

ŁUKASZ MACHAJ
University of Wrocław

HUMANITARIAN INTERVENTION V. STATE SOVEREIGNTY — SOME REMARKS FROM A DOCTRINAL PERSPECTIVE

The purpose of this article is to briefly present and examine three possible solutions to the conundrum concerning the relationship between humanitarian interventions and the idea of state sovereignty. This is the issue of profound theoretical, legal and political importance and widespread implications. On the one hand, the notion of state's sovereignty still remains one of the foundational rules of international order; on the other, humanitarian interventions have *de facto* become the significant factor in inter-state relations the moral — if not legal — legitimacy of which progressively gains more and more recognition. This article will focus solely on the doctrinal aspect of the dilemmas surrounding said relationship.¹ Before going into the crux of the matter, we need to formulate certain basic definitions. On a strictly theoretical plane, the term “humanitarian intervention” has a relatively simple meaning. In the context of this article, it will refer to the outside intervention in order to remedy mass and flagrant violations of the fundamental human rights of foreign nationals by their government;² to forcible actions by a state, a group of states or other international entity on the territory of independent government aimed at protecting individuals from continuing grave infringements of basic human rights;³ to activities of international actors across national boundaries — including but not confined to the use of military force — undertaken with the objective of relieving severe “human suffering and violation of human rights with-

¹ Interesting analysis of (il)legality of humanitarian intervention, particularly under Article 2(4) of the UN Charter, can be found in J. Merton, *Reconsidering the legality of humanitarian intervention: Lessons from Kosovo*, “William and Mary Law Review” 41, issue 5.

² See K.R. Himes, *The morality of humanitarian intervention*, “Theological Studies” 55, issue 2.

³ B.S. Brown, *Humanitarian intervention at the crossroads*, “William and Mary Law Review” 41, issue 5.

in states where local authorities are unwilling [...] to do so.”⁴ We will also assume that altruistic motives and noble intentions used as justifications for such endeavors are truthful, honest and authentic (though in practice I am rather suspicious of such declarations); in short, we will take efforts at legitimizing humanitarian interventions at face value. While such an approach permits us to clearly conceptualize the notion of humanitarian intervention and to avoid potential — and quite unnecessary — semantic confusion, the other term — “sovereignty” — remains far from being unequivocal. In fact, it appears to be one of the most ambiguous concepts in political philosophy (on par with, say, freedom or justice).

Traditional doctrinal formulation of state sovereignty verbalized by Renaissance thinker Jean Bodin provides us with a good starting point for our reflections. According to the French jurist, the term denotes absolute and permanent power. It is predominantly — if not exclusively — a legal term. In its external dimension it means independence from outside entities (like other states, international organizations, papacy, etc.), while in internal one it denotes independence from subjects (citizens) and a possibility of shaping domestic order in accordance with wishes of rulers of state. Sovereign government — be it monarchy, aristocracy or democracy — is entitled to make decisions concerning all affairs of state. The defining feature of sovereign status is a lawmaking capability (though it also encompasses competence to levy taxes, to issue money, to establish judicial system, to create administrative structures, etc.⁵). Sovereign bodies cannot be subjected to legal orders from any other source. This absolute power is limited only — and to a rather insignificant degree — by principles of God’s law and natural law.⁶ Under Bodinian definition sovereignty is unrestricted, indivisible and unsuitable for gradation (you either have it completely or you do not possess it at all). This sentiment was succinctly expressed by John Austin who wrote that sovereign power “is incapable of legal limitation [...]. Supreme power limited by positive law is a flat contradiction in terms.”⁷ Bodin’s formulation easily translates itself into a (legal) principle of non-interference of other international entities into domestic affairs of sovereign states. The absolutist assumptions present in the above-mentioned

⁴ J. Moore, *Deciding humanitarian intervention*, “Social Research” 74, issue 1.

⁵ However, these rights simply appear to be a logical consequence of having primary lawmaking power. In other words, the general concept automatically entails a bundle of specific political rights.

⁶ J. Bodin Andegaweńczyk, *Sześć ksiąg o Rzeczypospolitej*, Warszawa 1958, pp. 88, 98, 103, 105–106, 146, 183–184, 187–188. For more information on Bodin’s theory of sovereignty see for example B. Szlachta, *O pojęciu “suwerenność” (kilka uwag historyka doktryn politycznych)*, “Civitas. Studia z Filozofii Polityki” 7, pp. 23–25, 40–63; J. Baszkiewicz, *Macht*, Warszawa 2003, pp. 75–76; A. Górski, *Idea władzy zwierzchniej w poglądach Jana Bodinusa*, “Pro Fide, Rege et Lege” 1992, no. 2, pp. 12–15; P. Mazurkiewicz, *Europeizacja Europy. Tożsamość kulturalna Europy w kontekście procesów integracji*, Warszawa 2001, pp. 360–363.

⁷ J. Austin, *The Province of Jurisprudence Determined and the Uses of the Study of Jurisprudence*, London 1954, p. 254.

theory have often made it a target of many harsh criticisms. The detractors of the classical concept of sovereignty consider it to be parochial and irreconcilable with the realities of modern world, claiming that conventional and traditional notions need to be reassessed and subordinated to contemporary necessities and imperatives.⁸ Since state's sovereignty still remains a popularly appreciated and attractive value, the critics of Bodinian paradigm are quite often unwilling to altogether renounce the very notion; instead, they attempt to introduce alternative definitions of the phenomenon. Therefore, the term is sometimes being understood as a meta-competence to distribute specific rights amongst transnational, national and subnational institutions (in consequence sovereign state may lose its title to execute certain competences without losing the sovereign status itself⁹); as a factual capability of a state to realize its political objectives, to lead an effective policy, to fulfill the needs of its citizens (which sometimes can be attained by, say, accepting international conventions which can limit a sphere of independent decision-making of a national government);¹⁰ or as having a status of equal participant in international relations.¹¹ Notwithstanding the merits and demerits of such concepts, for the purpose of this article we will adopt — unless indicated otherwise — Bodinian conceptualization of sovereignty.

After these introductory remarks we may attempt to answer the question of how the theory and practice of humanitarian intervention impacts state's sovereign status. As is quite easy to notice, there are only three possible replies. The first option would be to simply contend that the emergence of the doctrine of humanitarian intervention has absolutely no consequence or influence as far as sovereignty is concerned. While this viewpoint is adopted by a minority of commentators, its adherents raise some interesting points. We can examine this perspective by presenting position taken by Alan James, who expressly argues that humanitarian interventions do not impeach or endanger sovereign status of states subjected to them. He claims that in this context sovereignty — understood in accordance with traditional principles — equals constitutional independence, meaning “the

⁸ F.M. Deng et al., *Sovereignty as Responsibility: Conflict Management in Africa*, Washington 1996, p. 8.

⁹ See K. Wójtowicz, *Prawo Wspólnot Europejskich a zasada suwerenności w prawie konstytucyjnym państw członkowskich*, (in:) J. Kolasa (ed.), *Wspólnoty Europejskie. Wybrane problemy prawne*, part I, Wrocław 1998, p. 21. See also R. Kwiecień, *Suwerenność państwa. Rekonstrukcja i znaczenie idei w prawie międzynarodowym*, Kraków 2004, pp. 103–104.

¹⁰ See K. Szczerski, *Trzy pojęcia suwerenności. O potrzebie posiadania polskiej doktryny integracji europejskiej*, (in:) *Czy Polska ma doktrynę integracyjną?*, Kraków 1998, pp. 127–129; A. Surdej, *Granice suwerenności gospodarczej w erze globalizacji*, (in:) M. Szuldrzyński (ed.), *Kapitalizm po polsku*, Kraków 2003, p. 157; B. Łagowski, *Łagodny protest obywatelski*, Kraków 2001, pp. 145–148.

¹¹ J. Kranz, *Wspólnoty i Unia: ponadnarodowość, federalizm, subsydiarność i suwerenność*, (in:) J. Kranz, J. Reiter (eds.), *Drogi do Europy*, Warszawa 1998, pp. 40, 50; idem, *Czy Polska traci suwerenność*, “Rzeczpospolita” 13.11.1995.

situation when an entity's constitution is not contained, however loosely, within a wider constitutional scheme, but stands apart and alone." Sovereignty in such sense remains simply purely "legal status which derives from the constitutional position of the entity concerned, and is both absolute (in that it is either possessed or not) and unitary (in that its implications are far-reaching both externally and internally)." A sovereign state is entitled to participate in international relations (though the scope of an engagement is dependent upon many practical considerations, i.e. the willingness of other sovereign states to enter into such relations). Humanitarian intervention or, for that matter, any military action taken against such government which does not culminate in its annexation, occupation or legal subjugation has no bearing upon sovereign status of the object of such activities. It is nothing more than one of the ways or instruments of exercising pressure on sovereign government in order to secure particular political concessions. What humanitarian intervention does is only to decrease the scope of recipient state's rights and competences as established by international law because chief among such rights is possession of domestic jurisdiction complemented by an obligation of non-intervention on part of other states. In other words, sovereign governments enjoy a right to demand restraint from others as far as their internal politics is concerned. However, this right is not a concomitant of sovereignty but rather a consequence of it. That is the reason why "neither in logic nor in the practice of states does the diminution or disregard of these rights damage the sovereign status of the state concerned [...]. Indeed the idea of 'damaging' a state's sovereign status is quite inappropriate, as the concept in question admits only of being held or not. There are no intermediate stages to sovereign status, just as there are none to the presidential, prime ministerial, pro-chancellorial, or any other status." The only consequence of humanitarian interventions (as long as they do not lead to the creation of some provisional occupational governments) can be described as preventing the recipient state from exercising its sovereign rights, with absolutely no impact on its sovereignty *per se*.¹² According to James, the only significant doctrinal modification caused by the concept of humanitarian intervention may be an express conditioning of the right of domestic jurisdiction upon "better standard of internal behaviour" which may result in interveners being capable of throwing a bridge "over the moat of sovereign rights, behind which the domestic goings-on of states have traditionally been shielded." However — as James sums up — such an occurrence does not entail any revision of the very doctrine of sovereignty.¹³ In my opinion, this paradigm is intellectually coherent, though with one important

¹² A. James, *The concept of sovereignty revisited*, (in:) A. Schnabel, R. Thakur (eds.), *Kosovo and the Challenges of Humanitarian Intervention: Selective Indignation, Collective Action, and International Citizenship*, New York 2000, pp. 334–337. Putting it bluntly, James's theory means that, for instance, NATO action against Yugoslavia over Kosovo did not violate that country's sovereignty.

¹³ *Ibid.*, pp. 342–343.

reservation. James's approach is valid only if — and only as long as — humanitarian intervention is considered purely as a factual endeavor which is not legitimized by relevant clauses of international law. Putting it a bit differently, if there exists a legal right (or obligation) to undertake humanitarian intervention in certain circumstances, sovereignty of recipient state is doubtlessly violated or limited. Legalization of humanitarian interventions evidently encroaches upon sovereign's right to freely shape internal order without risking an interference of legal nature by outside forces. Even if we assume that international law does not currently offer a legal basis for humanitarian intervention (a contentious and controversial point, taking into account the rules of the UN Charter and of the Convention on the Prevention and Punishment of the Crime of Genocide), I think that rather sooner than later the emergence of clear-cut legal principles concerning intervening in domestic affairs of sovereign states due to human rights reasons is unavoidable. Therefore, even in the best-case scenario the solution put forward by James is only temporary. In the end we have to search for another explanation.

Looking at the issue from the doctrinal angle, the second possible answer to the question of the impact of humanitarian interventions on states sovereignty is quite straightforward. Its fundamental premise acknowledges that while the doctrine and practice of such interventions do not force us (or indeed allow us) to modify traditional understanding of sovereignty, they certainly throw the principle of non-interference in domestic affairs of state off an axiological and legal pedestal. In other words, the respect for and observance of sovereignty is no longer an axiom in international relations. While this notion is quite popular among supporters of the idea of humanitarian intervention, it is also sometimes present in the writings of authors who do not exhibit — to use a euphemism — a very enthusiastic attitude towards progressive erosion of the value of state sovereignty. A representative example of such position may be found in a book written by Michael Ross Fowler and Julie Marie Bunck, who claim (in the context which includes — among other issues — the humanitarian intervention) that regrettably “the walls of state sovereignty — once thought impregnable in regard to human rights violations — now often appear riddled with peepholes and surrounded by a noisy and hostile crowd.”¹⁴ Let us, however, focus on statements made by supporters of the notion of humanitarian intervention. It is impossible to disagree with Esref Aksu, who remarks that contemporarily we can observe two normative shifts of parallel nature. On the one hand the notion of the state sovereignty (at least in its external dimension and in traditional meaning) is being gradually set aside. On the other, international actors are constantly getting more and more inclined to assume a burden of protecting human rights. According to Aksu, there is no longer any collective expectation that sovereignty must not be ignored under any circumstances,

¹⁴ M.R. Fowler, J.M. Bunck, *Law, Power, and the Sovereign State: The Evolution and Application of the Concept of Sovereignty*, University Park 1995, p. 151.

even in the case of government perpetrating the worst imaginable atrocities against its citizens by committing gross human rights violations.¹⁵ Very similar sentiment is expressed by Neta C. Crawford, who maintains that “the development of human rights norms [...] elevates the status of the individual in world politics and challenges the inviolability of sovereignty as a legal protection for states which violate human rights.” She goes even further by saying that it can reasonably be argued that by allowing or engaging in a serious infringement of human rights the government in question simply vitiates its own sovereign status.¹⁶ As Stanley Hoffman points out, traditional norms of sovereignty and non-interference in domestic affairs are today eroded by the growing awareness of the necessity of protecting basic human rights. He calls the concepts which propose extending to the states an absolute immunity permitting them to violate the rights of their citizens shibboleths. Given a situation when government’s “condition or behavior” causes grave and massive infringements of human rights, the sovereignty of such state may be legitimately overridden. According to Hoffman, a “convenient barrier of sovereignty” can no longer serve as a proper justification of the right of state “to do mischief [...] to their own people.” In summation, collective coercive action undertaken under such conditions is axiologically substantiated, notwithstanding the fact that it constitutes an encroachment upon national sovereignty.¹⁷ Interesting angle to this problem is introduced by Daniel Philpott, who emphasizes that sovereignty is to governments “what a non-trespassing law is to private property — the broad societal agreement that bequeaths to property, or the state, its inviolability.” Such an understanding of sovereignty is a foundation of so called Westphalian (in reference to the peace treaty signed after the Thirty Years’ War) international order. The doctrine (and practice) of humanitarian intervention revolutionizes Westphalia because it abridges “the most essential prerogative of states: nonintervention” by making them accountable to a higher authority (i.e. other actors on international proscenium) “for upholding certain standards of civilized behavior.” In consequence, sovereignty loses its absolute dimension; in particular circumstances states can be subjected to the intervention of outside forces, which is a very radical revision of the most basic principles of the “constitution of international relations.” For these reasons the institution of humanitarian intervention should be treated as an exception to the general rule of “independence from outside interference.”¹⁸

¹⁵ E. Aksu, *The United Nations, Intra-State Peacekeeping and Normative Change*, Manchester 2003, pp. 88, 91.

¹⁶ N.C. Crawford, *Argument and Change in World Politics: Ethics, Decolonization and Humanitarian Intervention*, Cambridge 2002, p. 402.

¹⁷ S. Hoffman, *Sovereignty and the Ethics of Intervention*, (in:) idem et. al., *The Ethics and Politics of Humanitarian Intervention*, Notre Dame 1996, pp. 16, 18–19, 27.

¹⁸ D. Philpott, *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations*, Princeton 2001, pp. 18, 40–42, 19.

As we can easily notice, the analyzed paradigm is based on the assumption of an inevitable doctrinal clash between concepts of sovereignty and humanitarian intervention. This antinomy between two irreconcilable ideas is appositely elucidated by Nicolas J. Wheeler, who remarks that “humanitarian intervention exposes the conflict between order and justice at its starkest, and it is the archetypal case where it might be expected that international society would carve out an explicit legal exception to its rules.” The upholding of traditional paradigm concerning the desirability of respecting national sovereignty (implying the principle of non-intervention, and particularly of non-use of force, by other international entities) is axiologically doubtful in a situation when governments engage in a slaughter of their own citizens. The rule of non-intervention must not be regarded as sacrosanct; the end-result of treating it as such is granting governments a blanket permission to massively abuse individual rights within their borders. Wheeler is convinced that the notion of state sovereignty as a justification of the paradigm of absolute non-intervention (regardless of the nature of ills a humanitarian intervention attempts to cure) has already “been robbed of its legitimacy.” There is a moral responsibility to prevent or stop genocide which should not be discarded in the name of sovereignty. After all, “there is nothing natural or given about sovereignty as the outer limit of our moral responsibilities;” the boundaries of the non-interference rule should not be perceived as immutable. Whereas non-intervention ought to remain a controlling principle, it should not be conceived as an inherent right but rather as an entitlement which must “recognize concomitant responsibilities for the protection of citizens.”¹⁹ It seems that for Wheeler humanitarian intervention is sometimes a moral imperative and that the right or even obligation to undertake it can prevail over all other considerations, values or norms. An analogous opinion is expressed by Thomas G. Weiss, who suggests that “sovereignty should be exercised within the limits of human rights norms or be voided. ‘Use it responsibly or risk losing it’ summarizes the framework” of the contemporary world politics. While “sovereignty remains the basis for everyday international relations [...] it can be overruled when mass suffering or genocide occurs and the international community is prepared to act. The acceptable degree of outside interference in the domestic affairs of rogue states and of insurgents is considerably more intrusive than in the past.”²⁰ In an article written together with Amir Pasic, Weiss admits that the doctrine of humanitarian intervention sees as relatively unproblematic a situation when sovereignty is “subordinated to the demands for rescue from calamity.”

¹⁹ N.J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society*, Oxford 2002, pp. 28, 39; idem, *The humanitarian responsibilities of sovereignty: Explaining the development of a new form of military intervention for humanitarian purposes in international society*, (in:) J.M. Welsh (ed.), *Humanitarian Intervention and International Relations*, Oxford 2004, pp. 32, 37.

²⁰ T.G. Weiss, *Rekindling hope in UN humanitarian intervention*, (in:) W.M. Clarke, J.M. Herbst (eds.), *Learning from Somalia: The Lessons of Armed Humanitarian Intervention*, Boulder 1997, pp. 209–210.

While there exist serious dilemmas concerning establishment of proper normative criteria which are supposed to trigger and guide such interventions, the very principle seems clear-cut and hardly controversial: the humanitarian impulse — if it is triggered under the circumstances in which “autonomous continuation of a population under minimal standards of human dignity is jeopardized” — is legitimate in the light of ethical purposes which intervening agents attempt to attain while violating the principle of sovereignty. As Weiss and Pasic pointedly conclude, “humanitarian impulse collapses the barriers that normally separate Americans and Swedes from Bosnians and Rwandans. The moral barriers between ‘us’ and ‘them’ dissolve as we encounter naked humanity and are exposed to misery that is no longer mediated by social differences and distance. No culture, custom, religion, or ethnicity ever justifies the suffering that befalls individuals in a complex emergency. Individuals just like us [...] await assistance from those to whom they have established a direct link of common humanity by virtue of having fallen out of the social and cultural web that had made them closer to one another than they were to us. Now, as humanitarian subjects, they are equally close to all of us [...]. [That is why] Sovereignty is no longer sacrosanct. When the suffering of entire populations overwhelms their capacity to fend for themselves, we sometimes bound over the barriers of sovereignty because the victims are no longer strangers [...]. The expansion of humanitarian efforts in the post-Cold War era indicates that sovereignty is waning.”²¹

The approach described above is certainly intellectually consistent. What seems even more significant, it forces us (quite brutally) to confront the reality of moral pluralism where it is not possible to preserve or achieve all the good things at the same time. As freedom may collide with security or equality with justice, sovereignty may also clash with morality. It can even be persuasively argued that the supporters of the analyzed viewpoint propose relegating the very idea of sovereignty “to the shelf of history as a relic from another era.”²² A disagreement with such sweeping pronouncements lies at the roots of the third answer to the question concerning the relationship between state sovereignty and humanitarian intervention. The adherents of this perspective are not willing to consign the idea of national sovereignty to the dustbin of history just yet. Instead, they propose to redefine traditional categories and reformulate the concept of sovereignty so as to make it reconcilable with commonly recognized moral values and ethical obligations of international actors. Invoking the authority of (among others) Javier Perez de Cuellar and Kofi Annan, Kathleen Hill Hawk argues that there is no reason why sovereignty should not be perceived as an attribute which is deprived of any limitations. While it confers certain rights to governments as such, it does

²¹ A. Pasic, T.G. Weiss, *The politics of rescue: Yugoslavia's wars and the humanitarian impulse*, (in:) A. Flang, Jr. (ed.), *Just Intervention*, Washington 2003, pp. 111, 118–119, 121.

²² See F.M. Deng et. al., op. cit., p. 15.

not entitle them to massively, systematically and with impunity trample upon basic moral values. With rights and power there also comes huge responsibility. While in the face of humanitarian interventions the classical conceptualization of sovereignty cannot be maintained, they do not by necessity infringe sovereignty understood in less absolutist terms.²³ In similar vein Henry Shue contends that the theory of humanitarian intervention places a burden on traditional external sovereignty of states. However, the extent of latter concept can be easily reformulated by partial modification of “our understanding of the prerogatives of state.” According to classical perspective, sovereignty is “the kind of right that creates a space within which the bearer of the right is sometimes [...] free to do what is morally wrong.” Shue compares it with individual liberty which encompasses the right “to be unkind to animals, insulting to colleagues, and unfaithful to friends.” While it is “never right to do wrong,” sometimes one possesses a right to do it. On the other hand, Shue emphasizes that the boundaries of state’s sovereignty are not immovable; therefore it is entirely possible to place certain actions, like — for instance — extermination of minorities, beyond the scope of sovereignty due to their deeply immoral character. In other words, certain types of behavior “can be removed from the lists of wrongs” the sovereign state has a right to, or is entitled to commit because the moral considerations can and should influence our understanding of the idea of sovereignty which ought not be conceived as an unlimited right. Moreover, the notion of unrestrained sovereignty is “quite literally incoherent.” To believe that governments enjoy “some indefeasible and total discretion” is to ignore the fact that the system of international relations founded on such a rule would be an anarchic one in which — by definition — there are no rights, including the right to sovereignty. Therefore, if sovereignty is *ex definitione* limited (if it is to be applied equally to all states), there is no conceptual justification for not imposing on it some moral burdens which should be established with reference to basic human rights (i.e. the right not to be killed arbitrarily). Shue concludes that the right to sovereignty is viable only under a complex system of “international laws, practices, and norms that specify how states may properly behave” and that one of these rules may say that no state is allowed to commit genocide within its territory.²⁴ Analogous point is also underscored by Stephen A. Garrett, who agrees that traditionally sovereignty was interpreted as freedom from dictatorial interference. If we continue to adopt this definition, it logically follows that outside intervention in internal affairs of states based purely on humanitarian grounds — no matter how egregious the behavior of the ruling regimes — is beyond the pale in international relations (at least those between “the civilized states”). This primacy of unfettered sovereignty lies at the foundation of Westphalian order in

²³ K. Hill Hawk, *Constructing the Stable State: Goals for Intervention and Peacebuilding*, Westport 2002, pp. 14, 16–17.

²⁴ H. Shue, *Limiting sovereignty*, (in:) *Humanitarian Intervention...*, pp. 11–15, 21.

which all governments possess full and complete control over their territories and their inhabitants. Nevertheless, currently the significant alterations of this standpoint gain a lot of force and significant revisions of the notion of sovereignty are progressively on their way. The theory that citizens “have no way of remedying abuses of their persons or their lives by their own governments other than to appeal to these very same governments” must definitely be discarded because serious violations of fundamental human rights transcend the scope of traditional domestic jurisdiction; enforcement of basic standards of civilized societies can be executed by outside forces without necessarily violating the principle of sovereignty.²⁵

So the question remains — how precisely is the idea of sovereignty supposed to be modified in accordance with the discourse presented above? Two proposals seem to be of paramount importance here. The first possible solution is to extend the attribute of sovereignty to people rather than to governments (or ruling establishments). Looking at the issue from this angle, it is rational to conclude that sovereignty can be infringed both by outside and indigenous forces in the same way as national wealth can be appropriated both by domestic and foreign entities. In this context humanitarian intervention may be considered an effort to protect and defend sovereignty of the people against its abuses by oppressive government.²⁶ The second concept involves the introduction of the idea of “sovereignty as responsibility.” As Jennifer M. Welsh explains, sovereignty should not be defined as an “unrivalled control over delimited territory and the population residing within it” but rather as a right which is “conditional upon a state demonstrating respect for a minimum standard of human rights.” It is a primary duty of every government; if this obligation remains unfulfilled, other actors in international relations ought to assume a burden of securing these rights. Welsh sums up by saying that if the objective of the intervention is not an achievement of particular political goals but safeguarding of human rights (and of international stability), such an action can be reconciled with a doctrine of state sovereignty.²⁷ Finally, the position of Dominik Zaum also deserves a mention. As he remarks, under the conception of sovereignty as responsibility governments possess certain obligations of moral nature towards their citizens which “need to be fulfilled to legitimize the exercise of authority and the rights associated with sovereignty. The lack of authority [...] can serve as a justification for international intervention [...]. The assertion that the state’s failure to live up to its responsibilities not only allows the population to resist the state [traditional notion of *ius resistendi* — Ł.M.], but also the international community to intervene on society’s behalf, reflects the view that fundamental human rights are universal, and their protection the concern of the whole international

²⁵ S.A. Garrett, *Doing Good and Doing Well: An Examination of Humanitarian Intervention*, Wesport 1999, pp. 49–51, 54, 66.

²⁶ See *ibid.*, p. 54.

²⁷ J.M. Welsh, *Taking consequences seriously: Objections to humanitarian intervention*, (in:) *Humanitarian Intervention...*, pp. 52, 56–57.

community.” In other words, under analyzed theory the sovereign status becomes conditional upon observing essential human right norms. In case of systemic or grave violations of such rules, the state in question should no longer be “regarded as a full member of the international community.” Zaum concludes that such an approach constitutes a crucial element of our contemporary civilization standards.²⁸ Judging these proposals from personal standpoint, I admit to being quite skeptical towards such revolutionary linguistic changes (I think that oftentimes they evoke semantic chaos and make public debate more obscure). There is, however, nothing intrinsic in understanding of certain terms used in political theory. There is no ultimate yardstick which enables us to unequivocally state that this or that definition of sovereignty is correct or incorrect. That is why the concept analyzed here is logically coherent.

In conclusion, I would like to reiterate that the relationship between humanitarian interventions and state’s sovereignty is by no means obvious. In particular, we cannot pretend that this issue does not pose serious political-and-doctrinal dilemmas. Due to its crucial importance both on theoretical and practical level, it certainly deserves an in-depth examination and scrutiny.

²⁸ D. Zaum, *The Sovereignty Paradox: The Norms and Politics of International Statebuilding*, New York 2007, p. 39.