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Law and Power in Military Intervention

Major States after World War II

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Britain, France, the United States, and the Soviet Union have conducted more than 70 military interventions in foreign lands since 1946. These four major states have also avoided direct combat among themselves. The extensive yet selective use of force among the four governments suggests international norms constraining military intervention. The question is whether these norms reflect primarily respect for power or observance of international law. Military interventions by France, the United Kingdom, the United States, and Russia between 1946 and 1980 (totaling 71) are systematically examined in order to identify common characteristics of action that point to international norms related to law and/or international norms related to power. It is found that the major states did not consistently behave in accordance with contemporary international law. It is also found that the major states did not limit force to territories where they had previously established visible commitments. However, they did consistently avoid intervening in lands where another of the four had visible military commitments, and at the same time they consistently respected limits established in international law between World Wars I and II. Observed norms reflected both the realities of international power and, belatedly, principles of international law.

Britain, France, the Soviet Union, and the United States have exercised military might extensively since World War II. These major postwar powers have intervened with armed force in nearly every world region. They have taken part in many of the deadliest

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quarrels of the era, as well as in scores of lesser conflicts. These four countries rank as the world's most active military powers since World War II, using force in more places and generally more often than other states; yet they have not used arms everywhere they might. They have avoided direct military involvement in many important foreign conflicts despite intervention in lesser ways, including economic and military aid, covert operations, and diplomatic interference. Most strikingly, these major governments have avoided combat with one another during the last 35 years, despite frequent foreign military action and despite the history of war among them before World War II.

The four major powers behaved with evident restraint after World War II. Their selective and exclusive practices of military intervention are presumed evidence of international norms constraining major power use of force. International norms, sometimes also called "rules of the game," "agreements," or "tacit understandings," do regulate many aspects of states' foreign policy behavior (Cohen, 1980; Holbraad, 1979: 111). Where and when states use military might is frequently interpreted in terms of international norms. There is, however, profound disagreement as to whether the norms governing force are primarily due to law or power. The role of power versus the role of law is an old and persistent issue in international relations. Many "realists" assert that where and when a state uses armed might is primarily affected by the opportunities and obstacles afforded by the recognized distribution of power among states in the international system (Bull, 1977; Hoffman, 1961, 1971; Morgenthau, 1978). Many students of international law and organization, on the other hand, assert that legal rules also channel international use of military force (Brierly, 1963; Fisher, 1978; Henkin, 1979).

Law and naked power cohabit in international relations. Customs, treaties, international institutions and other embodiments of law condition statesmen's expectations of one another's normal behavior, and so help to regularize international interaction. States habitually justify their acts in the language of the law. Governments frequently present their demands in legal forms. At the same time, no higher authority exists to enforce law upon

resisting sovereign states. Statesmen rely upon national power to help protect and advance national interests, and the calculus of power is also a guide to wise foreign policy: Sometimes legal language appears to be merely a fig leaf for a crass exercise of might, or for a prudent retreat. Regulating military force is vital to international society and it is also the sternest test of international norms. At issue is whether the world today depends in part upon law or solely upon the balance of power. Managing military force is a many-faceted task, including regulating conduct in war as well as restricting states' use of force. Resort to force anticipates war, however, and the norms restricting foreign military intervention are especially important.

Foreign military intervention is often studied; yet the issue of law and power in control of intervention remains unresolved, because strategic and legal research often speak past each other (Boyle, 1980). Major symposia have collected insights on intervention (Jaquet, 1971; *Journal of International Affairs*, 1968; Moore, 1974; Rosenau, 1964; Stern, 1977). Case studies are numerous. A few systematic multistate comparisons have also contributed understanding (Cable, 1971; Flanigan and Fogelman, 1970; Garnham, 1976; Pearson, 1974a, 1974b). Interventions by particular governments have been analyzed, including those of the United States (Barnet, 1968; Blechman and Kaplan, 1978; Odell, 1974; Pearson, 1976; Pearson and Baumann, 1977; Tillema, 1973; Weede, 1978), the Soviet Union (Dismukes and McConnell, 1979; Kaplan, 1981; Remington, 1971), the two superpowers together (Beloff, 1970; Holbraad, 1979), and Britain (Van Wingen and Tillema, 1980). Public justifications for intervention have been scrutinized (Goldmann, 1971; Higgins, 1963; Moore, 1969). And several studies have attempted to identify international norms governing postwar use of armed force (Brownlie, 1963; Farer, 1969; Scott, 1970; Thiele, 1978; Zartman, 1970).

The body of work on intervention contributes to an impression that international norms regulate military violence, but it does not demonstrate consensus on the identity of those norms. Previous scholarship tends to agree on a few facts about military

intervention, including that it is most often associated with other violent events abroad; but legal and strategic studies seldom build upon one another and seldom work with exactly the same data. One problem is that most studies of military intervention reflect either exclusive realism or exclusive legalism. Studies that investigate legal rules seldom consider strategic expectations related to national power; studies that recognize rules of strategic prudence seldom also recognize legal norms. This is so in part because realists and lawyers tend to focus upon different aspects of intervention: Strategists most often ask *where* states intervene; lawyers most often ask *when* states act. Differences of methodology also intrude. Legal investigations usually treat the population of intervention events unsystematically. Systematic studies, unfortunately, seldom refer to international law.

We systematically examine postwar overt military interventions by France, the Soviet Union, the United Kingdom, and the United States; we hope to identify common characteristics of action that point to international norms related to law and/or power. Thus, we ask three questions related to law and power. First, how often do military interventions comply with rules contained in postwar international law? Second, how often are interventions limited to domains marked by visible military commitments of the intervening power? The third question is two-fold: How often do interventions comply with pre-World War II rules of international law? And how often do they avoid the visible military commitments of other major states?

Military Intervention

Military intervention is defined as the beginning of blatant acts of military force in another country. It is a specific form of intervention. The term "intervention" has been used to mean many things, including: interference in domestic affairs; interference in foreign affairs; specific forms of action; foreign penetration with unworthy motives; coercion; and any act of influence among sovereign states (Moore, 1969; Rosenau, 1969;

Thomas and Thomas, 1956; Vincent, 1974; Winfield, 1932). The apocryphal remark often attributed to Talleyrand, that intervention is a metaphysical concept meaning approximately the same thing as nonintervention, remains a commentary upon terminological confusion. Without attempting to resolve disagreement about the meaning of intervention in general, we specify military intervention to be the beginning of military acts by the official armed forces of one state beyond its own borders and within the territory of another country, including: naval shelling; aerial bombardment or strafing; and the deployment of combat troops in battle or in a combat-ready mode (Tillema, 1973: 3). Such acts of trespass constitute military intervention whether their intent is punitive or benign, whether they support an existing government or undermine it.

There is a tacit understanding among states, at least since World War II, that military intervention is markedly different from lesser forms of intervention (Wright, 1957). Military intervention is a more flagrant trespass than lesser forms of intervention, such as covert operations, military aid, and diplomatic or economic penetration. It is more provocative than mere military shows of force or violent acts at sea. Unwarranted interference by armed might constitutes undeniable aggression, which twentieth-century international law has sought most assiduously to prevent (Stone, 1958; Oppenheim, 1952; O'Connell, 1970: 315-318; Thomas and Thomas, 1972). Military intervention also risks unwanted war, should local forces engage in protracted resistance or should other countries intervene.¹

The military behavior of major countries after 1945 is most important to present purposes. By 1946, the immediate effects of World War II were established: the Soviet Union occupied Eastern Europe and North Korea; France and Britain had returned to imperial holdings from which war had expelled them; the United States briefly controlled far-flung lands liberated in

1. Military intervention is not necessarily equivalent to war, although war frequently results and is always risked (Hall, 1924: 337; Oppenheim, 1952: 299). War entails use of force by two or more parties (Brodie, 1973: 2); intervening force is sometimes not resisted.

the war; and the wartime alliance among the four governments was unravelling. In January 1946, Britain, France, Russia, and America met for the first time as permanent members of the United Nations Security Council, charged jointly to execute the principles of the UN Charter.

Despite the hopes of some who promoted the idea of the United Nations at the end of World War II, military activity continued in the United Nations era. From 1946 through 1980, the four major countries engaged in 71 foreign military interventions (see Appendix). An average of more than two new military operations began each year. The actions varied in size and consequence. Some led to protracted war. Others ended as aborted missions. Intervention was more common in some periods than others. The early 1960s were particularly active, with 21 interventions beginning in the five years from 1961 through 1965. The early 1970s, by contrast, were relatively quiescent. The only new operations between 1970 and 1977 were the U.S. invasions of Cambodia in 1970 and 1975. No decade since World War II, however, has been free of repeated military action by the major countries.

All four major states were militarily active after World War II. They did not behave identically, however. Some used force more often than others: Britain undertook 37 interventions, about half of the total; France has been consistently active; the United States somewhat less so. The Soviet Union was a late starter, beginning its first direct military incursion only in 1953. The apparent propensity for military violence varies among states, as reflected in both the frequency and the magnitude of interventions. This is not at issue. The question is whether these four governments, exhibiting different military orientations, have nevertheless acted within a common set of international norms.

Strict Legality

International law has long limited legitimate recourse to arms. The customary practices of states established some limits, and the

League of Nations Covenant, the Kellogg-Briand Pact, and other international agreements of the interwar period added additional rules. However, the United Nations Charter legislated principles for the legitimate use of force that were narrower than those contained in customary practice or international agreements before World War II. The Charter of the United Nations recognized "the inherent right of individual or collective self-defense if an armed attack occurs" (Article 51), but at the same time prohibited "the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations" (Article 2 [4]). Pre-World War II international law tolerated military action in a wider range of circumstances. A strict, formal interpretation of the UN Charter provides a standard against which to measure compliance with postwar law.²

The best known strict interpretation of the charter's rules against the use of force is that of Brownlie (1963). In Brownlie's view, the law of the charter permits states to use armed force within other countries in only a few circumstances: (1) in response to armed attack against self until the United Nations has an opportunity to take action; (2) in subject territories, and also in territories of shared sovereignty (including protectorates and trusteeships), provided that force is not used to change completely the legal status of the territory; (3) by consent of the established local government under treaty, or at the specific request of the established government, provided that the requesting government is not challenged in its own country, or if it is challenged, that the rebels receive foreign assistance; or (4) by approval of a competent organ of the United Nations.

2. Actions consistent with formal rules derived from the United Nations Charter may be legal without necessarily being moral. Two different standards are sometimes used for legitimate behavior: (1) comparing an act to acknowledged, formal rules of conduct; and (2) comparing an act and the presumed purposes behind the act to posited principles of justice or morality (Unger, 1976, pp. 194-195). These standards are related to the popular concepts of the "letter" and the "spirit" of the law. The Positive tradition within law and social science, however, tends to apply the label "law" only to formal rules, referring to purposive standards as matters of morality (Weber, 1974, pp. 126-130, 328-330). Contemporary international law, with a few exceptions (see McDougal and Feliciano, 1961), generally adheres to the Positive tradition and identifies law only with formal rules of conduct (Hart, 1961: 221-226).

The four major governments did not consistently conform to strict legal principles. They abided by Brownlie's narrow notion of postwar law more often than some might expect, but less often than others might hope. Two-thirds (66%) of military interventions were strictly legal. An intervention was judged strictly legal under the charter if it met any one of five conditions:

- (1) It occurred within a non-self-governing territory administered by the intervening state. This includes all colonies, protectorates, territories under League of Nations Mandate or United Nations Trusteeship, as well as legally occupied lands as identified in the *Statesman's Yearbook*.
- (2) The intervening nation enjoyed a right to intervene provided under a security treaty signed by the target state, or by another recognized treaty, as indicated in the treaty text reproduced in the *United Nations Treaty Series*, the *League of Nations Treaty Series*, or Great Britain, *British and Foreign State Papers*.
- (3) Intervention occurred at the specific request of the established and unchallenged government of the target country. Domestic insurgency or civil war was deemed to constitute a challenge.
- (4) Intervention occurred at the specific request of a challenged target country government, but another nation was engaged in overt military intervention in the target state or provided overt military assistance to insurgents in the target nation.
- (5) Intervention was formally approved by the United Nations Security Council before the beginning of overt military action.

The remaining interventions included many of the most controversial and sensational military events of the postwar era, among them the Soviet invasion of Hungary in 1956, the British and French actions in Egypt at the same time, and the American bombing of North Vietnam beginning in 1964. The way in which these operations violated the UN Charter contributed to the controversy surrounding them. Moreover, strict legal rules have been less effective in restricting military intervention in more recent years. Only two of ten interventions after 1968 have complied with the UN Charter (see Appendix).

There appears to be a trend away from Charter law. While three-fourths (73%) of operations begun before 1963 conformed

to Brownlie's strict interpretations of law, a bare majority (55%) of later actions abided by these rules (see Table 1). Even more discouraging for those who hope that international law might control international violence, the major governments have obeyed a strict, formal interpretation of the UN Charter to differing degree. Most of Britain's interventions were strictly legal (84%). The other major states adhered to the rules suggested by Brownlie less consistently: America in 50% of interventions; France, 47%; and Russia, 43%. The difference is especially evident in later years. Only one United Kingdom intervention after 1962 was illegal under the Charter. France, the United States, and the Soviet Union, on the other hand, strayed from the letter of UN principles more often in the 1960s and 1970s than before. A mere 17% of French interventions after 1962 satisfied the criteria recommended by Brownlie. American and Russian military actions after 1962 also violated these rules more often than not.

Much of the apparent trend away from formal compliance with law, and some of the seeming variance among state practices, may be explained by differences in where states intervened. The UN Charter places few limits upon military actions of administering governments in non-self-governing territories. All postwar interventions in administered territories were legal in the formal sense, no matter how morally repugnant some of these acts may have been.³ The charter applies more stringent limits upon the use of force in places where the intervening state does not rule. Less than half (40%) of interventions among independent states enjoyed legal approval (see Table 2). This low rate of compliance is common to both the early and late postwar periods. In later years, however, the once-imperial powers—Britain and France—intervened less often in territories under their administration, because their empires disappeared.

Part of this apparent trend reflects the increasing prominence of interventions among independent countries where major states

3. Administered territories include all non-self-governing territories administered by the intervening state. All other lands are called "independent," including the one instance in which a major power intervened in a non-self-governing territory governed by another state—in 1958, when France collaborated with Spain in the Spanish Sahara.

TABLE 1
Percentage of Interventions Legal Under the UN Charter
by Country and Time Period

| | France | UK | US | USSR | Total |
|---------|----------------|-----------------|----------------|---------------|-----------------|
| 1946-62 | 63.6 (7/11) | 78.3 (18/23) | 66.7 (2/3) | 66.7 (2/3) | 72.5 (29/40) |
| 1963-80 | 16.7 (1/6) | 92.9 (13/14) | 42.9 (3/7) | 25.0 (1/4) | 58.1 (18/31) |
| Total | 47.1 (8/17) | 83.7 (31/37) | 50.0 (5/10) | 42.9 (3/7) | 66.2 (47/71) |

NOTE: Cell entry is the percentage of interventions legal under the UN Charter. Fraction in parentheses is the number of strictly legal interventions over all interventions.

have been least consistent in adhering to strict legal rules. Nevertheless, the record of violations is disheartening. Moreover, national differences are evident even among interventions outside administered territories. France violated United Nations law twice as often as Britain when using force outside its empire. The United States and the United Kingdom both complied with the charter more consistently than either the Soviet Union or France.

The military practices of the four major countries after World War II were inconsistent with a strict interpretation of the UN Charter. Statesmen professed commitment to the Charter, but they did not live by its rules. Standards of strict legality may have become principles of British foreign policy as England reduced its world role and eventually abstained from foreign use of force; but such standards were not consistent principles of French, Russian or U.S. foreign policy. Strictly speaking, the UN Charter has not been effective in controlling major power military interventions (Farer, 1969; Franck, 1970).

The Charter's failure might have been anticipated. It is difficult to legislate restrictions upon arms within the anarchical environment of international relations. It is especially difficult to establish by fiat norms that differ significantly from those of the past (Stone, 1958). Of course, this failure of the Charter, strictly

TABLE 2
Interventions Within Independent States Legal Under the
UN Charter by Country and Time Period

| | France | UK | US | USSR | Total |
|---------|----------------|----------------|----------------|---------------|-----------------|
| 1946-62 | 33.3 (2/6) | 28.6 (2/7) | 66.7 (2/3) | 50.0 (1/2) | 38.9 (7/18) |
| 1963-80 | 16.7 (1/6) | 80.0 (4/5) | 42.9 (3/7) | 25.0 (1/4) | 40.9 (9/22) |
| Total | 25.0 (3/12) | 50.0 (6/12) | 50.0 (5/10) | 33.3 (2/6) | 40.0 (16/40) |

NOTE: Cell entry is the percentage of interventions in independent states legal under the Charter. Fraction in parentheses is the number of strictly legal interventions over all interventions among independent states.

interpreted, does not necessarily imply total failure of the United Nations. A central objective of the United Nations, to prevent major war and to proscribe blatant armed attacks aimed at the conquest of the territory and government of other countries (Brierly, 1963: 413-432; Falk, 1964; Farer, 1969; Henkin, 1979: 135-147; Hoffmann, 1971), has so far been honored among the major powers. Final judgment upon the United Nations cannot be rendered here. The moral force of the Charter, as opposed to its technical legal character has not been assessed. Nor is it possible to say precisely how powerful may be the legal norms contained within the Charter. Statesmen may sometimes have been deterred from transgressing UN rules controlling the use of force; but the design of this study precludes knowing how often, and indeed whether that has happened. Nevertheless it is obvious that the world's major governments have not consistently behaved in strict accordance with contemporary international law.

Visible Military Commitments

The international distribution of power also suggests principles of prudence that statesmen may observe so as to avoid major war.

These norms are typically unwritten and must usually be inferred from states' behavior. These are tacit agreements that help to prevent direct attack by one major country upon another, and also help to discourage counterintervention among major powers. The simplest agreement capable of achieving this, short of one that proscribes all foreign excursions, is that which limits each state's military action to exclusive domains (Bull, 1977; Scott, 1970). Such a rule requires that each government mark the territorial boundaries within which it will intervene, presumably through visible military commitments. A broad interpretation of visible military commitments includes: (1) non-self-governing territories under national administration; (2) treaty allies as well as those countries protected by unilateral, formal declaration; (3) states that have granted right of intervention under treaty; (4) those countries where the intervening government maintains bases garrisoned with combat units; and (5) countries in which the intervening state operates military assistance missions involved in the combat and/or control structure of local armed forces.

Of all major power military interventions from 1946 to 1980, 80% transpired in territories where the intervening state had made visible military commitments before intervention. All four governments limited themselves in this way, although the United States intervened outside its visible commitments somewhat more often than the other major states (see Table 3). Military commitment limited military intervention as much in later years as it did soon after World War II. There were but minor national differences.

Visible military commitments, as we have measured them, do not always identify exclusive territories. It is possible for commitments to overlap, particularly through treaties and public declarations. All forms of commitment mattered in at least some instances, but the most frequent precursors to intervention have been those forms of commitment least likely to overlap: administration of non-self-governing territories and combat military bases. Nearly half of all interventions took place in non-self-governing territories controlled by the intervening power (45%), or occurred in countries where the intervening state maintained a military base with combat troops (44%).

TABLE 5
Percentage of Interventions Preceded by Violence
With and Without Consent

| | <i>France</i> | <i>UK</i> | <i>US</i> | <i>USSR</i> | <i>Total</i> |
|---------|-----------------|-----------------|----------------|---------------|-----------------|
| 1946-62 | 72.7 (8/11) | 78.3 (18/23) | 66.7 (2/3) | 100 (3/3) | 77.5 (31/40) |
| 1963-80 | 83.3 (5/6) | 92.9 (13/14) | 71.4 (5/7) | 75.0 (3/4) | 83.9 (26/31) |
| Total | 76.5 (13/17) | 83.4 (31/37) | 70.0 (7/10) | 85.7 (6/7) | 80.3 (57/71) |

NOTE: Cell entry is the percentage of interventions undertaken within intervenor's visible military commitments. Fraction in parentheses is the number of interventions undertaken within visible military commitments over all interventions.

While the major states have granted military assistance to many countries, military assistance programs involving combat and control functions are uncommon arrangements and anticipated only a few interventions. States seldom agreed to treaties after World War II that granted one or both the right to intervene in the other's affairs; treaty rights do not figure prominently among postwar interventions. Perhaps most interesting is that the major states have seldom used military force among their formal allies. This may testify to the security enjoyed by allies of great powers, as well as to the difficulties involved in blatant meddling among countries tied to one another by security agreement. Only the Soviet Union frequently turned to arms among those states with which it had written security agreements; and only the United States often followed verbal declarations with force.

Despite the obvious influence of previous commitments upon later use of force, all the major states intervened at times among countries in which they had no military commitments. Fully a third (35%) of interventions outside administered territories (and 20% of all interventions) occurred without any form of previous visible commitment. Moreover, these exceptions include many of the most disturbing events of the postwar era: U.S. and British action against North Korea beginning in 1950; the Anglo-French invasion of Suez in 1956; Britain's incursions into Yemen in the 1950s and 1960s; France's assault upon Tunisia in 1961; Amer-

ica's bombing of North Vietnam; and Russia's crossing of China's border in 1978. These provocative acts suggest that the conjectured rule of explicitly marked and exclusive national military domains is weaker than at first appears. The major governments lived by this limit most of the time; but when they departed from it, they sometimes did so in dramatic ways that appeared to invite counterintervention and thus major war. In short, the notion of exclusive domains of military commitment, while closer to the mark than the hypothetical standard of strict legality, does not completely describe the behavior of the four major powers since World War II, nor explain how they managed extensive military activity without falling into war with one another.

Deterrence and Interwar Law

We can directly reconstruct a picture of the norms actually prevailing among the major powers from the pattern of interventions. Two sets of rules, each of which works differently, appear to limit the recourse to direct force. The first is based upon a principle of power and limits where major states intervene without limiting them only to territories previously marked by visible military commitments. The second involves legal norms propounded between World Wars I and II. Such norms were more permissive than the strict standards of the Charter, and limit when major powers use force.

The power principle is that of deterrence among major states and is easily stated: Major states may intervene beyond their own visible commitments, but they are deterred from using hostile force where another major country is committed. None of the four superpowers used force against the government of a country where one of the others ruled, offered protection by alliance, other treaty, or declaration, maintained a combat base or major military assistance mission. Indeed, each of the major countries has generally avoided any direct military action, hostile or otherwise, where another of them has visible military commitments. The only exception occurred when Britain and France joined the United States in support of South Korea at South Korea's request and with approval of the United Nations.

Deterrence helps to explain where major states used force; it is silent about the circumstances for intervention. The "when" of postwar military intervention is limited by legalistic norms. This is not to say that major governments consistently obey principles of *contemporary* international law as usually defined by legal scholars: They do not. However, the use of force by major countries since World War II does appear consistent with international legal principles of the period before World War II, when law limited national violence less strictly and in different ways. Many postwar interventions have anachronistic aspects. The major powers profess adherence to the new law of the UN Charter, but their behavior indicates no more than new-found commitment to older rules of international law that many legal scholars no longer recognize.

International agreements following World War I restricted legitimate use of arms, although they did not go so far as the later UN Charter. Numerous bilateral treaties of friendship, security, and nonaggression, forged in the 15 years after the Locarno Conference of 1925, included new language limiting forceful action between signatory governments. Multilateral agreements also sought to limit military intervention, including the Kellogg-Briand Pact of 1928, the Anti-War Treaty of 1933, and, most importantly, the Covenant of the League of Nations. The Covenant prohibited "resort to war," tolerating only "acts short of war"; along with later agreements, the covenant outlawed the use of force in order to acquire territory. Retorsion by force (military response to discourteous but legal acts of others) was no longer accepted. Interwar agreements restricted so-called "humanitarian intervention"—the use of force to protect the lives and property of nationals and others abroad—but not all interventions were legally proscribed. Interwar law continued to approve military reprisals for illegal acts of others, so long as the intervening state first attempted other means of redress. Interwar law also continued to accept intervention by consent of the target state, without resolving the difficult questions of who in the target state could give consent and how much the intervening state

might do in order to promote a request for intervention (Brownlie: 1963, 216-230, 281-301). A strict interpretation of international law for the years just before World War II would legitimate the direct use of military force only:

- (1) in immediate defense of self from actual or imminent armed attack
- (2) in non-self-governing territories administered overseas
- (3) by consent of the established government under treaty or by specific request
- (4) in proportionate reprisal for some illegal acts of others
- (5) in some cases of "hot pursuit"
- (6) under League of Nations sanction⁴

Interwar law was not consistently obeyed before World War II. Russia, Germany, Japan, and Italy all mounted aggressive expeditions that violated 1930s law. The United States sometimes practiced humanitarian intervention in the Americas. After World War II, however, the four major powers did consistently conform to legal limitations established in the interwar period, even as they failed to abide by the narrower limits legislated by the UN Charter.

By interwar standards, 70 of 71 postwar interventions (99%) were legal. Most actions occurred by consent (58 cases), either in

4. Some rules derive from traditional international law, others are explicitly stated in interwar agreements. (1) *Immediate defense of self* is approved by both Article 16 of the Covenant of the League of Nations and the London Conventions on the Definition of Aggression (Antiwar treaties) of 1933. (2) *Non-self-governing territories* administered by the intervening state were acknowledged legitimate targets of force in the accepted, but not formally approved, British reservation to the General Treaty for the Renunciation of War (Kellogg-Briand Pact) of 1928. (3) *Consent* by the established government, by treaty or at the time of intervention, is deemed to justify use of force in traditional international law. Major international agreements of the interwar period did not directly address this right. Some bilateral treaties of the period, however, including the Russia-Persia Treaty of 1921, granted intervention rights in the traditional manner. (4) *Reprisal* for illegal acts of others, a traditional right of law, gained apparent but qualified sanction from the League of Nations Council's handling of the Corfu incident of 1924. (5) "*Hot pursuit*," also a traditional right, albeit a controversial one usually applied only to acts at sea, was generally acknowledged by both Canada and the United States, the two parties involved in the *Im Alone* incident of 1929 (Bishop, 1962: 530-533). (6) *League of Nations sanctions* are provided for in Article 16 of the Covenant of the League of Nations.

subject territories overseas or at the request of an independent country's government. Requests were generally public proclamations and are suspect in only a few instances where local government was in disarray, including those for U.S. intervention in the Dominican Republic in 1965, Russia in Hungary in 1956, and France in the Central African Republic in 1979. The military actions not sanctioned by consent were mainly acts of reprisal licensed under interwar law, plus one incident of "hot pursuit" when Russian troops moved briefly into China in 1978 while chasing a supposed criminal. The Soviet Union mounted the only military operation outside the bounds of interwar law in Poland in October 1956. Disturbances erupted in Warsaw at the same time as upheavals in Hungary. Russia alerted some of her troops stationed in Poland and began to move them toward Warsaw. The Polish government, however, refused to approve Soviet military presence, and Russian troops withdrew without violent incident (Remington, 1971: 28-32).

Except for this instance, Britain, France, Russia, and the United States refrained from exercising traditional practices of force that had been curtailed in the years between World War I and World War II. After 1945, the major states refrained from blatant acts of direct force for purposes of acquiring new national territories. None used military force in retorsion, but only in response to acts of others that could be labeled illegal. None used force where protecting the lives and property of nationals was the only issue. None engaged in humanitarian intervention without consent of the local government, except in Poland, and that was quickly arrested. Postwar observance of legal norms enunciated in the interwar period appears nearly complete.

Interwar law sanctioned the interventions that occurred without previous national military commitments as well as those within the boundaries of visible commitments. Applicable rules of law varied between these two sets of cases, however, because the major governments tended to use force differently where they were committed than where they were not. Table 4 displays the difference. Most interventions within military commitments have had the putative aim of supporting established governments and

TABLE 4
Percentage of Legal Norms Licensing Intervention
Within and Without Visible Military Commitments

| | <i>Visible Commitments</i> | <i>No Visible Commitments</i> | <i>All Interventions</i> |
|----------------------|--------------------------------|-----------------------------------|------------------------------|
| Legal Intervention | | | |
| Consent | 94.7 (54) | 28.6 (4) | 81.7 (58) |
| Reprisal | 3.5 (2) | 64.3 (9) | 15.5 (11) |
| Hot Pursuit | — | 7.1 (1) | 1.4 (1) |
| Illegal Intervention | 1.8 (1) | — | 1.4 (1) |
| Total | 100 (57) | 100 (14) | 100 (71) |

NOTE: Number of cases is in parentheses.

occurred by consent. Of military actions within the scope of a state's military commitments, 95% took place in administered territories or at the request of an independent country's government. Only two interventions within committed lands lacked consent: France's retaliation against Tunisia in 1961 following attacks upon a resident French military base, and Russia's incursion into China in 1969 after China's attack across the Soviet border. In contrast, most interventions without previous commitments were directed against established governments, and 64% of these were acts of reprisal sanctioned under interwar law. The major states responded to requests for intervention from the governments of uncommitted states upon only four occasions: when Britain and then France joined the United Nations effort in South Korea, and when France undertook military operations in the Spanish Sahara (1958) and Zaire (1978).

Interwar legal norms help to explain how the major governments managed to intervene among uncommitted states (those lacking visible commitments from any major countries) without

provoking counterintervention among themselves. The legal principles developed in the interwar period inhibited intervention when it would most tempt counterintervention. The major states intervened in uncommitted states upon request, in reprisal or (once) in "hot pursuit." Circumstances offering any of these licenses are infrequent. Independent, unallied governments are often reluctant to invite direct intervention by a major power; and major states have fewer opportunities to manufacture a request among unaligned countries than in states with which they are closely tied. Legitimate reprisal requires a prior illegal act by the target state against the intervenor. Moreover, legitimate reprisal necessarily involves limited military action; it cannot easily be used as an excuse to conquer another country. The conditions for legitimate "hot pursuit" are even more infrequent and also license only limited military action.

Intervention in uncommitted states is thus comparatively infrequent. Even when it does occur, it seldom threatens the international balance of power. Requested interventions support established governments. Reprisals and "hot pursuit" are usually limited military ventures. Thus, except for the U.S. invasion of North Korea under United Nations flag, and the British-French recovery of the Suez Canal by arms, the major states did not use legal principle as an excuse for attempted conquest. By acting only within interwar legal norms, the major states seldom offered strategic reasons to one another to counterintervene, and never a legal justification for counterintervention.

The legal norms also help to explain the frequently observed connection between civil and international violence and major power intervention. Most major power interventions after World War II (83%) were preceded by civil or international violence within the target country.⁵ Violence abroad is potentially destabilizing, and often offers strategic reasons for military action, especially in allied nations. The tendency to intervene *only*

5. Violence includes riots, nonpeaceful demonstrations, coups, attempted coups, guerrilla war, civil war, and overt military intervention by other countries within the target state. Violence was judged to precede intervention if the *New York Times Index* or other sources identified one or more such events occurring during the week before the beginning of major power military intervention.

TABLE 5
Percentage of Interventions Preceded by Violence
With and Without Consent

| | <i>Intervention by Consent</i> | <i>Intervention Without Consent</i> | <i>All Interventions</i> |
|----------------------------|------------------------------------|---|------------------------------|
| Violence in Target Country | 93.1 (54) | 38.5 (5) | 83.1 (59) |
| No Prior Violence | 6.9 (4) | 61.5 (8) | 16.9 (12) |
| Total | 100 (58) | 100 (13) | 100 (71) |

NOTE: Number of cases is in parentheses.

following the outbreak of violence, however, may be a consequence of accepted legal principles. The great majority of major power interventions (82%) took place by consent, either in administered territories or in dependent nations at the request of local governments. Table 5 reveal that almost all acts of consented intervention (93%) were preceded by civil or international violence. Violence precedes a much smaller proportion of interventions undertaken without consent of the ruling government (39%).

Violence can be a catalyst for consent. Independent governments (not to mention colonial governors) are often reluctant to request or agree to foreign military intervention unless violence threatens their rule. On the other hand, violence is only one of many possible stimuli for military reprisal. Since four-fifths of postwar interventions were licensed by consent, violence preceded most postwar interventions. It is reasonable to speculate that major power intervention tended to follow violence in part because interwar legal norms more effectively discouraged intervention without consent than intervention by consent.

Norms of strategic deterrence and legal norms bred in the interwar period together guided major power military action after 1945. Principles of power tended to define where the major governments would intervene. Britain, France, the Soviet Union

and the United States each acted mostly within domains marked by their own military commitments and never in each other's domains. On the other hand, legal rules tended to limit when the major nations would act. With one exception, they intervened only with consent, in "hot pursuit," or when confronted with allegedly illegal acts that licensed reprisal. Together these norms of law and power limited recourse to direct force. Without them the major states might have intervened abroad even more often than they did, perhaps at the cost of another global war.

Conclusions

The world's major governments have not consistently behaved in accordance with contemporary international law since World War II. Each has professed support for the United Nations Charter, but none has always obeyed a strict interpretation of its rules restricting use of military force. There has been no war between major states since the end of World War II. International law may deserve some credit for this, but the absence of major war has not been linked to statesmen's uniform adherence to the letter of present law.

Most postwar military interventions occurred where the intervening state had previously established visible military commitments. This has not been true of all interventions, however. Each major state has sometimes intervened beyond the scope of previous visible commitments. The world does not appear to be explicitly divided into exclusive domains for military action among the major powers.

Military intervention by major states is nevertheless consistent with apparent norms of both law and power. Each major government has consistently and prudently avoided intervening with armed might in lands where another major state has visible military commitments. Visible commitments do not circumscribe military action, but they do appear to deter military intervention by others. At the same time, major postwar governments appear to demonstrate belated adherence to interwar rules of interna-

tional law that restrict when states may legitimately resort to force, albeit less stringently than those later legislated in the UN Charter.

The pattern among military interventions in respect to law and power helps to resolve the seeming paradox of extensive military action without major power military confrontation. The major states have avoided direct action where others among them are visibly committed and are therefore, presumably, most inclined to forcible counteraction. At the same time the major states have nearly always acted in circumstances that provide no more than limited justification for counterintervention. Intervention usually occurs by consent of the established government (and usually within visible military commitments of the intervening state), or in reprisal sanctioned under interwar law after allegedly illegal acts of others. The major governments have avoided direct affronts to each other's most visible stakes. They have also avoided blatant assaults lacking any justification in remembered legal principles.

Strategic prudence and interwar rules of law are apparent norms of military intervention among the major states. Postwar military practice is consistent with these norms, although it is inconsistent with contemporary law and with visibly marked domains for exclusive military action. The catalog of interventions by itself cannot show whether statesmen consciously commit themselves to these principles. It is nevertheless tempting to speculate that these norms represent tacit understandings among governments that hope to avoid major power military confrontation. Apparent dependence upon rules of interwar law rather than upon contemporary law is especially interesting in this respect. The seeming high regard for ideas of the past and frequent disregard for supposed standards of the present is difficult to explain unless one recognizes that old rules of law may be compelling merely because they are familiar (Ehrlich, 1975), and also that contemporary international law of any period, including both legal treatises and international agreements, contains aspirations for reform as well as descriptions of customary practice.

The descriptive norms, whether or not internalized by statesmen, have limited dominion. First, they lack long standing. The major states were not always prudent before World War II, nor did they consistently obey interwar rules of law at the time that they were formulated. Major governments professed commitment to restrictions upon the legitimate occasions for military violence in international agreements of the 1920s and 1930s, but adherence in practice was delayed until after the conflagration of World War II. It would be interesting to explore whether such lagged effects are characteristic of all international legal regimes.

Second, the apparent norms of military intervention are not matched by corresponding strict limits upon less blatant forms of major power interference. Military equipment, money, advice, and training have been distributed liberally. The major states have also sometimes intervened covertly at times and places when they would not do so openly.

Third, the norms do not necessarily describe the military behaviors of all world governments. The Big Four have abided by these rules. Lesser states have not always done so; some have respected others' military commitments and the niceties of interwar law less stringently than the major powers.

The ultimate questions of law and power are still unanswered. One may suppose that strategic prudence among major nations rests upon a calculus of power. Why major governments conform to interwar rules of law is not so evident. Do they accept these rules knowingly? And if so, do they do so for reason of law itself or for fear of retaliation by other powerful governments? There is no answer here for these familiar cunundrums. Moreover, the results of this study address only a few concerns about the effects of law and power upon military force. More research is needed in order to assess the stability of present norms, to determine whether these norms affect the behavior of lesser states as well as major powers, and to investigate the roles of law and power within protracted wars.

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APPENDIX
Military Interventions by Four Major Countries, 1946-1980

| <i>Target</i> | <i>Date</i> | <i>Intervenor</i> | <i>Description</i> | <i>Independent State</i> | <i>Legal (UN Charter)</i> | <i>Military Commitments</i> |
|-------------------------|-------------|-------------------|-------------------------------------|--------------------------|---------------------------|-----------------------------|
| 1. Burma | 6/07/46 | Britain | Suppress guerrilla insurgency | no | yes | yes |
| 2. Madagascar | 3/29/47 | France | Suppress riots and revolt | no | yes | yes |
| 3. Algeria | 5/03/47 | France | Prevent independence movement | no | yes | yes |
| 4. Federation of Malaya | 6/16/48 | Britain | Counterinsurgency measures | no | yes | yes |
| 5. Eritrea | 1/03/50 | Britain | Antiterrorist action | no | yes | yes |
| 6. South Korea | 6/27/50 | United States | Korean War | yes | yes | yes |
| 7. South Korea | 6/28/50 | Britain | Korean War | yes | yes | no |
| 8. North Korea | 6/30/50 | United States | Korean War | yes | yes | no |
| 9. North Korea | 7/06/50 | Britain | Korean War | yes | yes | no |
| 10. South Korea | 1/19/51 | France | Korean War | yes | yes | no |
| 11. Suez Canal Zone | 10/18/51 | Britain | Suppress riots | no | yes | yes |
| 12. Tunisia | 1/20/52 | France | Suppress riots | no | yes | yes |
| 13. Kenya | 10/20/52 | Britain | Antiterrorist action | no | yes | yes |
| 14. French Morocco | 12/07/52 | France | Suppress riots | no | yes | yes |
| 15. Suez Canal Zone | 5/15/53 | Britain | Suppress riots | no | yes | yes |
| 16. East Berlin | 6/19/53 | USSR | Suppress riots | no | yes | yes |
| 17. British Guiana | 10/06/53 | Britain | Deter alleged planned coup | no | yes | yes |
| 18. Aden | 6/16/55 | Britain | Counterinsurgency action | no | yes | yes |
| 19. Cyprus | 9/10/55 | Britain | Resist "Enosis" movement | no | yes | yes |
| 20. Tunisia | 5/19/56 | France | Resist independence movement | yes | no | yes |
| 21. Poland | 10/20/56 | USSR | Mobilize to quell demonstrations | yes | no | yes |
| 22. Hungary | 10/23/56 | USSR | Suppress riots and popular movement | yes | yes | yes |
| 23. Singapore | 10/27/56 | Britain | Suppress riots | no | yes | yes |
| 24. Egypt | 10/31/56 | France | Seize Suez Canal | yes | no | no |
| 25. Egypt | 10/31/56 | Britain | Seize Suez Canal | yes | no | no |

(continued)

APPENDIX (Continued)

| <i>Target</i> | <i>Date</i> | <i>Intervenor</i> | <i>Description</i> | <i>Independent State</i> | <i>Legal (UN Charter)</i> | <i>Military Commitments</i> |
|-------------------------|-------------|-------------------|--|--------------------------|---------------------------|-----------------------------|
| 26. Morocco | 12/13/56 | France | Counterinsurgency action | yes | no | yes |
| 27. Muscat and Oman | 7/23/57 | Britain | Counterinsurgency action | yes | no | yes |
| 28. French Cameroons | 12/15/57 | France | Antiterrorist and counterinsurgency | no | yes | yes |
| 29. Bahama Islands | 1/15/58 | Britain | Deter alleged threat of violence | no | yes | yes |
| 30. Spanish Sahara | 2/25/58 | France | Aid Spanish in counterinsurgency | yes ^a | yes | no |
| 31. Malta | 4/16/58 | Britain | Following riots and government dispute | no | yes | yes |
| 32. Yemen | 5/07/58 | Britain | Attack on Yemeni barracks | yes | no | no |
| 33. Lebanon | 7/15/58 | United States | Civil War | yes | no | yes |
| 34. Muscat and Oman | 11/02/58 | Britain | Counterinsurgency action | yes | no | yes |
| 35. Cameroon | 1/12/60 | France | Counterinsurgency action | yes | no | yes |
| 36. Zanzibar | 6/03/61 | Britain | Suppress riots during election | no | yes | yes |
| 37. Tunisia | 7/19/61 | France | Break siege on French base | yes | no | no |
| 38. British Guiana | 2/17/62 | Britain | Suppress riots | no | yes | yes |
| 39. Aden | 9/25/62 | Britain | Counterinsurgency action | no | yes | yes |
| 40. Brunei | 12/10/62 | Britain | Counterinsurgency action | no | yes | yes |
| 41. Sarawak | 4/19/63 | Britain | Counterinsurgency action | no | yes | yes |
| 42. British Guiana | 5/10/63 | Britain | After riots and general strike | no | yes | yes |
| 43. Swaziland | 6/14/63 | Britain | Suppress riots and unrest | no | yes | yes |
| 44. Yemen ^b | 8/03/63 | Britain | Attack after alleged actions in Aden | yes | no | no |
| 45. Congo (Brazzaville) | 8/13/63 | France | Suppress riots | yes | yes | yes |
| 46. Cyprus | 12/17/63 | Britain | Renewed civil war | yes | yes | yes |
| 47. Kenya | 1/25/64 | Britain | Suppress military mutiny | yes | yes | yes |
| 48. Tanganyika | 1/25/64 | Britain | Suppress military mutiny | yes | yes | yes |
| 49. Uganda | 1/25/64 | Britain | Suppress military mutiny | yes | yes | yes |
| 50. Gabon | 2/19/64 | France | Following bloodless coup | yes | no | yes |
| 51. British Guiana | 5/25/64 | Britain | Suppress racial violence | no | yes | yes |

APPENDIX NOTES

1. A military intervention was counted each time (beginning January 1, 1946) regular combat troops under control of central governments in Britain, France, the Soviet Union or the United States were deployed in another country and conducted such military activities as combat patrol, offensive maneuver, riot quelling, or battle. In addition, a military intervention was counted when regular military units under central government control bombed, shelled or fired upon targets in another country. Excluded were military alerts, shows of force or troop movements not involving the actual use of force as defined above, naval engagements outside territorial waters, operations not involving regular armed forces and forms of military assistance not entailing direct use of regular military forces. Domestic activities of unreinforced garrisons in administered territories were also omitted so as to exclude acts of civil administration. The initial act of military intervention and all ensuing incidents were treated as one until such time as either all military forces were withdrawn or no more incidents of overt military activity were reported for six months.

All qualifying military operations were counted as intervention whether they took place in independent or in non-self-governing territories. Any use of force abroad entails strategic risks. Moreover, the use of force in non-self-governing territories has been a legal issue since the 1920s. The original text of the General Treaty for the Renunciation of War (Kellogg-Briand Pact) of 1928 made no distinction between independent and non-self-governing lands. Only by a British reservation, deposited with the treaty but not formally approved by all signatories, was the right of colonial powers to act with force within their own empires reaffirmed (Brownlie, 1963, pp. 235-245). The only military actions not counted as interventions were those undertaken within territories directly and recognizably integrated into the acting nation, as the provinces of Northern Ireland are combined with Great Britain to form the internationally recognized unit, the United Kingdom.

Lists compiled by others were consulted in order to identify intervention events, including: Blechman and Kaplan (1978, pp. 547-563); Cable (1971, pp. 205-229); Kende (1978); and Van Wingen and Tillemans (1980). These lists were supplemented by suggestions from a panel of area specialists. Alleged interventions were verified by consulting the *New York Times Index*, *London Times Index*, and more specialized sources. Many military events failed to qualify as interventions and were excluded. For example, British action in India during 1946-1947 and French activity in Indochina, 1946-1954, were excluded because each commenced before January 1, 1946; and Russian movements in Mongolia in 1966 and British moves in Jordan in 1958 were excluded because the troop movements did not involve overt military action. A few alleged interventions were excluded merely because insufficient information was available to confirm or deny them. All of these involved supposed French actions in Africa in the late 1950s and early 1960s, a period of incomplete and unreliable international reporting from that region: Libya, October 1957; Tunisia, February 14, 1959; Congo (Brazzaville), 1960; Chad, 1960-1963; Cameroon Republic, 1961; Mauritania, 1961; Morocco, October 7, 1961; Morocco, July 1962; Congo (Brazzaville), September, 1962; Gabon, September, 1962; and Niger, December, 1963.

2. A major country's visible military commitments are assumed to extend to all countries that meet any one of five conditions before intervention:

- (1) Administered territories as defined above.
- (2) States bound to the intervening nation by security alliance, as verified by examining the text of the treaty or as indicated in other sources such as Nielson (1969) where the text was unavailable. Also included are states publicly accepting verbal declarations of protection or guarantee, as Lebanon openly acknowledged the Eisenhower Doctrine.

| | | | | | | |
|--------------------------|----------|---------------|------------------------------------|-----|-----|-----|
| 52. Laos | 6/08/64 | United States | Air attacks in civil war | yes | yes | yes |
| 53. North Vietnam | 8/04/64 | United States | Air attacks | yes | no | no |
| 54. South Vietnam | 3/08/65 | United States | Civil war | yes | yes | yes |
| 55. Dominican Republic | 4/28/65 | United States | After coup and counterviolence | yes | no | yes |
| 56. Mauritius | 5/14/65 | Britain | Suppress riots | no | yes | yes |
| 57. Hong Kong | 6/30/67 | Britain | Following riots | no | yes | yes |
| 58. Mauritius | 1/25/68 | Britain | Suppress racial violence | no | yes | yes |
| 59. Bermuda | 4/29/68 | Britain | Suppress riots | no | yes | yes |
| 60. Czechoslovakia | 8/20/68 | USSR | Allied Socialist invasion | yes | yes | yes |
| 61. Chad | 8/28/68 | France | Counterinsurgency action | yes | no | yes |
| 62. China | 3/15/69 | USSR | Border conflict | yes | yes | yes |
| 63. Leeward Islands | 3/19/69 | Britain | Suppress Anguillian coup | yes | no | yes |
| 64. Cambodia | 4/30/70 | United States | Attacks on Viet Cong sanctuaries | yes | yes | yes |
| 65. Cambodia | 5/14/75 | United States | Attempt to free Mayaguez | yes | no | yes |
| 66. Chad | 4/28/78 | France | Counterinsurgency action | yes | no | yes |
| 67. China | 5/09/78 | USSR | Troops cross border | yes | no | no |
| 68. Zaire | 5/18/78 | France | French-Belgian rescue of civilians | yes | no | no |
| 69. Central African Rep. | 9/21/79 | France | Following coup | yes | no | no |
| 70. Afghanistan | 12/27/79 | USSR | Counterinsurgency action | yes | yes | yes |
| 71. Iran | 4/28/80 | United States | Attempted rescue of hostages | yes | no | no |

a. The Spanish Sahara was independent of France but ruled by Spain.

b. Britain attacked Yemen at least three times in an ongoing conflict: (1) British troops fired across the border from Aden (8/31/63); (2) the RAF bombed a Yemeni fort (3/29/64); and (3) British artillery shelled across the border (4/23/67). These incidents are counted as one intervention because they all stemmed from ongoing British action in Aden.

APPENDIX NOTES (Continued)

- (3) States granting the right to intervene under treaty, provided that the treaty remains in good standing and is not repudiated, as Iran rejected the 1921 Russia-Persia Treaty in the late 1950s despite Soviet objections.
- (4) States that include a resident military base with combat troop units of the intervening country.
- (5) States that accept a resident military assistance group from the intervening country that is directly involved in the combat and/or control structure of the local armed forces.

Major sources of information on bases and military assistance programs include: Bell (1964); Copley (1978); Dupuy (1970); Great Britain Army Office (1946-present); Scott and Scott (1979); Sellers (1971); and Tillema (1973).

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