

Cambridge University Press
978-1-107-06192-7 — A History of Humanitarian Intervention
Mark Swatek-Evenstein
Frontmatter
[More Information](#)

A HISTORY OF HUMANITARIAN INTERVENTION

The question of ‘humanitarian intervention’ has been a staple of international law for around 200 years, with a renewed interest in the history of the subject emerging in the last twenty years. This book provides a chronological account of the evolution of the discussion and uncovers the fictional narrative provided by international lawyers to support their conclusions on the subject, from justifications and arguments for ‘humanitarian intervention’, the misrepresentation of Great Power involvement in the Greek War of Independence in 1827, to the ‘humanitarian intervention that never was’, India’s war with Pakistan in 1971. Relying on a variety of sources, some of them made available in English for the first time, the book provides an undogmatic, alternative history of the fight for the protection of human rights in international law.

MARK SWATEK-EVENSTEIN is a scholar and lawyer specialising in criminal law, immigration, and refugee law. He is a member of the International Network of Genocide Scholars and has taught courses on ‘The Holocaust and The Law’. His current research focuses on the minority experience in international law.

Cambridge University Press
978-1-107-06192-7 — A History of Humanitarian Intervention
Mark Swatek-Evenstein
Frontmatter
[More Information](#)

A History of Humanitarian Intervention

MARK SWATEK-EVENSTEIN



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press
 978-1-107-06192-7 — A History of Humanitarian Intervention
 Mark Swatek-Evenstein
 Frontmatter
[More Information](#)

CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
 One Liberty Plaza, 20th Floor, New York, NY 10006, USA
 477 Williamstown Road, Port Melbourne, VIC 3207, Australia
 314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India
 79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.
 It furthers the University's mission by disseminating knowledge in the pursuit of
 education, learning, and research at the highest international levels of excellence.

www.cambridge.org
 Information on this title: www.cambridge.org/9781107061927
 DOI: 10.1017/9781107449459

© Mark Swatek-Evenstein 2020

An early version of this book was published in German by Nomos,
 as *Geschichte der "Humanitären Intervention"*, 2008.

This publication is in copyright. Subject to statutory exception
 and to the provisions of relevant collective licensing agreements,
 no reproduction of any part may take place without the written
 permission of Cambridge University Press.

First published 2020

Printed in the United Kingdom by TJ International Ltd, Padstow, Cornwall.

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

NAMES: Swatek-Evenstein, Mark, author.

TITLE: A history of humanitarian intervention / Mark Swatek-Evenstein, Touro College, Berlin.

Other titles: *Geschichte der "Humanitären Intervention"*. English.

DESCRIPTION: Cambridge, United Kingdom ; New York, NY, USA Cambridge University Press, 2020. |

Based on author's thesis (doctoral - Universität Bonn, 2008) issued under title: *Geschichte der
 "Humanitären Intervention"*. | Includes bibliographical references and index.

IDENTIFIERS: LCCN 2019040877 (print) | LCCN 2019040878 (ebook) | ISBN 9781107061927 (hardback) |
 ISBN 9781107695863 (paperback) | ISBN 9781107449459 (epub)

SUBJECTS: LCSH: Humanitarian intervention—History—19th century. |
 Humanitarian intervention—History—20th century.

CLASSIFICATION: LCC KZ6369 .S92813 2020 (print) | LCC KZ6369 (ebook) | DDC 341.5/84—dc23

LC record available at <https://lcn.loc.gov/2019040877>

LC ebook record available at <https://lcn.loc.gov/2019040878>

ISBN 978-1-107-06192-7 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy
 of URLs for external or third-party internet websites referred to in this publication
 and does not guarantee that any content on such websites is, or will remain,
 accurate or appropriate.

Because night has fallen and the barbarians haven't come.

*And some of our men just in from the border say there are no
barbarians any longer.*

Now what's going to happen to us without barbarians?

Those people were a kind of solution.

(C. P. Cavafy, *Waiting for the Barbarians*)

Contents

<i>Acknowledgements</i>	<i>page xi</i>
Introduction	1
1 The Battlegrounds of a History of ‘Humanitarian Intervention’	8
1.1 Introduction	8
1.2 The Definition of ‘Humanitarian Intervention’	12
1.3 ‘Humanity’ in Nineteenth-Century International Law	21
1.4 The ‘Humanity’ of ‘Humanitarian Intervention’	27
1.5 The Law on Intervention and ‘Humanitarian Intervention’	31
1.6 ‘Humanitarian Intervention’ into the Twenty-First Century	39
2 A History of ‘Humanitarian Intervention’ in Nineteenth-Century International Law	42
2.1 Introduction	42
2.2 The Intervention of the European Great Powers in the Greek War of Independence	45
2.2.1 The Intervention and Its History	46
2.2.2 The Intervention in Context	56
2.2.3 The Intervention in the History of International Law	59
2.2.4 The Intervention and the History of ‘Humanitarian Intervention’	63
2.3 The Principle of Non-intervention in Mid-Nineteenth-Century International Law	76
2.3.1 Introduction	76
2.3.2 The ‘Intervention’ in the Kingdom of the Two Sicilies, 1856	79
2.3.3 The Paris Treaty of 1856	82

2.4	Lebanon, 1860	85
2.4.1	The Intervention and Its History	85
2.4.2	The Intervention in Context	88
2.4.3	The Intervention in the History of International Law	89
2.4.4	The Intervention in the History of 'Humanitarian Intervention'	93
2.5	Intervention in Mid-Nineteenth-Century International Law	96
2.5.1	Introduction	96
2.5.2	Poland, 1863	100
2.5.3	Crete, 1866	101
2.6	The Great Balkan Crisis	105
2.6.1	Introduction	105
2.6.2	The 'Interventions' and Their History	106
2.6.3	The Interventions in Context	109
2.6.4	The Interventions in the History of 'Humanitarian Intervention'	111
2.7	The Principle of Non-intervention in Late Nineteenth-Century International Law	117
2.7.1	The 'Humanitarian Impulse'	117
2.7.2	The Principle of Non-intervention	119
2.7.3	'Humanitarian Intervention' and the 'International Law of Civilised Nations'	124
2.8	Cuba, 1898	130
2.8.1	Introduction	130
2.8.2	The Intervention in Context	131
2.8.3	The Intervention in the History of International Law	138
2.8.4	The Intervention in the History of 'Humanitarian Intervention'	141
2.9	The Long End of the Long Nineteenth Century	143
2.9.1	Antoine Rougier's 'Théorie de l'Intervention de Humanité'	143
2.9.2	China, 1900	144
2.9.3	Macedonia, 1903–1908 and 1913	148
2.9.4	Armenia, 1915–1916	154
2.9.5	'Humanitarian Intervention' in International Law at the Turn of the Century	156
2.9.6	International Law at the Turn of the Century in the History of 'Humanitarian Intervention'	160
3	'Humanitarian Intervention' in the Era of the League of Nations	165
3.1	Introduction	165
3.2	International Law Theory and 'Humanitarian Intervention' in the Age of the League of Nations	169

<i>Contents</i>	<i>ix</i>
3.3 State Practice	175
3.3.1 Introduction	175
3.3.2 The International Response to Nazi Germany's Persecution of Jews	179
3.3.3 World War II and the Shoah	184
3.4 Nazi International Law Theory and 'Humanitarian Intervention'	187
3.4.1 Intervention in Nazi International Law Theory	190
3.4.2 'Völkische' (Ethnic) and 'Konnationale' (Co-National) Intervention	194
4 The World after 1945	202
4.1 Introduction	202
4.2 The Charter of the United Nations and 'Humanitarian Intervention' in Early Interpretations	207
4.3 Early State Practice under the UN Charter	212
4.4 The 'Humanitarian Intervention' Debate Reignited: Biafra, 1968	222
4.5 The 'Humanitarian Intervention' That Never Was: East Pakistan, 1971	228
4.6 Into the Twenty-First Century: 'Humanitarian Intervention' and the Uses of History	234
<i>Bibliography</i>	241
<i>Index</i>	269

Acknowledgements

This book is the updated and expanded version of my German-language book *Geschichte der 'Humanitären Intervention'*, published roughly ten years ago. What began as a relatively straightforward intention to translate the book into English so it could reach a wider audience ultimately grew in scope. At the same time, progress on this project was hampered by my ongoing work outside academia as a lawyer for refugees and other migrants. My experience working with people who came to Europe and, more specifically to Germany, not only during the so-called migration crisis of 2015, but also before and after, has significantly informed the content of this book. To paraphrase a political pop song from the 1980s, 'we can talk of humanitarian intervention all day long, but if we fail to organise, we'll waste our lives on protest songs'.

In the following pages, I hope to show that talk of 'humanitarian intervention' has always been disproportionate to any meaningful 'humanitarian' action in the face of man-made disasters, civil wars, state brutality and oppression. And to this day, the victims of such atrocities face major obstacles in their efforts to gain international protection. How meaningful is our discussion about the legality of potential efforts to use force to prevent people from becoming victims if our record of helping actual victims of these atrocities is what it is?

All the mistakes and inaccuracies in this book are my own, but a number of people helped to turn the manuscript into its final form and I would like to express my gratitude to them, in no particular order: Marianna Evenstein, Anja Henebury, Paul Hockenos, Jenny Kohn, Sam Reid, Lisa Rosson, Michelle Standley, Aderet Furer, and everybody at Cambridge University Press. My work also greatly benefitted from the opportunity to attend a conference organised by Professor Dr. André Nollkaemper and participate in a panel organised by Professor Dr. Jessica Gienow-Hecht. This book would never have been possible without the support of Elizabeth Spicer. Thank you very much.