ISSUES IN SOVEREIGNTY

Center of Excellence in Disaster Management and Humanitarian Assistance

AN EXTRAORDINARY DEBATE IS UNDERWAY REGARDING THE SOVEREIGNTY OF NATION-STATES AND THE LIMITS OF INTERVENTION

WHY?

Is there evidence of a shift in traditional notions of sovereignty?

What are traditional notions of sovereignty?
Objectives:
To understand issues of sovereignty as they relate to humanitarian assistance issues and peace operations
To discuss the changing perspective of sovereignty in the new millennium

The International System
- Levels of Analysis
  - Individual
  - State
  - International System
- States are the primary actors
- Anarchical Environment

The Concept of Sovereignty
-Hedley Bull “The Anarchical Society”
- States are the fundamental unit in international relations
- States exert ‘sovereignty’:
  - over a particular portion of the earth’s surface
  - over a particular segment of the earth’s population.
- Internal vs. external sovereignty
The Concept of Sovereignty
-Hedley Bull "The Anarchical Society"

Internal Sovereignty (Freedom To):
The state exercises supremacy over all other authorities within its territory and over its population

External Sovereignty (Freedom From):
The state exercises independence from outside authorities

ISSUES
Factors that impact notions of sovereignty

• Multi-national corporations
• Failed states
• Globalization
• International Human Rights
• Cultural, religious and ethnic identities

Sovereignty is based on several constructs
• United Nations Charter
• Historical rights of political communities to govern themselves
• Custom or Common Law
Politics of Sovereignty

- Are some states more sovereign than others?
  
  For example, is Ecuador less sovereign than the United States?

- Alan James argues that weak states are more inclined to favor a strict definition of sovereignty than strong states.
  
  Do you agree?

Under international law, all states are equal sovereigns.

In practice, all states place limits on their sovereignty.

- Laws of War (Geneva Conventions)
- International Covenants
- ICAO / IAEA / WHO / IMF / ILO / etc.
- World Trade Organization
- Universal Postal Union
- North America Free Trade Agreement

SOVEREIGNTY

A Contested Concept

The prohibition of intervention is paramount and is the foundation of the UN Charter.

Nonetheless, the Charter does permit intervention in some cases.
The United Nations has been constrained in its ability to provide more effective humanitarian action.

Post-Cold War conflicts have been largely intra-state in nature. The UN was created to deal primarily with inter-state conflict.

The number of complex humanitarian emergencies has increased tremendously since 1989.

Currently 27 Complex Emergencies re-identified by the United Nations in these countries and regions:

- Afghanistan
- Angola
- Balkans*
- Caucasus *(Armenia, Azerbaijan, Georgia)*
- Central African Republic
- Congo*
- DPR Korea
- East Timor*
- Eritrea-Ethiopia
- Great Lakes Region of Africa *(Burundi, DR Congo, Kenya, Rwanda, Tanzania, Uganda)*
- Guinea-Bissau
- Indonesia (Maluku)
- Iraq*
- Liberia
- Russian Fed. *(Chechnya)*
- Sierra Leone*
- Somalia
- Sudan
- Tajikistan*

*Current PK Operations

The United Nations Charter

Preamble

"we the peoples of the United Nations"
- to reaffirm the faith in fundamental human rights
- to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained
- to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest
The United Nations Charter

Article 1(1) To maintain international peace and security... through collective measures... in conformity with the principles of justice and international law.

Article 1 (2) respect for the principle of equal rights and self-determination of peoples

Article 1 (3) achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights

The United Nations Charter

Article 2(1) -the organization is based on the sovereign equality of all its members

Article 2 (4) - all members shall refrain from the threat or use of force against the territorial integrity or political independence of any state

The United Nations Charter

Article 2 (7) - nothing shall authorize the UN to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement

-but this principle shall not prejudice the application of enforcement measures under Chapter VII
Post-Cold War new interpretations of sovereignty

"It is now increasingly felt that the principle of non-interference with the essential domestic jurisdiction of States cannot be regarded as a protective barrier behind which human rights could be massively or systematically violated with impunity."

Secretary-General Perez de Cellar - 1991

The Doctrine of Humanitarian Intervention

Hugo Grotius, 17th century

Advocated the lawful use of force by one or more states to stop the maltreatment by a state of its own nationals when that conduct was so brutal and large scale as to shock the conscience of the community of nations.

UN Debate Post-Gulf War (1991)

"States are liable internationally for their national policy on human rights" (Belgium)

"There exists a duty of democratic intervention" (Luxembourg)

"Intervention that is primarily aimed at securing protection of human rights and respect for the basic principles of peaceful coexistence is a prerogative of the international community" (Italy)

"Violations of human rights and the rights of minorities could not be considered the exclusive internal affairs of a country" (Hungary)

"The principle of non-interference could not be regarded as a protective barrier behind which human rights could be violated with impunity" (Chile)
SOVEREIGNTY

"The Charter protects the sovereignty of peoples. It was never meant as a license for governments to trample on human rights and human dignity. Sovereignty implies responsibility, not just power."

Kofi Annan - 26 June 1998

Humanitarian Intervention

Do state violations of human rights warrant intervention by the international community?

Humanitarian Intervention

Problems associated with non-intervention

- The state threatens the lives of civilian populations
- Refugees are forced from the country
- Massive forced internal displacement
- Use of starvation as a weapon
- Denial of essential support of medical and other state amenities
Humanitarian Intervention

Problems associated with intervention

- Strong states will use human rights as a facade for intervention. Primarily narrow national interests will be served.
- The cultural relativist debate: Every society has the exclusive right to behave according to its own historical, cultural traditions
- Intervention may make the situation worse
- Intervention may fail

Sovereignty and National Interest

- The North-South debate and intervention: UN General Assembly vs. Security Council
- The Security Council decides where and when to intervene
- States represent political communities
  - Some argue there is a moral imperative to intervene in support of human rights.
  - Others contend that the moral imperative is non-intervention.

The Future of Sovereignty

- Sovereignty continues to be a contested concept
- New norms and practices may emerge
- Chapter Vn remains the primary tool for intervention
- Role of regional organizations and a "Union of Democratic Nations"? (Ralph Peters)
- "Humanitarian space": is this a viable middle ground in the debate of sovereignty?