CHAPTER FOUR

TYPOLOGIES OF INTERVENTION
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DENOMINATIONS OF INTERVENTION

From the exercise of mere influence to more active kinds of interference in the internal or external affairs of another State to diplomatic intervention to war (resort to military measures) are commonly grouped under the expression ‘intervention’. According to Winfield, three kinds of active, material intervention can be distinguished:

1. INTERNAL INTERVENTION. An example is State A interfering between the disputing sections of State B, in favour either of legitimate government or of the insurgents.
2. EXTERNAL INTERVENTION. An example is State A interfering in the relations—generally the hostile relations—of other States, e.g., when Italy entered World War II on the side of Germany, and against Britain.
3. PUNITIVE INTERVENTION. This is the case of a reprisal, short of war, for an injury suffered at the hands of another State; e.g., a pacific blockade instituted against this State in retaliation for a gross breach of treaty.”

Intervention, however, can take place in many other forms. Some of these, besides the above, are:

4. SUBVERSIVE INTERVENTION. This denotes propaganda or other activity by one State with the intention of fomenting, for its own purposes, revolt or civil strife in another State. International law prohibits such subversive intervention per Resolution of the United Nations General Assembly of 3 November 1947, 1

December 1949, 17 November 1950. The International Law Commission's Draft Code of Offences against the Peace and Security of Mankind 1954 condemns, in its Article 2(5), the 'organized activities calculated to foment civil strife in another State'. The Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance With the United Nations Charter, adopted by the General Assembly in 1970, proclaims that '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'.

5. FINANCIAL INTERVENTION. Intervention, or something very like it, has sometimes taken place for the purpose of rehabilitating the financial situation of a State which is insolvent or suffering from serious embarrassment. One or more States whose nationals are creditors have stepped in and re-organised the finances of the debtor States, sometimes appointing collectors of customs revenues and other officers. Action of this nature has not infrequently led to prolonged military occupation or to a permanent condition of dependence of the debtor State. Among States which have been the subject of intervention or similar measures on financial grounds may be mentioned Egypt, Greece, Turkey, the Dominican Republic, and Haiti.

The League of Nations, through its Financial Committee, did important work in assisting the financial reconstruction and rehabilitation of States whose finances had been plunged into chaos as a result of World War I, or who, for other reasons, would have been unable to raise loans upon satisfactory conditions without the support of a powerful external authority.

The action of the United States in 1947 in making loans to Greece and Turkey was regarded by Soviet delegates to the United Nations as a form of intervention.
After World War II and the establishment of the United Nations, agencies like the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD) a.k.a. the World Bank, and the Bank for International Settlements (BIS) continued the work from where the League of Nations left it. Latest examples of United Nations involvement in the financial reconstruction and rehabilitation of a State are in Cambodia, Bosnia-Herzegovina, and Russia, South Korea, Indonesia, Thailand, Malaysia.

6. ECONOMIC INTERVENTION. An example of this form of intervention is ‘dumping’, which is *stricto sensu* the sale of a commodity on a foreign market, *i.e.*, a market of another State, at a price below marginal cost. The exporting country (intervening State) may suffer the short-run losses of this policy in order to eliminate competition and thereby gain a monopoly in the foreign market (intervened State). Alternatively, it may dump in order to dispose of temporary surpluses in order to avoid a reduction in home prices and, therefore, producers’ incomes. The General Agreement on Tariffs and Trade (GATT)\(^{192}\) accepted the imposition of special import duties (tariffs) to counteract such a policy if it can be established that ‘dumping’ is taking place. The practice of ‘dumping’ is prohibited under the terms of the European Economic Community Treaty of Rome\(^ {193}\) of 25 March 1957.

One State can influence the economy of another State also by boycotting the goods of that other State. Any form of interference with market forces to achieve economic ends would, then, be economic intervention. In a roundabout way the driving idea behind globalisation is free-market capitalism. “The more you let market forces rule and the more you open your economy to free trade and competition, the more efficient and flourishing your economy will be. Globalisation means the spread of free-market capitalism to virtually every

\(^{192}\) An international organisation that came into operation in January 1948 with a Secretariat in Geneva; replaced with the World Trade Organisation (WTO) w.e.f. 1 May 1995 with a Secretariat in Geneva.

\(^{193}\) Bolstered by the Treaty on European Union signed at Maastricht 7 February 1992.
country in the world." Ingrained in this U.S. philosophy is the global purveyance of the capitalist model of economics howsoever flawed it may be, a kind of neo-colonial capitalism. The IMF and World Bank use this as a take-it-or-leave-it tenet for lending aid to developing States, what is called aid conditionality.

There is also the "Innocent Bystander Effect" when one State's economy suffers due to an economic crisis in another, for example, the flight of capital from Brazil August to September 1998 as a result of the Russian economic crisis. This could also be called Indirect Economic Intervention.

7. MONETARY INTERVENTION. This will be a form of interference or intervention by the central bank of one country either to influence a run on the currency of another State or to stabilise it or to bolster it against speculation and fluctuation on the currency markets.

The Exchange Equalization Account, for example, buys or sells pounds sterling or foreign currencies in order to influence the exchange rate of the pound.

On 9 January 1995, the United States Federal Reserve Bank intervened heavily to prevent the slide of the Mexican currency, the peso, on international markets, and later, the United States Government gave $40,000 million to bail out the Mexican economy from ruin, in January 1995.

194 Thomas Friedman, op. cit., p.42.
195 An Account controlled by the Treasury and managed by the Bank of England which buys and sells sterling for gold and foreign currencies with the object of offsetting major fluctuations in the exchange value of the pound and keeping the spot market price for the pound around some required rate. The account was set up by the Finance Act 1932 after the abandonment of the Gold Standard in the previous year. The Account also operates in the Forward market for sterling. Similar funds or stabilisation accounts are operated by other countries.
196 Exchange rate is the price (rate) at which one currency is exchanged for another currency, for gold or special drawing rights. The actual rate at any one time is determined by supply and demand conditions for the relevant currencies in the market.
8. CORPORATE INTERVENTION. Multinational companies increasingly govern national economies and latently thereby national policies. This is virtually the era of the multinational or global corporations.\footnote{There is no authoritative and acceptable definition of MNCs which range from "a cluster of corporations of diverse nationality joined together by ties of common management strategy" (Vernon, Raymond: "Economic Sovereignty at Bay", 47 Foreign Affairs, no.1 (1968) 110), to "companies that control production facilities in two or more countries" (Mennis, Bernard and Sauvant, Karl P: "Multinational Corporations, Managers and the Development of Regional Identifications in Western Europe", Annals of the American Academy of Political and Social Science 403 (September 1972) p.22). See also, Barnet, Richard J. and Muller, Ronald E: Global Reach: the power of the multi-national corporation (New York: Simon and Schuster, 1974); Brown, Lester R: World Without Borders (New Delhi: Affiliated East West Press, 1972) ; Said, Abdul A. and Simmons, Luiz R. (eds.): The New Sovereigns (Englewood Cliffs, New Jersey: Prentice-Hall, 1975) pp.167-186.} According to figures released in December 1995 by United Nations Conference on Trade and Development, between 1987 and 1991, Japan made foreign direct investments (FDI) worth $35 billion, while United States of America made FDI worth $25 billion in the same period. In the 1990s, private United States FDI totalled a staggering $187 billion, twice that of Japan.\footnote{Hirsh, Michael, "A Multinational Era", Newsweek International, 25 December 1995/1 January 1996.} Most of the FDI comes from multinational corporations (MNCs) which have become "borderless beasts".\footnote{Ibid.} UNCTAD figures show that for United States’s multinationals, four-fifths of the dollars they earn abroad are actually earned by their foreign affiliates. Research analyst E Keith Henry writes that "a fault line is growing between corporate and national interests".\footnote{Ibid.} As multinationals appear not to hold allegiance to any one State, and by implication to its laws and mores, worry is growing as to whom are they accountable. “One of the legal questions for the rest of the '90s is whether courts will try to hold multinationals to international behavioural norms? The vast majority of multinationals are based in the United States, so many of the issues have an American colouring. Will judges in the United States make multinationals responsible for actions in other lands even when those acts may violate law only in America? In at least two current cases, foreign workers are suing in United States Courts. One case involves the Ecuador suits: local workers claim that they were harmed by a pesticide that United States companies
continued shipping abroad even after the Environmental Protection Agency banned its use in the United States. Another case—also about environmental and health damage—originates in Peru. 201

In 1976, a United States clergyman, Leon Sullivan, drew up a code of conduct with the intent to pressure United States companies in South Africa to fight apartheid in the workplace.

A consortium of multinationals operating in a State could hijack that State's economy and hold it to ransom to get their demands met, failing which, they could threaten, *e.g.*, to pull out their investments from that economy, which act would lead to financial and economic ruin of that State and cause instability, threatening its very existence.

Table B is an eloquent comparison of the economic power of multinational corporations and that of nations-States. As the Table indicates, MNCs have assumed gigantic proportions.

The first 17 entries in the Table are the 17 richest nation-States in the world (1995 figures). The 18th largest entry, however, is not a nation-State but Microsoft, the computer giant; the 20th is General Electric; and the 27th is the Exxon. These and other statistics lead us to the conclusion that the size and wealth of MNCs are too large to be ignored. Further, the average annual growth rate of MNCs is two or three times that of the United States. To use a catchphrase, “where once there were superpowers, now there are “supermarkets”. 202

202 Thomas Friedman, *op. cit.*, p.43.
<table>
<thead>
<tr>
<th>RANK</th>
<th>UNIT OF ANALYSIS</th>
<th>$ IN MILLIONS</th>
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<tbody>
<tr>
<td>01</td>
<td>United States of America</td>
<td>6,954,787</td>
</tr>
<tr>
<td>02</td>
<td>Japan</td>
<td>5,217,573</td>
</tr>
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<td>Germany</td>
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<td>06</td>
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<td>1,093,799</td>
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<td>10</td>
<td>Spain</td>
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<td>11</td>
<td>Republic of Korea</td>
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<td>12</td>
<td>The Netherlands</td>
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<td>14</td>
<td>Australia</td>
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<td>15</td>
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<tr>
<td>17</td>
<td>Argentina</td>
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</tr>
<tr>
<td>18</td>
<td>Microsoft</td>
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<td>19</td>
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<tr>
<td>20</td>
<td>General Electric</td>
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<td>21</td>
<td>Mexico</td>
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<td>23</td>
<td>Sweden</td>
<td>230,713</td>
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<tr>
<td>24</td>
<td>Iraq</td>
<td>227,229</td>
</tr>
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* Indicators used are the Gross Domestic Product (GDP) for countries (1995 figures) and market capital for corporations (1997 figures).

9. TECHNOLOGICAL INTERVENTION. The Industrial Revolution\textsuperscript{203} radically changed the way the world behaved. The industrial revolution produced related changes in all fields of social life—in politics, art, religion, literature, and morals, and with the rise of democracy, social reforms. So is true with all great technological developments.

The phenomenal development in the field of communications and computer technology is set to do the same. The Information Superhighway and Internet—the international computerised communication network—threaten to dissolve national boundaries and the way we perceive concepts like sovereignty, democracy, freedom of speech.

\textsuperscript{203} A term used first by Friedrich Engels in 1844 to describe the radical changes that took place in Britain circa 1730-1850 that transformed a mainly agricultural country into one predominantly industrial.
Iran recalled its ambassador to The Czech Republic after Prague allowed the United States to broadcast Radio Free Europe Farsi Service into Iran from its territory. The radio broadcasts launched beginning of November 1998 are fully funded by the United States Congress. Iran described the move as the “latest United States attempt to mould the behaviour of a country and a value system it rejects as incompatible with its own”.204 Iranian government officials said they viewed it as an interference in the Islamic Republic’s internal affairs and, according to the Iranian envoy, Sayyed Jafar Hashemi, the programme was an “act of aggression” against Iran. 205

Nations are scrambling to control the airwaves and what their people are exposed to on computer and television screens.206 In the International Convention concerning the use of Broadcasting in the Cause of Peace of 23 September 1934 ratified, inter alia, by Britain, France and the British Dominions, the Parties undertook to prohibit the broadcasting within their territories of any transmission calculated by reason of its accuracy or otherwise to disturb international understanding or to incite the population of any territory to acts incompatible with the internal order or the security of a territory of a Contracting Party. The stability of ‘closed states’ is no longer secure. According to one writer, ‘much of the world we know is about to fade in the rear-view mirror.’207 According to another writer, “if all the threats and opportunities of the cold-war system grew out of “division,” all the threats and opportunities of the globalization system grow out of “integration.” The symbol of the cold-war system was a wall, which divided everyone. The symbol of the globalization system is the World Wide Web, which unites everyone. In the cold war we reached for the hot line between the White House and the Kremlin—a symbol that we were all divided but at least

205 Id.
207 Levy, Steven: “This Changes...Everything”, Newsweek, op.cit., p.18.

92
someone, the two superpowers, were in charge. In the era of globalization we reach for the Internet—a symbol that we are all connected but nobody is in charge." 208

10. CULTURAL INTERVENTION. Imperialism and colonialism of past centuries destroyed or suppressed the culture of the subjugated peoples. The native cultures, rooted in the patriotic and heroic traditions of the people, were ravaged. This war of cultures has survived and outlived the end of imperialism and colonialism.

Technology and the electronic and print-media and other subtle forms are now used to influence the culture of another State and impose upon it the culture of the intervening State. The foreign ‘imperialist’ culture tries to find a stronghold in the cities masquerading under notions of modernity and progress.

In the colonies, neo-colonies, former colonies especially there emerged two cultures in mortal conflict: foreign imperialist cultures and national patriotic cultures. Thus, there emerged, out of the different nationalities often inhabiting one geographic State, a people’s literature, music, dance, theatre, art, in fierce struggle against foreign literature, theatre, music, art. This flow is generally from the rich, developed world to the poor, developing world susceptible to foreign influence and domination by the sheer dint of its economic prosperity and political superiority. This destroys the harmony of values embodied in tradition and engenders instability, human isolation, chaos and dissatisfaction with the status quo.

Today, the ‘cultural invasion from the skies’, by means of satellite communications and broadcasting has become even more difficult to check and

208 Thomas Friedman, op.cit., p.42.
some measures have been adopted in some parts of the world to check, screen and censor the in-flow of such transmissions and broadcasts.²⁰⁹

South Korea, for example, a battleground of the various imperialisms of the 20th century, is anticipating falling victim to what promises to be the greatest imperialism of the 21st. “The new empire that threatens this time, however, is a linguistic one, and even the president is a willing victim...One of his compatriots is predicting the Korean language itself will die out and the whole country will be speaking English in the (more or less) foreseeable future.”²¹⁰ Bok Koh-Il prophesises that Korean (and nearly all other languages) will die and be “museum languages” within 200 years, leaving just English.²¹¹

11. CLANDESTINE INTERVENTION. Howard Wriggins²¹² calls this a “variety of influence” on his influence-intervention spectrum.²¹³ Here State A endeavours to direct the course of State B’s policy without the latter’s knowledge that this is being done; so outraged do the leaders of State B become, once this form of intervention is laid bare, that they may well charge that some form of aggression has actually taken place, even if military force is not actually brought into play.

12. INVITATIONAL INTERVENTION. As there is a general disliking for interference by one State in the internal affairs of another State, the intervening State may arrange an ‘invitation’ from its neighbouring government to help maintain its freedom and national stability. For example, India intervened upon the invitation of forces for independence in Bangladesh in 1971 during the war with West Pakistan.

²⁰⁹ see note 96.
²¹¹ Koh-Il, Bok: National Language in an era of Globalisation
²¹² Formerly, a member of the Policy Planning Council of the United States State Department.

94
“...There is hardly any foreign power that intervenes in Africa without some ‘invitation’ to do so by some African Heads of State or some nationalist group.”

13. FRIENDLY INTERVENTION or interventio cordiale. This could take place upon the request or otherwise of a State facing a natural disaster or other calamity and is unable to cope with the exigency. Another State sends it forces into the State in distress to assist in relief and rescue work.

14. PREVENTIVE INTERVENTION. Such intervention takes place when State A sends its forces into the territory of State B to launch “preventive strikes” against facilities in State B that pose or could pose a threat to the existence or stability or sovereignty of State A. An example of this type of intervention is the Israeli air force strike on 1 June 1981 on the Iraqi nuclear reactor destroying it.

Also, the Turkish cross-border operations in northern Iraq over 1995-97 to destroy bases of the Kurdish Workers’ Party (PKK), a separatist group in Turkey, in violation of Iraqi sovereignty, could be classified as preventive intervention.

15. DIPLOMATIC INTERVENTION.215 This would take place, for example, when a particular national leader tries to sort out some international problem on the basis of his own personal relations with, and understanding of, other national governments for diplomatic intervention on behalf of their contract rights in Latin American States. The Calvo Clause was entered into a contract. The general tenor of this Clause was that the alien agreed that any disputes that might arise out of the contract were to be decided by the national courts in accordance with national law and were not to give rise to any international reclamation. See, e.g., Ralston J.H: Law and Procedure of International Tribunals, revised edition (Stanford University, California: Stanford University Press, 1926); Freeman, A.V: "Recent Aspects of the Calvo Doctrine and the Challenge to International Law", 40 American Journal of International Law, 121 (1946); Robles, Garcia: Diplomatic Protection, the Calvo Clause, and the Safeguard of the International Rights of Man, a Project Report in which the author describes the diplomatic protection of aliens as an instrument of oppression used by strong States against weak ones. The term is named after Carlos Calvo (1824-1906), a renowned Argentine lawyer; it was applied for the first time in 1868. Also, Fenwick: infra.

215 See in this regard the Calvo Clause which was meant to prevent appeals by aliens to their home governments for diplomatic intervention on behalf of their contract rights in Latin American States. The Calvo Clause was entered into a contract. The general tenor of this Clause was that the alien agreed that any disputes that might arise out of the contract were to be decided by the national courts in accordance with national law and were not to give rise to any international reclamation. See, e.g., Ralston J.H: Law and Procedure of International Tribunals, revised edition (Stanford University, California: Stanford University Press, 1926 ); Freeman, A.V: "Recent Aspects of the Calvo Doctrine and the Challenge to International Law", 40 American Journal of International Law, 121 (1946); Robles, Garcia: Diplomatic Protection, the Calvo Clause, and the Safeguard of the International Rights of Man, a Project Report in which the author describes the diplomatic protection of aliens as an instrument of oppression used by strong States against weak ones. The term is named after Carlos Calvo (1824-1906), a renowned Argentine lawyer; it was applied for the first time in 1868. Also, Fenwick: infra.
leaders (often categorised as “Personal diplomacy”); instances of this are the ‘personal diplomacy’ of former United States President Jimmy Carter in Haiti in 1994, and in North Korea in 1995. A sub-category of this is the notion of ‘shuttle’ diplomacy, engaged in almost exclusively by the United States when an influential or important foreign affairs specialist or envoy will travel backwards and forwards between or to a hostile State(s) trying personally to find grounds for compromise between the opponents on the basis of building up a personal connection and understanding between the rival sides; for instance, the ‘shuttle’ diplomacy of United States Secretary of State Warren Christopher (1993-96) in the West Asian Peace process 1993 onward; and that of United States special envoy Richard Holbrooke in brokering the Dayton Accords in November 1995 that ended the war in Bosnia-Herzegovina.

A State or home government may cause diplomatic intervention on behalf of the legal or contract rights of its citizens. For example, the Philippine government in 1995 helped its national in Saudi Arabia, Sarah Balabagan, to launch an appeal against the death sentence awarded to her for killing her employer. In 1994, the United States President Bill Clinton intervened on behalf of a United States citizen, Michael Fay, to persuade the Singapore government to reduce his sentence.

16. DIRECT MILITARY INTERVENTION. Also known as ‘Armed Intervention’, this type of intervention occurs when State A directly or openly becomes involved in military operations in State B whether or not on the side of the recognised government in State B. Examples of direct military intervention are provided by France in Chad, France in Western Sahara, Cuba and former Soviet Union in Angola, former Soviet Union in Afghanistan, United States in Vietnam, United States in Panama, United States in Haiti, the list goes on...

216 See Calvo Clause, above.
The Soviet Union preferred to describe “direct” intervention as the sending of military forces to fight in another country without its ‘invitation’.

17. INDIRECT INTERVENTION. This kind of intervention could be either military or non-military in nature. Overt and covert acts of subversion supported by a foreign power, and efforts to prop up favourable even if, in some cases, dictatorial, corrupt or tyrannical regimes, military or non-military aid to rebel forces in another country, or causing economic instability would be actions constituting indirect intervention. A good illustration of this is the United States support to former President Mobuto Sese Seko of Zaire for over two decades till 1997, when it switched that support to rebel leader and now President Laurent Kabila. Ironically, though, the United States defines “indirect” intervention as inflammatory propaganda, economic warfare, subversion, support for guerrilla groups, and infiltration by volunteers.

18. INTERVENTION FOR PROTECTION OF “SPECIAL (or VITAL) INTERESTS”. When a State intervenes in a situation of conflict or otherwise in an area, State, or region, to protect its “special interests” which could constitute raw material supplied to it, it would be a case of intervention for protection of such “special interests”. The United States avowedly intervened in Gulf War II (that followed upon Iraq's invasion and annexation of Kuwait in 1990) as its “special interests” in the Gulf region were threatened. The “special interests” were supplies of crude oil from the Gulf to the United States, and security commitments to its ally Saudi Arabia (again due to oil supplies).

“After a century of exploration, the United States has more than half a million producing oil wells. Saudi Arabia has only about 725. Yet on the average, each Saudi well pumps 800 times as much oil as its American counterpart. Altogether Saudi wells can out produce United States wells by more than a
million barrels a day." The estimated oil reserve in the Persian Gulf region is 704 billion barrels.

The British Note of 19 May 1928, addressed to the United States, in connection with the proposed Treaty for the Renunciation of War, may be of significance here. The relevant passage of that Note is as follows:

"There are certain regions of the world the welfare and integrity of which constitute a special and vital interest for our peace and securing. His Majesty's Government have been at pains to make it clear in the past that interference with these regions cannot be suffered. Their protection against attack is to the British Empire a measure of self defence. It must be clearly understood that His Majesty's Government in Great Britain accept the new treaty upon the distinct understanding that it does not prejudice their freedom of action in this respect. The Government of the United States have comparable interests any disregard of which by a foreign Power they have declared that they would regard as an unfriendly act."

Max Weber observed:

"Interests (material and ideal), not ideas, dominate directly the actions of men. Yet the "images of the world" created by these ideas have very often served as switches determining the tracks on which the dynamism of interest kept actions moving."

19. ENVIRONMENTAL INTERVENTION. When two or more States share a common natural resource and when one or more of these States deliberately exploits, uses, or abuses such natural resource(s) to the detriment of the other co-

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219 Cmd 3109, p.25; Cmd 3153,p.10.
sharing States, it would be a case of environmental intervention. Such intervention could disturb the ecological balance in the deprived State and also cause instability. Water, it is said, will be the major cause of wars in West Asia in the twenty-first century. In a paper entitled “Global Water Shortage”, the (United States) Congressional Quarterly Researcher, says that as in 1990, twenty countries in the world faced chronic water shortages. That number, according to a World Bank study, is expected to rise to thirty-four by 2025. “The next war in West Asia will be over water, not politics”, the paper quotes United Nations Secretary General, Boutros Boutros-Ghali (1992-1996), as having said when he was Egypt’s Deputy Prime Minister. When a river shared between several States is dammed by a State upstream, it reduces the flow of water to States lying downstream; deforestation and unsustainable logging in the upper reaches of a river can cause flooding in the lower reaches of the river and adversely affect States lying downstream. This could become a cause for inter-state tension. Pollution and carbon monoxide emissions in one State could damage the environment of a neighbouring State which might act as a “sink” that absorbs the greenhouse gases. This could cause a “greenhouse effect” and contribute to global warming. Pollutants from fossil fuel burning can lead to acid rain, acidification and the death of lakes and forests. The responsibility of a State may become involved as a result of an abuse of a right enjoyed by virtue of International Law. This occurs when a State avails itself of its right in an arbitrary manner in such a way as to inflict upon another State an injury which cannot be justified by a legitimate consideration of its own advantage. The Permanent Court of International Justice expressed the view that, in certain circumstances, a State, while technically acting within the law, may actually incur liability by abusing its rights although, as the Court said, such an abuse cannot be presumed. Individual Judges of the International Court of Justice have

221 The world contains several natural “sinks” that absorb “greenhouse” gases (chlorofluorocarbons or CFCs, methane, nitrous oxide, carbon monoxide, sulphur dioxide): soil, vegetation, the oceans, and the atmosphere. Emissions in excess of the sinks’ cleaning capacity lead to the “greenhouse effect”.

222 Free Zones of Upper Savoy and the District of Gex (France v. Switzerland, 1932): Permanent Court of International Justice Reports, Series A, no.24, p.12; and Series A/B, no.46, p.167. See
repeatedly referred to it.223 The duty of a State not to interfere with the flow of a river to the detriment of other States has its source in the maxim sic utere tuo ut alienum non laedas,224 one of the salient principles of tort law.

The Convention of 15 April 1935225 between Canada and the United States for the settlement of difficulties arising out of the complaint of the United States that fumes discharged from the smelter of the Consolidated Mining and Smelting Company in British Columbia were causing damage to the State of Washington is an instance of conventional regulation of a nuisance committed by a private person and affecting injuriously the territory of a neighbouring State.

In the *Trail Smelter Arbitration (U.S.A. v. Canada)*226 arising out of this Agreement it was held in 1941, that under International Law no State had a right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another.

When the International Law Commission adopted in 1953 a draft Article on Fisheries which provided, de lege ferenda227, that States shall be under a duty to accept regulations prescribed by an international authority as essential for the purpose of protecting fishing resources against waste or extermination, it stated that the prohibition of abuse of rights is supported by judicial and other authority.228

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223 E.g., Judge Azevedo in the *Admission Case* (I.C.J.Reports 1948, pp.79-80); Judge Alvarez in the *Admission (General Assembly) Case* (I.C.J.Reports 1950, p.15). See also Judge Anzilotti in the *Electricity Company of Sofia Case* (P.C.I.J.Reports, Series A/B, no.77, p.88).
224 A man must not make such use of his property as unreasonably and unnecessarily to cause inconvenience to his neighbour: Sedleigh-Denfield v. O'Callaghan [1940] AC 880 at 903.
226 *Annual Digest and Reports of Public International Law Cases* 1938-40, Case no.315.
227 by means of a law to be made; being on the basis of a new law.
20. COLLECTIVE INTERVENTION. When a group of States having come together in an exigency or as part of a regional association or grouping intervene in a State directly to resolve a conflict situation and/or to maintain international peace and security in terms of the Charter of the United Nations, it would be a case of collective intervention. Article 51 recognises “the inherent right of individual or collective self-defence if an armed attack occurs against a member of the United Nations”. Cases of collective intervention are numerous. Almost all cases where the forces of United Nations or regional groupings intervene would come in this category. Among the recent cases are the deployment of forces of Economic Community of West African States (ECOWAS) in Liberia, and the Implementation Force (IFOR), succeeded by the Stabilisation Force (S-FOR), under command of North Atlantic Treaty Organisation (NATO) in Bosnia-Herzegovina.

Collective Intervention may be armed or unarmed. Thus, collective intervention would be a measure of a preventive or compulsory nature aimed at averting, in accordance with the Charter of the United Nations, threats to and breaches of the peace or an act of aggression by two or more States drawing on the support of regional or world organisations engaged in maintaining and restoring international peace and security. While being compulsory, i.e., designed to retaliate an international crime, collective measures are taken either to restore a violated law, e.g., collective self-defence, or serve as a means of realising international legal responsibility for the perpetration of an international crime, in which case measures perform a punitive function. Collective measures may or may not involve the use of arms. In the former case, it becomes especially important that the Charter of the United Nations, regulating the use of collective measures, be strictly observed. During the war against Iraq in 1990-91, the United States and her allies had all their actions approved for by the United Nations Security Council.
21. HUMANITARIAN INTERVENTION.229 A State or a group of States can be said justifiably to intervene in the affairs of another under international law when this is done on humanitarian grounds.

It is now agreed under International Law as well as municipal laws of most States, that individuals enjoy certain Basic or Fundamental Rights. Examples of such rights are the right to life, liberty, freedom of religion and conscience, etc. But not all States do or can guarantee such rights, and it is left to the discretion of a State, as a measure of its sovereignty, as to how it treats its citizens, and this is an internal matter for that State. However, since the end of World War II certain international conventions and treaties have been concluded that seek to assure to each human being some basic or fundamental rights and freedoms230 (Table C: Human Rights Treaties). It is now accepted that there is a limit to which a State can exercise its discretion in dealing with its nationals, and intervention in the interest of humanity is permissible when such discretion is abused and used to deny fundamental human rights to its citizens.

In one of the older cases, Britain, France, and Russia intervened in 1827 in the struggle between revolutionary Greece and Turkey when public opinion reacted with horror to the cruelties committed during the struggle. Intervention was often resorted to in order to put an end to the persecution of Christians in Turkey.

229 See also discussion under “Civil Wars and Intervention”, below.
**TABLE C**

**HUMAN RIGHTS TREATIES**

<table>
<thead>
<tr>
<th>Year</th>
<th>Treaties</th>
</tr>
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<tbody>
<tr>
<td>1926</td>
<td>Covenant to Suppress the Slave Trade and Slavery</td>
</tr>
<tr>
<td>1945</td>
<td>United Nations Charter</td>
</tr>
</tbody>
</table>
| 1948 | Convention on the Prevention and Punishment of the Crime of Genocide;  
     | Charter of the Organisation of American States;  
     | Universal Declaration of Human Rights |
| 1950 | European Convention on Human Rights and Fundamental Freedoms |
| 1966 | International Convention on the Elimination of All Forms of Racial  
     | Discrimination;  
     | International Covenant on Civil and Political Rights Optional Protocol to the  
     | above;  
     | International Covenant on Economic, Social and Cultural Rights |
     | American Convention on Human Rights |
| 1973 | International Convention on the Suppression and Punishment of the Crime of  
     | Apartheid |
| 1979 | Convention on the Elimination of All Forms of Discrimination against  
     | Women |
| 1981 | African Charter on Human and Peoples’ Rights (Banjul Charter) |
| 1984 | UN Convention against Torture and Other Cruel, Inhuman or Degrading  
     | Treatment |
| 1989 | UN Convention on the Rights of the Child |

In such cases of intervention there is always the risk of hostilities breaking out between the intervener and the intervened State. There is also the possibility of abuse, as individual States may use it as an excuse to intervene in the affairs of

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another State for selfish reasons. Quaere, whether such an objection would apply to collective intervention.

The Charter of the United Nations, in recognising the promotion of respect for fundamental human rights and freedoms as one of the principal objects of the Organisation, marks a further step in the direction of elevating the principle of humanitarian intervention to a basic rule of organised international society. This is so although under the Charter, as adopted in 1945, the degree of enforceability of fundamental human rights is still rudimentary and although the Charter itself rules out intervention in matters which are essentially within the domestic jurisdiction of the State.

Eleven putative examples of forcible humanitarian intervention are:

(i) The interventions of six Arab States and Israel in Palestine (1948);
(ii) Belgian intervention in Congo (1960);
(iii) Belgian and United States intervention in Congo (1964);
(iv) United States intervention in the Dominican Republic (1965);
(v) Indian intervention in East Pakistan (1971);
(vi) Indonesian intervention in East Timor (1978);
(vii) South African intervention in Angola (1975);
(viii) Vietnamese intervention in Kampuchea (1978-79);
(ix) Tanzanian intervention in Uganda (1979);
(x) French intervention in Central Africa (1979);

22. PEACEKEEPING/PEACEMAKING/PEACE ENFORCEMENT. Stricto sensu, peacekeeping et al. would all be forms of intervention as these impinge on and detract from the sovereignty of a State even if, in an oxymoronic way, meant to protect that very sovereignty. The word ‘peacekeeping’ (like the term ‘veto’) is not used in the Charter of the United Nations, yet in the last score of years the ‘peacekeeping’ concept has emerged on par with any other current or projected
programme of the United Nations action. Broadly speaking, United Nations peacekeeping has served as an anti-escalation device.232 A Special Committee on Peace-keeping Operations has met in pursuance of a General Assembly Resolution of 18 February 1965 for the making of ‘a comprehensive review of the whole question of peacekeeping operations in all their aspects’. Peacekeeping forces are sometimes referred to as interposition forces.233 Any such interposition, where the Security Council has made no determination, is dependent upon the consent of the States concerned, as to the locality where the force, etc., is to function, as to the importation of supplies, and as to the contacts with the conflicting entities or forces. Thus, peacekeeping by the United Nations is essentially consensual, and, in theory, of a defensive or protective nature only. Be that as it may, it has some parallels with ‘invitational’ intervention, discussed supra. The Security Council alone, under the Charter, has executive responsibility to establish and operate a force compulsorily in the territory of a member-State. According to U Thant, Secretary-General of the United Nations from 1961-1971, no peacekeeping operation ‘could function or even exist without the continuing consent and co-operation of the host country’.234 Thence, peacekeeping operations in a member-State of the United Nations would be a legitimate form of intervention provided either the State concerned has consented to it or, alternatively, the Security Council has authorised it.

23. ESPIONAGE. Perhaps the most complex kind of intervention, and also the oldest, is espionage or spying. Spying is defined as “obtaining by surreptitious means information in the possession of one State for the benefit of another”.235 Spying is as old, if not older, as the institution of the State itself. With advances in technology, espionage has also become increasingly sophisticated. But the importance of human intelligence or “humint” has grown rather than shrunk because even in an age where satellites can detect objects as small as golf balls or

233 ibid.
read names on letter boxes, not to mention the locations of adversary’s armies, there are still no technical means of assessing, sufficiently in advance, the intentions of rival commanders. So to out these, human agents are indispensable, be they senior aides to leaders, complicated scientific calculations as well as position papers and plans. There was a facile assumption when the Soviet Union unravelled that all this would become redundant in the “brave new world”. Several years down the line, however, it is clear that while the earlier suspicion and bellicosity have receded, competition in the world of trade and military potential has not quite dissipated. So, while military capabilities and aims might be shrinking, the world is far from reaching the point where it can do without some form of espionage. Clandestine knowledge about the abilities or intentions of adversaries, it is believed by some, is not quite bad as it appears. The role played by ‘celebrated’ spies like Kim Philby236, Donald Maclean, Oleg Gordievsky or Oleg Penkovsky, who provided such authoritative information to their masters that they averted direct military confrontation has been written a lot about.237

Spying is, notwithstanding the occupational hazards, a relatively non-violent means of ensuring the security of one’s nation (and provides excellent material for thrillers). It could also be categorised as indirect or unarmed or covert form of intervention.

Espionage can assume different roles. There can be political espionage, scientific, industrial, commercial, military, satellite (‘eyes in the sky’) espionage. The Central Intelligence Agency (CIA) of United States, and the former Komitet gosudarstvennoi bezopasnosti (KGB) or the Committee of State Security238 in the erstwhile Soviet Union have been/are notorious for transnational espionage.

237 See also, Cold War: Spies 1945-1992, documentary series shown on BBC television 18 April 1999. This episode dealt with the measures taken by U.S.A. and the Soviet Union to gather intelligence information, including the use of satellites and the formation of the Central Intelligence Agency (CIA) in the U.S.A.
238 Succeeded by the Russian Ministry of Foreign Intelligence.
In May 1996, France accused Britain and the United States of infringing its sovereignty and security by causing their spy satellites to take pictures from space during March 1996 of sensitive French military installations and sites.

The use of spies in time of war, however, is a measure of recognised legality, notwithstanding the severe penalty inflicted upon the spy if caught by the enemy. In international practice, difficulties arose from lack of a sharp distinction between spies, scouts, dispatch-bearers, and war traitors. The Hague Regulations of 1899 followed the customary law in making the essence of spying consist in acting "clandestinely or on false pretences" with the object of obtaining information in the theatre of operations of a belligerent and of communicating it to the enemy.\footnote{239} It was further provided that soldiers not in disguise, properly known as "scouts", might penetrate the enemy lines to obtain information without being considered spies; so also dispatch-bearers, whether soldiers or civilians, were not considered spies if they carried out their missions openly or overtly.

Upon the outbreak of Russo-Japanese War 1904-05 Russia announced the intention of treating as spies war correspondents who should communicate news to the enemy by wireless telegraphy; but the threat was not carried into effect.\footnote{240} The Hague Regulations provided for the trial of spies before punishment, and they emphasised the legality of the use of spies by providing that a spy who had escaped and was afterward captured was to be treated as a prisoner of war (POW).\footnote{241} The American Rules of Land Warfare emphasised the customary rule that no distinction was made in respect to the penalty inflicted upon spies.

It appears, therefore, that spying can further be categorised into covert intervention or overt intervention, depending on the way such activity is carried out.

24. LEGAL INTERVENTION. The move by the 1997 Labour government in Britain to introduce a Bill of Rights is seen by many as a loss of sovereignty to the European Parliament, and an uncalled-for intervention in the affairs of Britain. Similarly, nearly half a million French hunters protested in mid-February 1998 against a reduction in the hunting season under a twenty-year old law now being enforced under a directive of the European Commission (EC).

There can be other forms of intervention as well, both subtle as well as crude. Imperialism, and colonialism are the most blatant faces of intervention. Intervention can be induced or oriented. The forms discussed above cover most of the forms intervention can take but, one might hasten to add, that these are not by any means all the forms. To use a cliché, the list is illustrative and not exhaustive.

Each case of intervention, it will be found, straddles, given the sometimes specious distinction between two or more forms, more than one of the typologies delineated above. Such cases of intervention could be termed “multi-linear intervention” or “interproximal intervention”. Or even collinear or colligative intervention. Most examples from realpolitik seem not to be confined to just one form of intervention. In the summer of 1995 China demanded that North Korea open the floodgates on the Yalu River so that the waters would not back up into China. Under threat of a cut-off of aid from China, its only remaining ally in world politics, the North Koreans obliged, and the waters inundated their territory instead.\textsuperscript{242} This could be an example of Indirect intervention and/or Environmental intervention and/or Monetary intervention.

\textsuperscript{242} Newsweek International, 18 August 1997, p.30.
North Korea’s position in recent times is also an illustration of how diplomacy and power politics influence the decision-making processes in one State and the sovereignty of another. The famine in North Korea explains why she and China are coming to the peace table now. Peace could bring the massive aid Pyongyang needs. China had tended to downplay the crisis and blame it on North Korean mismanagement; she cut food aid dramatically after recognising South Korea, but is now raising it again. The motivation is no longer to cement fraternal ties to the North, but to prevent its hungry people from rushing the China border. Once again, it is difficult to embed this case into a form of intervention. An embracive term like the ones afore could serve the purpose of defining a case of intervention covering more than one of the typologies outlined above.

**MONROE DOCTRINE**

“...The occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers.

“...It is only when our rights are invaded or seriously menaced that we resent injuries or make preparation for our defence. With the movements in this hemisphere we are of necessity more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective governments; and to the defence of our own, which has been achieved by the loss of so much

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243 id.
244 *i.e.*, Austria, France, Prussia, and Russia.
blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it, therefore, to candour and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered and shall not interfere. But with governments who have declared their independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States.”

[Extracts from President James Monroe’s (1817-25) Declaration of 2 December 1823, in a Message to the United States Congress].

The history of the Monroe Doctrine throws some light on the political, as distinct from the legal, aspects of intervention. According to Oppenheim, “the de facto political character of much of the subject of intervention becomes clearly apparent through the so-called Monroe Doctrine of the United States of America.”

The Monroe Doctrine was, thus, a principle of United States policy, opposing any European intervention in the political affairs of the American continent. In 1821, the Russian government, then still in possession of Alaska, attempted to exclude all but Russian ships from the north-western coast of America; at the same time the reactionary Holy Alliance of Prussia, Austria, and

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245 Oppenheim, _op.cit._
246 Which was later sold to the United States of America by Russia in 1867 for $7,200,000 at the instigation of William H Seward, the U.S. Secretary of State. “Seward’s Folly”, as Alaska was known at the time of the purchase, produced sufficient gold in the subsequent 25 years to pay for itself forty times over.
Russia, having just quelled the Spanish revolution, contemplated intervention to help Spain against the newly-created South American republics. President James Monroe (1758-1831) declared in a Message to Congress of 2 December 1823, supra, “that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers...With the movements in this hemisphere we are of necessity more immediately concerned. The political system of the Allied Powers is essentially different from that of America ...We should consider any attempt on their part to extend their system to any part of this hemisphere as dangerous to our peace and safety.” The British Foreign Secretary, George Canning, had suggested, unsuccessfully, a joint Anglo-American Declaration against intervention in South America. The Monroe Doctrine grew in popularity in the United States of America in the mid-nineteenth century, but the French intervention in Mexico in 1860 challenged it seriously. The American Civil War (1861-1865), “which nearly wrecked the Union”, hampered the application of the Doctrine for some time, but in 1865, the United States of America—the end of the Civil War having made it much stronger than it had been—insisted on it, and the French had to withdraw.

The Message to Congress of President Monroe of 2 December 1823 contains three quite different, but nevertheless equally important, declarations or strands:

1. A declaration that the American continents would no longer be “subjects for future colonization by any European Power.” In connection with the unsettled boundary lines in the north-west of the American continent, and with special reference to the challenging Russian ukase.

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247 He negotiated the purchase of Louisiana from France in 1803. He was President from 1817 to 1825.
249 Ibid.
250 See, e.g., Oppenheim, op.cit.; Starke, op.cit.
251 An edict or order, legislative or administrative of the Russian government, having the force of law until annulled by subsequent decision or order. (French, from Russian, ukazu, an edict).
of 28 September 1821, the Message declared, “that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European Power.” This declaration was never recognised by the European Powers, and Britain and Russia protested expressly against it. In fact, however, no occupation of American territory has since taken place on the part of European State.

2. A declaration of absence of interest in European wars or European affairs. The Message, in continuance of the policy recommended by President George Washington (1732-1799), the first president of the United States, in his farewell address in 1796 (he was President 1789-1797), then states that: ‘In the wars of the European Powers, in matters relating to themselves we have never taken any part, nor does it comport with our policy to do so… ’. [This policy was, however, changed in the twentieth century.]

“3. A declaration that any attempt by the European Powers ‘to extend their system’ to any portion of the American continent would be regarded as ‘dangerous’ to the ‘peace and safety’ of the United States. In regard to the contemplated intervention of Holy Alliance (aka the Triple Alliance) between Spain and the South American States (the rebellious Spanish colonies in Latin America had secured independence and recognition by the United States), the Message declared that while the United States had not intervened, and never would intervene, in wars in Europe, they could not, on the other hand, in the interest of their own peace and happiness, allow the allied European Powers to extend their political system to any part of America, and try to intervene in the independence of the South American republics.” According to some authors252 this Message of President Monroe carried in it the germ of the doctrine of self-determination.

“Since the time of President Monroe, the Monroe Doctrine has gradually somewhat extended in so far as the United States claims a kind of political hegemony over all the States of the American continent. Whenever a conflict occurs between such an American State and a European Power, at any rate if it is likely to have territorial consequences, on the American continent, the United States is ready to exercise intervention.” Through the Civil War (1861-1865) her hands were, to a certain extent, bound in the 1860s, and she could not prevent the occupation of Mexico by the French army, but she intervened in 1865 when the Civil War ended.

The Doctrine was applied to the building of the Panama Canal, and the Clayton-Bulmer Treaty of 1850, which had provided for the joint Anglo-American control of the Canal, and was replaced by the Hay-Pauncefote Treaty of 1901, recognising complete United States control.254 In 1896, President Grover Cleveland (1837-1908)255 said that it gave to the United States of America the right to decide the frontier dispute between British Guiana and Venezuela, and his Secretary of State declared that the United States of America was “practically sovereign” and “her fiat law”. In 1902, the Anglo-German-Italian blockade of Venezuela, to enforce payment of debts256, angered Americans and President

253 Oppenheim, op.cit.
254 The sovereignty over the Canal reverted to Panama on 14 December 1999 under a treaty signed in 1977 between then presidents of the United States and Panama.
255 He was the 22nd and the 24th President of the United States of America. “He was the flower of American political culture in the Gilded Age” (1868-96): Hofstadter, Richard The American Political Tradition (and the Men Who Made It) (London: Jonathan Cape, 1967) p.182.
256 The so-called Drago Doctrine, which asserts the rule that intervention is not allowed for the purpose of making a State pay its public debts, is, according to Oppenheim, unfounded, and has not received general recognition, although Argentina and some other South American States tried to establish this rule at the Second Hague Peace Conference of 1907. But, this Conference adopted, on the initiative of the United States of America, a ‘Convention respecting the Limitation of the Employment of Force for the Recovery of Contract Debts’. According to Article 1 of this Convention, the contracting Powers agree not to have recourse to armed force for the recovery of contract debts claimed from the Government of one country by the Government of another country as being due to its nationals. This undertaking is, however, not applicable, when the debtor State refuses or neglects to reply to an offer of arbitration, or, after accepting the offer, renders the settlement of the compromis impossible, or, after the arbitration, fails to submit to the award. It must be emphasised that the stipulations of this Convention concern the recovery of all
Theodore Roosevelt (1858-1919) extended the theory so that the United States of America could act preventively to forestall European intervention. The United States control of customs in San Domingo was the first result, and the Doctrine has since been repeatedly invoked in connection with United States's actions in the Caribbean Sea, as we shall presently see.

The Doctrine has become a common principle of all the American republics instead of a unilateral United States policy. By the Declaration of Lima 1942, the members of the Pan American Union declared their determination to defend themselves against all foreign intervention. In the Rio Treaty in 1947, they reaffirmed this attitude and agreed that an attack against one of them should be considered to be an attack against them all.

The United States Secretary of State, John Foster Dulles, said in 1954 that among the most fundamental of United States foreign policies was an objection to the existence of Communist or pro-Communist governments on the American continent. It may be pertinent to note here that if a pro-Communist government contracts debts, whether or not they arise from public loans. The Drago Doctrine originates from Louis M Drago, sometime Foreign Secretary of Argentina.

257 26th President of the United States of America (1901-09).
258 An organisation of American States which arose out of the meeting on 14 April 1890 in Washington, D.C., of the First International Conference of American States. The Conference established the International Bureau of the American Republics, which later became the Pan-American Union and held annual conferences. The aim of the Union was to foster political and economic collaboration between the American States and a feeling of solidarity between North and South America.

After World War II, the need for even greater Pan-American integration became apparent, and in 1948 there was created the Organisation of American States (OAS) of which the Pan-American Union is the central and permanent organ and general secretariat.

259 The Inter-American Treaty of Reciprocal Assistance, signed at Rio de Janeiro, Brazil, 2 September 1947, by representatives of all the States of the western hemisphere except Canada, Ecuador, and Nicaragua. Under the Treaty every signatory has, when an aggression has been committed against any American State, the obligation to intervene. An armed attack against any one of the American States is considered to be an attack against them all. The nature of the intervention required to bring the Treaty obligations into force is not clearly defined. If United States forces, for example, are attacked in areas outside the security zone of the Americas (which stretch from the North Pole to the South Pole) the other American countries are not automatically involved.

Some Latin American States wished the Treaty to include “economic aggression” as a type of aggression, which is an important point from the perspective of the present thesis. The Treaty, however, was eventually confined to military matters. See also, the Act of Chapultepec of 1945.
were freely elected in a Latin American State, the objection of the United States to it would, in fact, be inconsistent with that part of the Monroe Doctrine which encouraged Latin American self-determination. The attitude of the United States would presumably be that such a government must of its nature be subject to a foreign influence and that this was directly contrary to the Doctrine!

The Doctrine was invoked on several occasions during the nineteenth century, and indeed expanded to mean that any “vital interest” of the United States of America anywhere on the continent could and would be protected. As the relations of the United States with most Latin American States grew increasingly cordial during the twentieth century, the Doctrine came to seem both less unilateral and more legalistic, with much of its meaning enshrined in inter-American treaties such as the Bogota Treaty which set up the Organisation of American States in 1948. Thus a doctrine originally directed against intervention was converted into a theory justifying intervention by the State which had first sponsored the doctrine.

After World War I, however, America’s ‘good neighbour’ policy towards other American States brought the Monroe Doctrine closer to its former objectives of 1823. And, now, by reason of recent inter-American regional security arrangements passim, it might seem as if the Monroe Doctrine regarded as an affirmation of the solidarity of the American continent, has been transformed from a unilateral declaration into a collective understanding of the American Powers. Possibly, to this extent, the Covenant of the League of

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260 Cf. note 78.
261 In 1923, the United States Secretary of State from 1921-25, Charles Evans Hughes, referred to the Doctrine as being ‘distinctively the policy of the United States’, and of which the United States ‘reserves to itself its definition, interpretation, and application’. Hughes was also a jurist, Associate Justice of the United States Supreme Court (1910-16), and later Chief Justice (1930-41).
262 Cf. The Act of Chapultepec 1945, the Inter-American Treaty of Reciprocal Assistance 1947 signed at Rio de Janeiro, and the Bogota Charter 1948 setting up the Organisation of American States (OAS), under which, inter alia, a threat to the independence and security of any one American State is regarded as a threat against all.
Nations may now be regarded as correct in referring to the Doctrine as a ‘regional understanding’ (Article 21).\footnote{Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe Doctrine, for securing the maintenance of peace.’ It may be pointed that the United States never joined the League of Nations.}

However, the increase in radical opposition to the right-wing and often corrupt governments in Latin America led, after World War II, to a situation in which the Soviet Union, directly or otherwise, came to confront the United States of America, as they supported different sides in the civil wars. The Doctrine was used to justify the 1962 American ‘quarantine’ or ‘selective’ blockade of Cuba to force Soviet withdrawal of missiles,\footnote{Popularly known as the Cuban Missile Crisis.} and to justify the intervention by United States Marines in the Dominican Republic in 1965 to prevent the election of a Communist government and protect American lives. As the guerrilla campaigns against the traditional ruling classes, especially in Central America, increased, with increasing support from a Cuba more and more firmly in the Soviet camp, the importance of the Doctrine, and its clear nature as a Declaration by the United States of America of what it would not tolerate, became more vital.

It is true that the Doctrine has been used to allow the United States to intervene in purely regional political and social disputes. The United States will not readily allow the establishment of any government of a Communist nature anywhere in “its” hemisphere, whether or not this is actually the result of interference from a European Power, and this is what the Monroe Doctrine has come to mean.

Ironically, the Doctrine was also the first statement of American isolationism, and indeed part of the justification of the unilateral declaration of hegemony over the American continent was a promise not to intervene or have any interest in matters on the European continent. Semble, the isolationist aspect
of the Doctrine has now completely disappeared with the membership of the United States of the North Atlantic Treaty Organization (NATO).

A doctrine or State practice similar to Monroe Doctrine in the USA was adopted in the former Soviet Union and christened the BREZHNEV DOCTRINE. This was, in effect, a policy of State interference and intervention, which had its supporters and detractors, as in all such cases of State practice.

**IMPACT OF INTERVENTION ON SOVEREIGNTY OF STATES**

The United States Government refused to admit that any nation 'can without the assent of the other nations concerned, rightfully endeavour to make conclusive its will in situations where there are involved the rights, obligations and the legitimate interests of other sovereign States'

As already mentioned, *supra*, one of the rights associated with a State’s independence is the ‘power exclusively to control its own domestic affairs’, and among correlative duties or obligations binding States being the duty not to perform acts of sovereignty on the territory of another State, the duty to abstain and prevent agents and subjects from committing acts constituting a violation of another State’s independence or territorial supremacy, and the duty not to intervene in the affairs of another State. All these rights and corresponding duties flow from the hallowed concept of sovereignty, the *sine qua non* of a State’s existence.

A State is the macrocosm of human society within a particular area, and the individual is its microcosmic representation especially in legal terms. *Semble*, the basic rights an individual enjoys under municipal laws, the State enjoys, with or without modifications, at international law and in relations among States.
An example is provided by the response of the Soviet Government upon its recognition in November 1933 by the United States whence it undertook ‘to respect scrupulously the indisputable right of the United States to order its own life within its own jurisdiction in its own way and to refrain from interfering in any manner in the internal affairs of the United States’, and to prevent such interference on the part of persons in governmental service or organisations under its control or in receipt of its financial assistance. But, as we have realised, in the late twentieth century world no State can avoid intervention simpliciter from without. Various kinds of intervention have been discussed above and there are many more subtle forms that intervention can take. The traditional concept of sovereignty has had to be loosened up a bit as a consequence of developments of the past few decades. Some States are frantically trying to find ways to block out the intervention from the skies and from cyberspace.

If we are gravitating toward a coalesced political and economic system in a ‘global village’ we will have to rethink our weltanschauung and our conception of sovereignty. Another issue to be worked over is the compatibility between sovereignty of a State—as the highest, underived power and as the exclusive competence to determine its jurisdictional limits—and the normal functioning and development of International Law and organisation.

Thomas Friedman says that the globalization system is built around three balances that overlap and affect one another in contrast to the cold-war system which was built around nation-States and balanced by two superpowers (the United States and the Soviet Union). “One is the traditional balance between states and states. The next is the balance between states and ‘supermarkets’—the

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266 Derived from cybernetics, the science of communications and automatic control systems in both machines and living things.
huge global stock and bond markets. (The United States can destroy you by dropping bombs, and the supermarkets can destroy you by downgrading your bonds.) The last is the balance between states and "super-empowered individuals." Because globalization has brought down the walls that limited the movement and reach of people, and because it has simultaneously wired the world into networks, it gives more power to the individuals than ever before to directly influence markets and nation-states. For instance, Osama bin Laden, the Saudi millionaire with his own global network (Jihad Online), declared war on America, and the U.S. Air Force had to launch cruise missiles at him. We launched cruise missiles at an individual—as though he were another nation-state."

Inasmuch as it excludes dependence upon any other authority, and in particular from the authority of another State, sovereignty is independence. It is external independence with regard to the liberty of action outside its borders in the intercourse with other States which a State enjoys. It is internal independence with regard to the liberty of action of a State inside its borders. As comprising the power of a State to exercise supreme authority over all persons and things within its territory, sovereignty is territorial supremacy (dominium, territorial sovereignty). As comprising the power of a State to exercise supreme authority over its citizens at home and abroad, sovereignty is personal supremacy (imperium, political sovereignty).\(^{268}\)

For these reasons a State as an International Person possesses independence and territorial and personal supremacy. These three qualities are nothing else than three aspects of the very same sovereignty of a State, and there are no picket fences between them.

In order for a State to be acceptable as a truly International Person, it has more often than not take on some international traits (\textit{a la} an individual in a peer group) and, in this process, it compromises its own ‘individuality’. This is

\(^{268}\) Oppenheim: \textit{op.cit.}
intervention at work, even if in a subtle form. Sometimes, such changes are imposed, and sometimes derived. This leads to a dilution of a State's sovereignty.

What International Law prohibits is a direct, overt, military or non-military intervention with ulterior motives which threaten international peace and security. The United Nations Security Council has held that “the sovereignty, territorial integrity and national unity of States must be fully respected in accordance with the Charter of the United Nations. In this context, humanitarian assistance should be provided with the consent of the affected country and in principle on the basis of an appeal by the affected country.”\footnote{269 A/46/182 of 14 April 1992.} But the Security Council vide its Resolution 688 sanctioned the creation of Safe Havens in Iraq at the end of Gulf War II, which were intended to protect the Kurds in the north and marshland Shias in the south against the forces of President Saddam Hussein. The affected country was Iraq; but, its permission or consent was not solicited. The Allies had ‘committed’ themselves to defend the Kurds and provide humanitarian assistance. The use of ‘in principle’ and ‘should’ implied that there could be occasions when government approval was not possible, but where intervention was nevertheless necessary! Quaere, whether approval of the Security Council was adequate authorisation for such intervention, or whether further safeguards were necessary, such as a two-thirds majority in the General Assembly and the supervision of the International Court of Justice. The problem could have been dealt with by less direct means. E.g., international organisations like United Nations Children’s Fund (UNICEF), the International Committee of the Red Cross (ICRC) a.k.a. Red Cross, and non-governmental organisations like Medicins Sans Frontieres (MSF) and OXFAM and Care are not required to obtain the formal consent of governments for intervention, have greater flexibility and lesser sensitivity to political constraints.

\footnote{269 A/46/182 of 14 April 1992.}
If the role of United Nations and United States and her allies during and after Gulf War II is an indication of a trend, then we have crossed the threshold into an area of greater intervention and lesser sovereignty.

When one people are forced to alter their lifestyle, habits and psyche so as to adversely influence those of their neighbourhood or elsewhere in the world, what is it than not intervention. When the policies of a State are influenced and, in some cases, determined, by those of another, it to nothing if not intervention. Whither independence, free will, and sovereignty?

We are not going around in circles. What we have to distinguish is salutary intervention from the insalutary. Intervention for the benefit of human life is to be condoned. Intervention with ulterior motives, to grind personal axes, to dominate and impose policy and thought are to be looked at askance, nay discouraged and perhaps thwarted as an unlawful infringement of a State’s sovereignty, its life blood. What has to be sought to be averted is a licence for the richer and powerful States to act as a world policeman, a Globocop, and to trample on the interests of the weaker and less developed States.270

The purpose of the activities of the United Nations at the end of the day is to make States stronger not weaker, to make the world safe for sovereignty. It is recognised that the Geneva Conventions, and International Law, rest on the sovereignty of States. It is the States that sanction it and are required to uphold it. States that are properly constituted, in respecting human rights and promoting human welfare effectively, are more likely to be strong and stable pillars of such a system.