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# A Search for Legal Norms in Contemporary Situations of Civil Strife

Ross R. Oglesby

PROFESSOR MORTON KAPLAN, in a masterly volume on international politics, has delineated the characteristics of the old international order, the balance of power system, as well as the prevailing international system which he designates "the loose bipolar system."<sup>1</sup> In a later book,

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he and Professor Katzenbach explored the effect on international law of this monumental change in the nature of the international system.<sup>2</sup> Their assumption is that political principles and practices, in both domestic and international communities,

have their impact on law; that in fact the prevailing norms of law are, to a considerable extent, the products of — while concurrently serving — the political environment in which they operate. However, these characteristics of the balance of power system need not detain us in this context, for the emphasis here is upon the requirements of non-interference and independence as essential safeguards for the viability of the balance of power system. Principal inputs into that system sprang from the developing nationalism of the period. This sentiment not only gave the nation-state a strength and cohesion which other political institutions lacked, but it effectively limited expansion at boundaries where national sentiment ended. This tended to reinforce an international system in which the key role was played by sovereign and independent states. Control of one state by another would interfere with the necessary flexibility of alliances. Sovereignty was the legal norm, and its essential

<sup>1</sup> M. KAPLAN, *SYSTEM AND PROCESS IN INTERNATIONAL POLITICS* (1957). See W. FOX, *THE SUPER-POWERS* 97, 98 (1944); Kaplan, *Balance of Power, Bipolarity and Other Models of International Systems*, in *INTERNATIONAL SYSTEMS IN INTERNATIONAL SECURITY SYSTEMS* 33 (1969).

<sup>2</sup> M. KAPLAN & N. KATZENBACH, *THE POLITICAL FOUNDATIONS OF INTERNATIONAL LAW* (1961).

counterpart was non-interference in the internal affairs of another State. The concept of belligerency, founded on the assumption of non-interference, met the requirements of the balance of power system in situations of internal wars. While the rule of non-interference was primarily designed to aid the principal actors in the system, for a variety of reasons the same principle was applied to the small powers.<sup>3</sup> In an international system which, for its own stability, required standards that limited war (without inquiring into the justice of the cause), and further required flexibility of alliances (discounting ideological considerations), the norms of sovereignty and non-intervention played a central role. Rules of neutrality, permitting only a minimum of interference, were developed to govern the conduct of non-belligerents.

In the loose bipolar international system, which developed following World War II, there are at least two major power blocs which tend to be permanent because they are based on long-term interests.<sup>4</sup> The norms of non-interference in the internal affairs of other States are no longer a central feature of the system. Interdependence within the blocs gives positive motivation for intervention. Concentration of capabilities in the two leading blocs make their role of intervenors inevitable. Unlike the balance of power system, loose bipolar system interventions occur within the bloc States by the major bloc power, rather than in colonial and dependent areas as had been the case under the balance of power system.

In the loose bipolar system, States have diverse reasons for continuing the old norms of international law. The non-bloc States still have a strong interest in preserving the rule of non-intervention.<sup>5</sup> The smaller States in the blocs likewise dedicate a considerable effort toward the preservation of the principle,<sup>6</sup> as non-intervention and prohibition on the use of third power force directed toward their internal affairs correspond with their stated interests. But the same is not true with the major bloc powers. Bloc leaders may find it to their advantage to prevent other States from using force in such a manner, as they did in the Suez Crisis of 1956, but they find it difficult to abstain when block interests are threatened. The opposing major bloc power will permit this intervention be-

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<sup>3</sup> *Id.* at 39-40.

<sup>4</sup> On the nature of the loose bipolar system see M. KAPLAN, *supra* note 1; M. KAPLAN & N. KATZENBACH, *supra* note 2, at 50-62; P. FLIESS, *INTERNATIONAL RELATIONS IN THE BIPOLAR WORLD* ch. 1 (1968).

<sup>5</sup> P. FLIESS, *supra* note 4, at 146.

<sup>6</sup> M. KAPLAN & N. KATZENBACH, *supra* note 2, at 54.

cause its own interests are best served by permitting the establishment of such a bloc law of intervention.

The rule of non-intervention, if it is still an applicable form, applies primarily to the Third World States. The rule is here enforced by the nuclear balance between the blocs.

The legal values associated with non-intervention . . . meet far less support under current international conditions than they did during the balance of power period. Moreover, the strong stands taken by the new nations and by many influential nations against the vestiges of colonialism have the function of further reducing the insulation of the national-state from the application of external and international pressures.<sup>7</sup>

#### DECLINE OF SYSTEMIC NORMS FOR SITUATIONS OF CIVIL STRIFE

In short, in the classical balance of power system, States had control over their own domestic affairs and forcible intervention into the internal affairs of another state was system-disturbing. National leaders, in both large and small States, were committed to the preservation of national integrity. Recognition of belligerency in situations of civil war performed a useful function in isolating internal wars and maintaining the stability and flexibility of the system. With the mutation of the international order into the loose bipolar system, the concept of belligerent recognition passed into desuetude.<sup>8</sup>

What has been the fate of insurgent recognition, the norm which succeeded belligerency as the concept applicable to situations of internal war? Insurgency, like belligerency, required a certain amount of impartiality. It necessitated, at a minimum, the application of domestic neutrality laws which placed restraint on citizens. It also required the State to maintain a stance of impartiality.<sup>9</sup>

Insurgency replaced belligerency because it was more restrictive on the activities of the contestants and thus better served an international community seeking to constrain the use of force.<sup>10</sup> Even

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<sup>7</sup> *Id.* at 55.

<sup>8</sup> This hypothesis is more fully developed in R. OGLESBY, *INTERNAL WARS: A SEARCH FOR NORMATIVE ORDER* ch. 7 (under process of publication by Martinus Nijhoff, The Hague).

<sup>9</sup> E. CASTREN, *CIVIL WAR* 222 (1966); H. LAUTERPACHT, *RECOGNITION IN INTERNATIONAL LAW* 277 (1947). For another scholar holding the view that insurgency commits the recognizing State to a policy of nonintervention, see J. KUNZ, *KRIEGSRECHT UND NEUTRALITÄTSRECHT* (1932).

<sup>10</sup> For a brief statement on the law of insurgency see H. LAUTERPACHT, *supra* note 9, at 270-311.

insurgency, however, does not represent the prevailing modality for dealing with intrastate conflict today, although there continues to be a tendency to preserve the old pattern of neutrality and non-intervention in civil wars which are classified as "authority" or "separatist" wars.<sup>11</sup> In the typology developed for the context of the present analysis, intervention appears to be the prevailing pattern in two other types of civil conflicts — "wars of colonial independence" and "wars of social change."

The realities of the world in which we live, and of the international system which reflects the demands of that world, invite participation by outside powers in situations of internal war. Significant factors which make up the realities are mass communication, rapid transportation, economic interdependence, ideological commitments, and revolutionary parties which cut across national boundaries in their organization and operations. The traditional system built up shields of State protection through a formula of sovereignty and non-intervention, based on spatial criteria. But spatial formulae are beginning to lose their value as absolutes in a modern world where functional criteria are apt to be overriding. The functions of defense, economic prosperity, and social interchange are no longer congruent with the territorial boundaries of States. It seems certain that in such a fluid world the old norm of non-intervention cannot escape considerable modulation.

Kaplan's conclusion, based on his observations of the international system, is that interventions are to be expected in increasing numbers since interventionary propensities are heightened by the nature of the loose bipolar system.<sup>12</sup> While the present international system is still a decentralized one in which formal order and diversity arise from the activities of government carried on largely within territorial boundaries, intervention is an increasingly significant element of the domestic life of many States of the world. Civil conflicts within a State in particular become the targets of interventionary activities. In recent times, assistance in men, material, and money has become the most ubiquitous form of international activity in civil conflicts.

Bloc law interventions in civil wars are not necessarily a dysfunction of the system, for they perform a policing role for main-

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<sup>11</sup> As used here, "authority wars" are defined as those in which one set of elites or authority figures are attempting to replace another.

<sup>12</sup> Kaplan, *Intervention in Internal War*, in *INTERNATIONAL ASPECTS OF CIVIL STRIFE* 92 (J. Rosenau ed. 1964).

taining bloc order and solidarity. In this sense they form an integrative function for the international community.<sup>13</sup>

Intervention in civil strife is not, of course, a new phenomenon. Such interventions have been known for centuries. Their lineage may be traced back to repeated participation of national forces in the religious and civil wars of the sixteenth and seventeenth centuries. It is only in the ideologically oriented twentieth century that interferences in support of the incumbents or insurgents have become a frenzied pattern.

#### PATTERNS OF INTERVENTION

If one examines some of the major civil wars since World War II, patterns of intervention begin to display themselves. This is not to argue that at present there is any fully developed law on the subject, rather it suggests that, given the "normative force of facts," international rules on the subject may be aborning. If we take a somewhat simplistic model based on the goals of the insurgents, we can discover the directions in which the rules are being shaped. For the purpose of the present analysis, civil wars are arranged according to a tripartite schema which is tabulated in the Appendix. Type I conflicts are designated as authority wars. Separatist wars are included in this category as a modified form of authority war. The object of the insurgents is either to replace the existing authority with their own government or to separate from the parent State and take away a portion of the national domain.

Wars in which a colony is attempting to separate from the mother country are designated as Type II, or colonial wars of national independence. Type III conflicts are defined as wars of social change. In this category are placed those struggles in which the goals of the insurgents are aimed toward effecting major social changes in the State, whether in the realm of politics, economics, or any other of the basic subcultures of the society.<sup>14</sup>

No attempt has been made here to define "intervention." It has been used in so many different ways that considerable confusion has arisen as to its precise meaning.<sup>15</sup> We are using the term here

<sup>13</sup> McWhinney, *Soviet and Western International Law and Cold War in the Era of Bipolarity: Inner-Bloc Law in a Nuclear Age*, in 1 CAN. Y.B. INT'L L. 75 (1963).

<sup>14</sup> The above typology of civil wars is a modification of a plan proposed by J. Rosenau. Rosenau, *Internal War as an International Event*, in INTERNATIONAL ASPECTS OF CIVIL STRIFE 63 (J. Rosenau ed. 1964).

<sup>15</sup> Burke, *The Legal Regulation of Minor International Coercion*, in ESSAYS ON INTERVENTION 89, 123 (R. Stanger ed. 1964); F. GROB, *THE RELATIVITY OF WAR AND PEACE* (1949).

as the attitude of an outside State toward a civil war which is not characterized by the legal norms of insurgency or belligerency, but, rather, one of active support of one of the contestants to the detriment of the other. Such support may take the form of sending military supplies or personnel as evidence of the sending State's support of the cause of the recipient or a public and official statement of support and encouragement for one of the contestants. Under such a definition the United States' relations with Cuba during the Castro revolution would not be classed as an intervention since the sending of military supplies was in response to prior treaty commitments.<sup>16</sup>

An additional caveat needs to be entered. The difficulty of clear differentiation is illustrated by reference to the conflicts in Burma from 1948 to 1954. Two of these are placed under the category of authority or separatist wars. In fact, during this period there were three revolutions in progress against the newly established Burma Union. The goals of the Karens can best be described as a Type I conflict. The aims of the Chinese Nationalists who fled to Burma and developed revolutionary activity there were somewhat obscure, but perhaps can still be classed as Type I. The Communist revolution, however, was clearly a Type III war. The United States sent military supplies to implement its foreign policy of containing communism. As might be suspected, the Burmese government used United States aid indiscriminately against all three revolutionary constituents.

The Cuban revolution has been cataloged as an authority war, for it was so viewed officially by the United States. United States intervention did not take place until 1961, when it was discovered that the Castro government was Communist. This would have placed the revolution under Type III.

When we examine Type II a modality of intervention on behalf of the insurgents in wars of colonial independence clearly begins to emerge. The ambience of the international community is unfavorable to the continuance of the colonial system. One need only make a cursory examination of the positions taken on various occasions by the United Nations General Assembly and Security Council to

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<sup>16</sup> I am impressed with Rosenau's perceptive analysis of intervention as a sudden change in the nature of a State's relations. Rosenau, *Intervention as a Scientific Concept*, in *THE VIETNAM WAR AND INTERNATIONAL LAW* 979 (R. Falk ed. 1969).

discover the strong tide of community sentiment against colonialism.<sup>17</sup>

Although the United Nations cannot, by charter provisions, intervene in civil wars unless the situation threatens international peace and security or violates a cease fire established by the Security Council, on such occasions where it has not been able to intervene actively in behalf of the insurgents, it has taken strong positions through resolutions and declarations supporting the right of self-determination of the colonists. Type II interventions would appear to reflect this change in international life and circumstances and in community expectations — a change toward a philosophical orientation opposed to colonialism.

An examination of the table illustrating Type III civil wars demonstrates a consistent pattern of interventions either on behalf of the insurgents or the incumbents. There would appear to be an absence of cases in which interventions did not take place. In Type III the terms "insurgents" and "incumbents" do not always reflect the realities, as is illustrated by the Hungarian intervention of 1956. In this situation the incumbents cannot be neatly identified. In the interest of consistency, interventions to preserve the *status quo* are labeled as interventions on behalf of the incumbents. The rationale for the extensive use of intervention in Type III wars is not difficult to come by. Type III wars are by and large fought over the same socio-economic-political issues that orient the struggle between the East and West. There is a strong possibility that if the insurgents win, they will adopt a radically new posture in their external relations. Thus a civil conflict fought over proposed systems of universal value have more relevance to the affairs of other States, for insurgent success may be highly infectious and segments of the population of other States may find inspiration in the outcome.<sup>18</sup>

#### DEVELOPING PATTERNS OF BLOC INTERVENTION

Of the eighteen Type III wars examined, by far the most significant were the interventions of the Soviet Union in Hungary and Czechoslovakia and of the United States in Lebanon and the Dominican Republic. Russian troops were used in Hungary when the incumbent government attempted to establish a neutralist position. By a sort of legerdemain, the Soviet intervention was covered under

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<sup>17</sup> See Modelski, *International Settlement of Internal War*, in INTERNATIONAL ASPECTS OF CIVIL STRIFE 32 (J. Rosenau ed. 1964).

<sup>18</sup> *Id.* at 40. See Wright, *Subversive Intervention*, 54 AM. J. INT'L L. 529 (1960).

the old legal rule that interventions at the request of the established government are permissible. The Soviets quickly established "incumbent" government willing to request Russian help. The same sort of legerdemain was used by the United States to cover its intervention in the Dominican Republic. In Lebanon, American troops also entered at the request of the incumbent and presided over a political compromise which resulted in placing Lebanon in the neutralist camp.

Force was used against Hungary in 1956 to retain it within the Soviet bloc. In 1967 Czechoslovakia attempted to establish a more independent position for itself, but was brought back by Soviet military forces into bloc subservience. Although first press reports indicated that Dubcek had asked for Russian help, a few days later he denied this and the Russians were left to supply other justifications.<sup>19</sup>

The justifications, eventually known as the Brezhnev Doctrine, were given by Sergei Kovalev, a *Pravda* propaganda specialist, and appeared in *Pravda* on September 25, 1968.<sup>20</sup> While conceding the right of socialist States to pursue their socialist goals with freedom, he contended they were not free to the extent that their decisions damaged the socialist movement or the fundamental interests of other socialist States. To the extent that an internal revolution led the State away from the socialist bloc, it was system damaging and impermissible.

[W]hen a socialist country seems to adopt a "non-affiliated" stand, it retains its national independence, in effect, precisely because of the might of the socialist community, and above all the Soviet Union as a central force, which also includes the might of its armed forces. The weakening of any of the links in the world system of socialism directly affects all the socialist countries, which cannot look indifferently upon this.<sup>21</sup>

He concluded by saying that socialist States respect the norms of international law, including those of sovereignty and independence, but insisted that these norms must not be interpreted so narrowly as to force socialist States to remain inactive when they see a fraternal State imperiled with counterrevolution.

Soviet troops were not used, therefore, to suppress self-determination, he argued, but to give the Czechoslovakian people a chance

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<sup>19</sup> The Czechoslovakian crisis cannot unequivocally be classed as a civil strife situation. However, since the Soviets treated it as such with their talk of "counter-Revolutionaries," it is treated as one.

<sup>20</sup> The full text is reprinted at N.Y. Times, Sept. 27, 1968, at 1, col. 6; 7 INT'L L. MATERIALS 1323 (1968).

<sup>21</sup> *Id.*

to work out their socialist destinies within the context of Communist bloc parameters. He also maintained that the intervention was not undertaken unilaterally, but only after consultation with the Warsaw Pact powers and a commitment of active support.

The precedent for bloc intervention had already been established by the so-called Johnson Doctrine enunciated by the President at Baylor University in 1965, some four weeks after United States military intervention in the Dominican Republic. President Johnson pointed out that the United States, as a member of the Organization of American States (O.A.S.), had assumed common responsibilities for dealing with Communist infiltration into the Western Hemisphere. The United States acted unilaterally because of time pressures, but it acted in behalf of the O.A.S. The President saw significance in that "for the first time in the history of the O.A.S. [it] has created and it has sent to the soil of an American nation an international peacekeeping military force."<sup>22</sup> Its continued presence there guarantees to the Dominican people true self-determination, under basic bloc requirements of the Punte del Este Resolution: that there shall be no communist take-over within the Western Hemisphere. The President assured the Dominican people that "we intend to work for the self-determination of peoples of the Americas within the framework of freedom."<sup>23</sup>

In short, both the Brezhnev Doctrine and the Johnson Doctrine make it clear that the principle of self-determination cannot be carried so far as to permit a bloc State to deviate from the bloc, and that revolutions which have for their end the severance of the State from bloc allegiance will invite quick and speedy intervention. Both doctrines are self-denying to the extent that they explicitly reject unilateral intervention, except on a temporary and emergency basis, and insist that intervention by the major bloc power is made on behalf of the bloc States and with their assistance and concurrence.

#### TOWARD AN INTERNATIONAL LAW OF CIVIL CONFLICTS

A look at the tables in the Appendix illustrating the three types of civil conflicts may serve to give some guidelines as to the direction in which a new international law of internal conflict may be developing. In Type I wars, which we have designated as authority or separatist wars, the pattern is clearly for third States to refrain from

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<sup>22</sup> N.Y. Times, May 29, 1965, at 2, col. 4.

<sup>23</sup> *Id.*

intervening.<sup>24</sup> We have pointed out that Type I wars generally are not system-disturbing and hence the pressures for intervention do not exist. It would appear then, that in such wars a continuation of the classical pattern, with its concomitant norm of insurgency (belligerency having passed into desuetude), could provide the suitable norm.<sup>25</sup>

On examining the table of interventions in Type II wars, one is again confronted with a rather clear pattern — that of intervention in behalf of the insurgents. Two interventions under Type II are aberrational: The United States' support of France in the Indo-China wars brought about because of the general United States policy of attempting to contain communism; and the United Nations authorization for British intervention in Southern Rhodesia.

There is clearly a world consensus against colonialism. By 1960 this consensus had crystallized in the adoption of the General Assembly Resolution 1514 entitled *Granting Independence to Colonial Countries and Peoples*,<sup>26</sup> and strengthened by Resolution 2311<sup>27</sup> which called on the Specialized Agencies of the United Nations to direct their efforts toward implementing the resolutions.<sup>28</sup> The General Assembly next adopted Resolution 2426 reiterating its position taken in previous resolutions and calling on the Specialized Agencies to work with the Organization for African Unity and "with the national liberation movements in Southern Rhodesia, and the Territories under Portuguese domination" toward achieving independence for these system-disturbing vestigial pockets of colonialism.<sup>29</sup>

With a strong consensus of opposition to colonialism, it can be correctly assumed that there has been a marked tendency toward unilateral interventions in support of colonial peoples. The Communists have in fact attempted to establish a norm of international

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<sup>24</sup> "Authority" is used in the commonly accepted meaning as the right to control, manage, or determine, rather than the more sophisticated use preferred by Rosenau. Under his classification Type I wars are called "personnel" wars, Type II are called "authority" wars, and Type III are called "structural" wars. Rosenau, *supra* note 14, at 63.

<sup>25</sup> A close examination of the Castro rebellion does not clearly indicate any unequivocal pattern of insurgent use, although the terms "non-intervention" and "strict neutrality" were used at various times by American officials.

<sup>26</sup> G.A. Res. 1514, 15 U.N. GAOR Supp. 16, at 66, U.N. Doc. A/L.323 & Add. 1-6 (1960).

<sup>27</sup> G.A. Res. 2311, 22 U.N. GAOR Supp. 16, at 50, U.N. Doc. A/6954 (1967).

<sup>28</sup> Bleicher, *The Legal Significance of Re-Citation*, 63 AM. J. INT'L L. 444, 478 (1969).

<sup>29</sup> G.A. Res. 2426, 23 U.N. GAOR Supp. 18, at 61, U.N. Doc. A/7424 (1968).

law which would permit intervention in support of "wars of national liberation" but deny support to the colonial powers. Because of strong cold war overtones in colonial wars, unilateral intervention is system-disturbing and fraught with danger to the peace and good order of the world community, as the Vietnam interventions have demonstrated. A simplistic norm of law which would permit interventions on behalf of the colonists, but prevent it in support of the incumbent, is inadequate not only because it would be system-disturbing, but also, as in the case of Southern Rhodesia, contrary to community interests.

An examination of the practice shows a trend to collective authorization of interventions through the United Nations.<sup>30</sup> Interventions, whether unilateral or multilateral, but legitimated by the United Nations, have the considerable advantage of bringing the anti-colonial consensus to bear at the point where it is most representative of community interests, thus reducing counter-interventions and reducing the chance for self-serving national interventions undertaken under the specious guise of supporting the norm of anti-colonialism.

Precedent exists to support the growing norm of United Nations control of interventions in colonial wars. The United Nations intervention in the Congo is the classic case. While the Congo has been classed as a Type I war in the context of this essay because of the separatist efforts of the Katanga province which triggered the conflict, it could with equal justification have been catalogued a Type II war since Belgium's intervention in behalf of Kantanga had strong colonial overtones. Just criticisms have been leveled at the United Nations for its confused and awkward role there, but, as Winston Churchill is reputed to have said about his growing old age, the alternative would have been worse.

The United Nations, by a resolution of the General Assembly, authorized Great Britain to intervene in Southern Rhodesia,<sup>31</sup> and in succeeding resolutions the Assembly and the Security Council authorized members of the United Nations to intervene in support of Zimbabwe and the national liberation movement in Southern Rhodesia.<sup>32</sup> United Nations authority also exists for unilateral or collective intervention in South Africa in behalf of Southwest

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<sup>30</sup> *Id.*

<sup>31</sup> G.A. Res. 2012, 20 U.N. GAOR Supp. 14, at 53, U.N. Doc. A/6041 (1965); reprinted in 5 INT'L L. MATERIALS 161 (1966).

<sup>32</sup> *Id.* The Organization of African Unity, by resolution, called on the African States to help liberate Southern Rhodesia. See 6 INT'L L. MATERIALS 130 (1967).

Africa,<sup>33</sup> and in behalf of the Portuguese colonies in Africa. The General Assembly Resolution 2395 is illustrative of the nature of appeals for intervention in the three situations in Africa presently of much concern to the African nations, as well as to the world community. The Resolution appealed "to all States to grant the peoples of the Territories under Portuguese domination the moral and material assistance necessary for the restoration of their inalienable rights [of self-determination] . . . ."<sup>34</sup>

There is emerging then a norm of community control of intervention in wars of colonial independence. Such a development should minimize system-disturbing unilateral interventions and bring consensus to bear in the elimination of intolerable domestic social orders — intolerable that is from the community viewpoint, because they threaten the peace of the world. Interventions under the authority of the United Nations have the required flexibility of permitting pressure, whether against incumbent or insurgent, at the point where community requirements demand them. Type II civil conflicts presently offer the most promising situations for developing a role for the United Nations in situations of civil strife.<sup>35</sup>

The pattern of intervention in Type III civil conflicts — wars of social and political transformation — is likewise beginning to emerge with considerable clarity, although to most international lawyers the trend appears to be distasteful. The pattern, if not the norm, was clearly delineated in the Johnson and Brezhnev Doctrines, and, until such time as cold-war aspirations are mitigated, can be expected to prevail. The modality is one of bloc intervention to prevent social and political alterations in the structure of the government which would result in a loss of that State from the bloc. Since the major bloc power usually makes the decision to intervene and bears the major burden of military personnel and material supplied, the interventions appear to be unilateral. However, more optimistically (or perhaps euphemistically), one may call these regional interventions. Both the Brezhnev justification and the Johnson speech entered disclaimers of unilateral action based on narrow State interests. The Czechoslovakian intervention was undertaken

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<sup>33</sup> G.A. Res. 2426, *supra* note 29; G.A. Res. 2311, 22 U.N. GAOR Supp. 16, at 50, U.N. Doc. A/6716 (1967). For a complete collection of General Assembly and Security Council Resolutions on South Africa from 1945 to 1964 see U.N. Doc. S/AC 14/L 3/Add (1968). See also, note 34, *infra*.

<sup>34</sup> G.A. Res. 2395, 23 U.N. GAOR Supp. 18, at 59, U.N. Doc. A/7218 (1968).

<sup>35</sup> *But see* Kaplan, *Intervention in Internal War*, *supra* note 12, at 110. Kaplan concludes that collective interventions "are of dubious workability."

under the guise of Warsaw Pact policy and the American intervention in the Dominican Republic under the cloak of O.A.S. support. The rationale for the assumption that a pattern of bloc intervention will continue for the foreseeable future has already been touched on. It results from the organized relationships which have cemented blocs together by joint military command and supply facilities. They have developed long-range functional plans, including joint arrangements for military defense, production arrangements, flows of manpower and material, and location of strategic defense sites. While such arrangements within the bloc denigrate the complete independence of bloc components, they do contribute to the stability of the international system. A State within the geographical proximity of a bloc which is socially and politically disoriented from the other States constitutes a threat to the peace. Illustrations are the presence of Communist Cuba in the Western Hemisphere, of South Africa in the ambit of the Organization of African Unity, and Israel in the area of the Pan-Arab world.

If a revolution occurs in a bloc State which might result in the severance of the affected State from the structure of the bloc, bloc leadership is certain to react swiftly and effectively to restore bloc solidarity. Georg Schwarzenberger, writing within the umbra of the 1956 Suez crisis in a perceptive article entitled *Hegemonial Intervention*, not only foresaw a bloc law of interventions, but justified it as system-serving, a useful peace-keeping device.<sup>36</sup> He argued that to classify bloc interventions (hegemonial) as purely self-serving was to take too narrow a view of the process. He felt that there was at least a grain of truth in the assertion that interventions of such a nature were in fact in the interest of world peace.

It has been shown that three models of intervention based on the aims of the insurgents distinctly begin to emerge. A pluralism of norms would appear to be forming. John Norton Moore has urged the need for a heterogeneity of norms for dealing with intervention. He suggests that we should have a variety of rules for dealing with tort claims.<sup>37</sup> We agree that international law has too long been handicapped by attempts to impose monolithic norms. The result is inflexibility and the use of subterfuge or legal defiance in situations where the single norm approach is inapplicable.

If consistent practice hardens into norms of international law,

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<sup>36</sup> Schwarzenberger, *Hegemonial Intervention*, 13 Y.B. WORLD AFFAIRS 236 (1969).

<sup>37</sup> Moore, *The Control of Foreign Intervention in Internal Conflict*, 9 VA. J. INT'L L. 209, 217 (1969).

it would appear that the law of intrastate conflict is developing heterogeneously along the following lines: continued use of insurgency for authority and separatist ways, intervention in colonial wars of independence under authorization of the United Nations, and intervention in bloc situations under regional or bloc authority.

## APPENDIX

## TYPOLOGY OF INTERVENTIONS IN CIVIL WARS

<i>Date</i>	<i>Nation</i>	<i>None</i>	<i>For Insurgents</i>	<i>For Incumbents</i>
<i>Type I. Authority and Separatist Wars</i>				
1946-58	Colombia	X		
1947	Paraguay			X
1948-54	Burma (Karens and Chinese Nationalists)			X
1950-51	Tibet	X		
1953-59	Cuba	X		
1959-70	Muscat & Oman			X
1962	Yemen		X	X
1963	Sudan	X		
1963	Ruanda	X		
1967	Nigeria		X	X
<i>Type II. Colonial Wars of Independence</i>				
1945-49	Indonesia		X	
1945-46	Syria & Lebanon		X	
1945-46	Phillipines	X		
1946-54	Indochina			X
1948-57	Malaya		X	
1952-56	Kenya	X		
1954-59	Cyprus		X	
1954-61	Algeria		X	
1961-62	Angola		X	
1967	Rhodesia			X
<i>Type III. Wars of Social Change</i>				
1945-49	Greece		X	
1946-50	Phillipines			X
1946-58	China		X	X
1948-54	Burma (Communist)			X
1948-50	India		X	
1954	Guatemala		X	X
1954	Hungary			X
1957-60	Malaya			X
1958	Lebanon			X
1958-59	Indonesia		X	X

<i>Date</i>	<i>Nation</i>	<i>None</i>	<i>For Insurgents</i>	<i>For Incumbents</i>
Type III.	<i>Wars of Social Change</i>			
1958-62	Cameroon		X	
1959-60	Laos		X	
1960-65	Congo		X	X
1959	South Vietnam		X	X
1965	Venezuela		X	
1965	Dominican Republic			X
1968	Czechoslovakia			X