie Corporation, 1996), 34-35.

¹⁰⁰ Richard A. Gabriel, To Serve With Honor: A Treatise on Military Ethics and the Way of the Soldier (Westport, CT: Greenwood Press, 1982), 178-79.

BIBLIOGRAPHY

- Allman, T.D. "Saddam Wins Again." New Yorker 72 (June 17, 1996): 60-65.
- Apple, R.W. "U.S. and Allied Planes Hit Iraq, Bombing Missiles Sites in South in Reply to Hussein's Defiance." N.Y. Times, January 14, 1993, 1.
- Bartelson, Jens. A Genealogy of Sovereignty. Cambridge: Cambridge University Press, 1995.
- Behuniak, Thomas E. "The Law of Unilateral Armed Intervention by Armed Force: A Legal Survey." Military Law Review 79 (1978): 157-191.
- Bowett, Derek. "Reprisals Involving Recourse to Armed Force." American Journal of International Law 66, no. 1, (Jan. 1972): 1-36.
- Brand, Ronald A. "External Sovereignty and International Law." Fordham International Law Journal 18 (May 1995): 1685-1697.
- Brooks, Linton F. and Arnold Kanter, "Introduction," In U.S. Intervention Policy for the Post-Cold War World, ed. Kanter and Brooks, 13-41. New York: W.W. Norton & Company, 1994.
- Brownlie, Ian. Principles of Public International Law. 4th ed. Oxford: Clarendon Press, 1990.
- The Center for Strategic Wargaming. Theater Planning and Operations for Low Intensity Conflict Environments: A Practical Guide to Legal Considerations. Carlisle, PA: U.S. Army War College, 1993.
- Claude, I.L. Swords Into Plowshares: The Problems and Progress of International Organization. 4th ed. New York: Random House, 1971.
- Cutler, Lloyd N. "The Right to Intervene." Foreign Affairs 64 (Fall 1985): 106-112.
- Damrosch, Lori F. "Politics Across Borders: Nonintervention and Nonforcible Influence Over Domestic Affairs." American Journal of International Law 83, no. 1 (Jan. 1989): 1-50.
- Farer, Tom J. "Political and Economic Aggression in Contemporary International Law." In The Current Regulation of the Use of Force, ed. Antonio Cassese. Dordrecht, The Netherlands: Kluwer Academic Publishers, 1986.

- Fenwick, Charles G. International Law. 4th ed. New York: Appleton-Century-Crofts, 1965.
- Fowler, Michael Ross, and Julie Marie Bunck. Law, Power, and the Sovereign State: The Evolution and Application of the Concept of Sovereignty. University Park, PA: The Pennsylvania State University Press, 1995.
- Freedman, Lawrence and David Boren. "'Safe Havens' for Kurds in Post-War Iraq." In To Loose the Bands of Wickedness: International Intervention in Defense of Human Rights, ed. Nigel S. Rodley, 43-92. London: Brassey's (UK), 1992.
- Gabriel, Richard A. To Serve With Honor: A Treatise on Military Ethics and the Way of the Soldier. Westport, CT: Greenwood Press, 1982.
- Goodman, Lewis W. "Democracy, Sovereignty, and Intervention." American Journal of International Law and Policy 9 (1993): 27-32.
- Goodpaster, Andrew. When Diplomacy Is Not Enough: Managing Multinational Military Interventions (A Report to the Carnegie Commission on Preventing Deadly Conflict). New York: Carnegie Corporation, 1996.
- Grotius, Hugo. De Jure Belli ac Pacis Libri Tres. Translated by Francis W. Kelsey. The Classics of International Law Series, ed. J.B. Scott. New York: Oceana, 1964.
- Higgins, Rosalyn. Problems and Process, International Law and How We Use It. Oxford: Clarendon Press, 1994.
- Hobbes, Thomas. Leviathan. Indianapolis: Bobbs-Merrill Educational Publishers, 1980.
- Hoffman, Michael H. "War, Peace, and Interventional Armed Conflict: Solving the Peace Enforcer's Paradox." Parameters 15 (Winter 1995-96): 41-58.
- Hoffmann, Stanley. "The Politics and Ethics of Military Intervention." Survival 37 (Winter 1995-96): 29-51.
- Hurst, Hannum. Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights. Philadelphia: University of Pennsylvania Press, 1990.

- Ifill, Gwen. "U.S. Fires Missiles at Baghdad, Citing April Plot to Kill Bush." N.Y. Times, June 27, 1993, 1.
- Kingsbury, Benedict and Adam Roberts. "Introduction." In Hugo Grotius and International Relations, ed. Hedley Bull, Benedict Kingsbury, Adam Roberts. Oxford: Clarendon Press, 1990.
- Kinzer, Stephen. "History's Losers Fight Neighbors and Each Other, Often Assisted by Foes." N.Y. Times, September 4, 1996, A9.
- Kresock, David Y.M. "'Ethnic Cleansing' in the Balkans: The Legal Foundations of Foreign Intervention." Cornell International Law Review 27 (1994): 203-39.
- Levi, Werner. Contemporary International Law, A Concise Introduction. Boulder: Westview Press, 1991.
- Lewis, Paul. "Peacekeeper to Peacemaker: UN Confronting New Roles." N.Y. Times, Jan 25, 1993, A1.
- Marr, Phebe. "Striking Iraq Isn't the End of It." N.Y. Times, September 7, 1996, 21.
- Merriam, Jr., C.E. History of the Theory of Sovereignty Since Rousseau. New York: AMS Press, 1968.
- Mitchell, Alison. "U.S. Launches Further Strike Against Iraq After Clinton Vows He Will Extract 'Price.'" N.Y. Times, September 4, 1996, 1.
- Moore, John Norton. "Low-Intensity Conflict and the International Legal System." In International Law Studies 1995: Legal and Moral Constraints on Low-Intensity Conflict. Vol. 67, ed. Alberto R. Coll, James S. Ord, and Stephen A. Rose, 25-41. Newport, RI: Naval War College, 1995.
- Myers, Steven Lee. "U.S. Attacks Military Targets in Iraq," N.Y. Times, September 3, 1996, 1.
- _____. "A Failed Race Against Time: U.S. Tried to Head Off Iraqis." N.Y. Times, September 5, 1996, 1.
- _____. "U.S. Calls Alert As Iraqis Strike a Kurd Enclave," N.Y. Times, September 1, 1996, 8
- _____. "U.N. Halts Deal for Iraq Oil Sales as U.S. Pledges Action on Attack," N.Y. Times, September 2, 1996, 1.

- O'Brien, William V. U.S. Military Intervention: Law and Morality. The Washington Paper Series, Washington, D.C.: The Center for Strategic and International Studies. Georgetown University, 1979.
- Oppenheim, L. F. L. International Law: A Treatise. Vol. 1, Peace. 8th ed. London: Longmans, 1955.
- Phillips, Andrew. "Why Saddam Won." Macleans. September 16, 1996: 24-28.
- Ratner, Steven R. The New UN Peacekeeping. New York: St Martin's Press, 1995.
- Schachter, Oscar. "The Legality of Pro-Democratic Invasion." American Journal of International Law 78, no. 3 (July 1984): 645-50.
- Schmitt, Eric. "Targets Were Chosen to Punish and Weaken Hussein, U.S. Officials Say." NY Times, September 4, 1996, A10.
- _____. "Air Zone Enforced." N.Y. Times, September 5, 1996, 1.
- Sciolino, Elaine. "Staying in Power, How Saddam Hussein Survives by Losing," N.Y. Times, September 8, 1996, 17.
- Sohn, Lois B., Jay M. Vogelsson, and Kathryn S. Mack. "Report on Improving the Effectiveness of the United Nations in Advancing the Rule of Law in the World." International Lawyer 29 (Summer 1995): 293-295.
- Spruyt, Hendrik. The Sovereign State and Its Competitors: An Analysis of Systems Change. Princeton, NJ: Princeton University Press, 1996.
- Steinberger, Helmut. "Sovereignty." 10 Encyclopedia of Public International Law, ed. R. Bernhardt. The Netherlands: Elsevier Science Publishers B.V., 1987.
- Stromseth, Jane E. "Iraq's Repression of its Civilian Population: Collective Response and Continuing Challenges." In Enforcing Restraint: Collective Intervention in Internal Conflicts, ed. Lori Fisler Damrosch, 77-117. New York: Council on Foreign Relations Press, 1993.
- Suganami, Hidemi. "Grotius and International Equality." Hugo Grotius and International Relations, ed. Hedley Bull, Benedict Kingsbury, Adam Roberts. Oxford: Clarendon Press, 1990.

- Szasz, Paul C. "Role of the United Nations in Internal Conflicts." Georgia Journal of International and Comparative Law 13 (1983): 345.
- Fernando R. Teson, "Changing Perceptions of Domestic Jurisdiction and Intervention." In Beyond Sovereignty, ed. Tom Farer, 29-51. Baltimore: Johns Hopkins University Press, 1996.
- _____. "Low-Intensity Conflict and State Sovereignty: A Philosophical Analysis," In International Law Studies 1995: Legal and Moral Constraints on Low-Intensity Conflict. Vol. 67, ed. Alberto R. Coll, James S. Ord, and Stephen A. Rose, 87-108. Newport, RI: Naval War College, 1995.
- Turner, Robert F. "State Sovereignty, International Law, and the Use of Force in Countering Low-Intensity Aggression in the Modern World," International Law Studies 1995: Legal and Moral Constraints on Low-Intensity Conflict. Vol. 67, ed. Alberto R. Coll, James S. Ord, and Stephen A. Rose, 43-86. Newport, RI: Naval War College, 1995.
- van Crevald, Martin. "The State of the State." Parameters XXVI, No.1 Spring 1996, 16 5-18.
- Vincent, R.J. "Grotius, Human Rights, and Intervention." Hugo Grotius and International Relations, ed. Hedley Bull, Benedict Kingsbury, Adam Roberts. Oxford: Clarendon Press, 1990.
- Weiner, Tim. "Iraqis Leave Spies Behind, U.S. Says." New York Times, September 6, 1996, 1;
- Young, John E. and Barton Gellman. "U.S. Forces to Set up Refugee Camps in Iraq; Expanded Kurdish Relief Effort Represents Fundamental Shift." The Washington Post, April 17, 1991, A1.
- Zonis, Marvin. "And the Winner Is . . . Iran?" N.Y. Times, September 5, 1996, A23.