

The War in Iraq: Justified as Humanitarian Intervention?

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The Theodore M. Hesburgh, C.S.C., Lectures on Ethics and Public Policy

The Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame launched the Theodore M. Hesburgh, C.S.C., Lectures on Ethics and Public Policy in 1995. The annual lectures honor the lifetime commitment of the President Emeritus of the University of Notre Dame to the promotion of ethical values in public policy and his continuing support of the Institute.

Previous lecturers have included Stanley Hoffman, Dillon Professor of the Civilization of France at Harvard University; Jean Bethke Elshtain, Rockefeller Professor of Social and Political Ethics at the University of Chicago Divinity School; Richard Falk, Milbank Professor of International Law and Practice at Princeton University; Michael Ignatieff, an independent writer, historian, and broadcaster; Martha Nussbaum, Ernst Freund Professor of Law and Ethics at the University of Chicago; Saskia Sassen, Professor of Sociology at the University of Chicago; Anthony Lake, Distinguished Professor in the Practice of Diplomacy at Georgetown University and former Assistant to the President; Freeman J. Dyson, Professor Emeritus of Physics at the Institute for Advanced Study; and Michael Walzer, UPS Foundation Professor at the Institute for Advanced Study.

Introduction

I am particularly honored to give a lecture in Fr. Ted's name. For the longest time you have been one of my heroes for your vision about the role of civil society in addressing global security issues. I often think of Human Rights Watch as part of the tradition that led to the Kroc Institute and the various institutions that you have built at Notre Dame. To me, these institutions represent a determination to see civil society play this important role, not simply by picketing or demonstrating, but by bringing the highest levels of academic achievement, deep concern with ethics, a commitment to activism, and a healthy distrust of government monopoly in these important areas. I feel proud to share in the tradition that you have established so beautifully here at Notre Dame and privileged to give this lecture today.

I am going to address the question of whether the war in Iraq can be justified as a humanitarian intervention. If I were asking this question a bit over a year ago, you might ask me, "What are you talking about?"

At that time no one even pretended that the war was about humanitarian intervention, that the war was designed principally to spare the Iraqis the repression of Saddam's regime. At that point, if you believed the Bush administration, the war was about Saddam's supposed weapons of mass destruction, about Saddam's alleged links with international terrorism, or perhaps about creating a model for democracy in the Middle East. Human rights were occasionally mentioned only as an after-thought, part of an effort to tar the enemy, to show that Saddam was the worst of the worst.

Here we are a year later and no weapons of mass destruction have been found. There is no evidence of Saddam's link to international terrorism, no link with Al-Qaida,

no link with Bin Laden. As for Iraq as a model democracy, that's still a nice dream, but we are quite a ways from that. So increasingly what's left when the Bush administration justifies the war in Iraq is the argument of humanitarian intervention, the argument that Saddam was a terrible despot and thus deserved to be overthrown.

I come to the examination of this question from a perspective that you may not anticipate, in that I am a proponent of humanitarian intervention in general, as is Human Rights Watch. We are different from a pacifist organization, which might oppose going to war in any circumstance. We believe that there are times when war is necessary. Particularly if you are facing genocide or comparable mass slaughter, there is a duty to go to war to stop that. At HRW we have advocated military intervention to stop such slaughter in a number of cases, perhaps most prominently the case of Rwanda, to try to stop the genocide of 10 years ago. More successful was our advocacy of humanitarian intervention in the case of Bosnia, again to try to stop the genocide that reached its climax in the massacre of 7,000 Bosnian men at Srebrenica.

So there are times when we have indeed called on the international community to act militarily to try to save lives. I thus come at the question of whether the Iraqi war can be justified as a humanitarian intervention from the perspective of someone who believes in humanitarian intervention as an option, and who wants to make sure that that option is available when we really need it.

But it is difficult to justify the war in Iraq as humanitarian intervention. Because of that difficulty and because of the enormous unpopularity of the war – certainly around the world and increasingly in the United States – I fear that this new effort to justify Iraq as a venture in humanitarianism is going to hurt the institution of humanitarian

intervention, that it will be more difficult next time for us to call on military action when we need it to save potentially hundreds of thousands of lives.

It is from that motivation that I speak to you today. What I would like to do is stand back as dispassionately as I can, to get past the enormous emotions that surround the Iraq war, and ask analytically what should justify in principle humanitarian intervention, and whether the Iraq case meets that test.

Six-part test

What I will do today is to outline a six-part test for what in my view a justifiable humanitarian intervention is. One can actually think of this test as one-plus-five in that I think there is one paramount test and five subsidiary tests that taken together allow us to make an assessment of whether a humanitarian intervention is necessary.

Before I go through those tests, let me briefly state two factors that often come up when people discuss humanitarian intervention, but I believe are not decisive on this question. One issue is whether the tyrant in question? in this case, Saddam ? was really the worst of the worst. This is often put in terms of: How can you justify going into Iraq when three million people have just died in Eastern Congo? Or, How can you justify going into Iraq when life under the North Korean regime is much worse? There are various permutations of that argument. I understand the impetus behind it. Certainly one should push for a response to the plights of those most in need. But I am also reluctant to say that while the political will may be there to save this people from a small genocide, we shouldn't help them because over here there is a big genocide. The answer to that problem is to try to address both, not to turn our backs on people who are legitimately in

need simply because other people may be more in need. The answer is more action, not less action.

One also often hears the argument of dirty hands. That is: How can you trust the United States to go to war in Iraq, when the U.S. has been complicit in so many of Saddam's atrocities in the past? If you look back to the Iran/Iraq war when Saddam was using chemical weapons against Iranian soldiers, the U.S. was providing intelligence information to make it easier for Saddam to use those chemical weapons. If you look at 1988 during the genocide against the Kurds when Saddam murdered 100,000 Kurdish men and boys, the U.S. responded by sending him billions of dollars in commodity credits and loan guarantees. If you look at the suppression of the uprising in 1991 when Saddam massacred 30,000 Kurds and Shi'a who had risen up in response to President Bush's call for them to overthrow Saddam, the U.S. responded by doing nothing. Indeed (Gen. Norman) Schwarzkopf gave Saddam permission to use helicopters that helped him to suppress the uprising. So, yes, indeed the U.S. has dirty hands. I am not convinced that alone is a reason not to consider the Iraq war a humanitarian intervention. Because if one could otherwise justify intervention today, if, say, the slaughter in March 2003 had been sufficiently grave that one would have wanted a humanitarian intervention, I think it would be callous to say to the Iraqi people: No, sorry, we are not going to let the U.S. save you because it has dirty hands, based on its conduct in the past.

Yes, I am ashamed of past U.S. history in Iraq but I don't think the "dirty hands" argument is sufficient to say that the U.S. should not be permitted ever to try to justify the war in Iraq as humanitarian intervention.

Now, I put forward my six-part test.

A large-scale slaughter?

For me, the dominant criterion is whether the people who are supposedly being saved face ongoing or imminent mass slaughter. Is this genocide or comparable mass slaughter on political grounds? If this test is not satisfied, it is very difficult to justify a humanitarian intervention on other grounds.

This is a high bar, but I believe it is justified to set a bar of that height because we can't forget that war is about killing people even if you dress up war with the nice terminology of humanitarian intervention. War is about going in with guns blazing, killing people. At best, it means killing people in the other's military, but more than likely a good number of civilians will be killed as well.

As I say, I believe that war is sometimes justified, but I am very reluctant to take that step. If you are going to justify killing people, one can only justify that by preventing a potentially larger loss of life.

Did Iraq, in March 2003, satisfy that test? No.

I've already noted that there were times in the past when Saddam committed crimes against humanity and even genocide in 1988. If we had been talking in February 1988 rather than March 2003, I would have said, "By all means." Saddam was in the process of dropping chemical weapons on Kurdish villages in the North, rounding up men and boys, putting them in concentration camps, trucking them out to remote locations and executing them. I would certainly have encouraged international intervention at that moment to stop that kind of killing. Similarly, if you look at March 1991, the war with Kuwait had just ended and Saddam had just been thrown out of

Kuwait, the uprising was taking place at the first President Bush's call, and these uprisers were being ruthlessly suppressed, at that point humanitarian intervention might also have been justified.

But come March 2003, there was no killing of that sort taking place and there had not been killing of that sort taking place for a long time. That's not to say that Saddam was a nice guy; he was an awful dictator. He was certainly engaged in what you might call "smaller scale killing," extensive use of torture, large scale imprisonment, a lot of things that it is critically important to try to stop. Frankly, the international community did too little to stop these abuses during those years. But genocide and large-scale slaughter were not taking place and hadn't been for some time, so there was no way that such slaughter was either ongoing or imminent. Some people will say, fair enough, he wasn't killing people on that scale at that moment, but this is a guy who we know had killed big time in the past. Can't you go to war in order to stop him from doing it again? I would say "no," absent evidence of imminent renewed slaughter. You do want to try to prevent a recurrence of genocide or crimes against humanity. But, again, given that war involves the deliberate killing, I would not advocate military intervention on speculative grounds to stop the possibility of a recurrence of genocide. Other means should be used.

In particular, Saddam was being closely watched. With the no-fly zone in the north and the no-fly zone in the south, there was an implicit threat of further intervention. Saddam was contained in terms of these worst atrocities.

What about punishing Saddam? He committed genocide. Isn't it justifiable to go to war to capture Saddam to bring him to trial for the crimes against humanity that he committed in the past?

I come at this question with a mixed heart, because I spent a good part of my time in the mid 1990s trying to get Saddam indicted. My organization, just after the 1991 uprisings, went into northern Iraq and collected soil samples, demonstrating that he had used chemical weapons. We exhumed mass graves to prove that people had been massacred. We airlifted 18 tons of stolen Iraqi Secret Police documents from northern Iraq to the U.S. and spent two years going through them to demonstrate in documentary terms that genocide had taken place. We interviewed survivors of the genocide, including seven young men who had been on the execution lines and miraculously survived. Through this effort, we had put together an enormous, clearly documented case of genocide.

Then I spent about a year going around to various capitals trying to convince somebody to indict Saddam. At that point, no one would. They were worried about future commercial relations with a post-sanctions Iraq, they were worried about terrorism, they were worried about losing their influence in the Middle East, about the cost of litigation ?whatever the reason, no one would do it. So I very much favor indicting Saddam, but I would draw a line between indicting him and going to war to arrest him. As much as I would like to see Saddam in the dock, as much as I rejoice that he may soon be in the dock, I don't think that retrospective justice is enough to justify the deliberate taking of life that war involves.

I come back again to my primary assertion: Humanitarian intervention is justified as a threshold matter only if it is necessary to stop ongoing or imminent mass slaughter. With that threshold test not met, that in many respects is dispositive of the overall

question. But let me go through the other five tests, so that we can better assess when we might feel comfortable calling for military action.

Force as the last resort

The next test is that military force should be the last resort. That is almost intuitive. We shouldn't rush to war. If there are alternative methods to stop the slaughter that are at least reasonably calculated to succeed, we should try those first.

I am willing to recognize that you are not going to go through your entire bag of tricks as people are being killed left and right. So the longer mass killing persists, the less patience you will have for trying alternative ways to stop it. In March 2003, we were not facing any kind of mass slaughter in Iraq. So we did have the luxury of trying alternative ways to contain Saddam. And there were a number of alternatives that were not tried.

The truth of the matter is that the war was really about the supposed weapons of mass destruction. The real question of last resort before the Security Council was about the United Nations weapons inspectors. Should you give them more of a chance or not? That's an interesting question, but different from the question of whether war could have been justified in humanitarian terms. For me that last resort option in human rights terms that was not tried in advance of war – the option of trying to stop Saddam as a tyrant as opposed to stopping him as potential possessor of weapons of mass destruction – was the prospect of justice. No one had seriously tried to indict and thereby discredit Saddam. I say this not believing in any magical, mythical form of justice. I don't think that if you hand out an indictment, that solves everything. But we tend to underestimate the power

of the stigma that attaches to an international indictment for genocide or comparable crimes.

In the last few years we have had two examples in which an indictment of a sitting head of state has played an important role in facilitating his departure. This happened, first, with Slobodan Milosevic. A significant part of the successor government's ability to send him out of the country, to get rid of him as a political force, stemmed from the fact that he had been indicted for genocide and thereby discredited in the eyes of the international community. He had become a liability for Serbia, an obstacle to normalized relations with the West.

More recently, Liberian President Charles Taylor was indicted on the eve of peace talks. It was simply a matter of months between that indictment and when he had to flee the country. It became clear that he was an utterly discredited leader, that Liberia risked a heightened civil war if he didn't leave, that he simply had no future as a head of state. A man who seemed to be firmly running the show was in a couple of months sitting in exile in Nigeria, because he had been indicted by the special court for Sierra Leone.

So these little pieces of paper – these indictments – can be powerful.

In the case of Saddam, I don't pretend that it would have been easy. Let's imagine that he had been indicted for genocide by an international criminal tribunal for Iraq that the Security Council had set up or by some other institution of international authority. I don't believe that he would have been out on his tail the next day. But the indictment would have signaled to those around him that Iraq would have had no prospect of normal relations with the rest of the world so long as Saddam was at the helm. While we know how dangerous it was to rebel against Saddam – indeed, there

were various real or perceived rebels who found themselves summarily executed over the years – there might have been enough to tip the balance or at least to prevent Saddam from engaging in further slaughter. There was no guarantee, but the absence of ongoing slaughter gave us the luxury of taking a little time to try out different options, and indictment was an option that should have been tried before rushing to war. But, of course, it wasn't tried. So the Iraq war fails the first of the five secondary tests that I would look to in determining whether it was a humanitarian intervention.

Motive

The second test is motive. Here, I would ask that the motivation behind the war be dominantly humanitarian, not purely humanitarian, because I don't believe that purity of motive exists, and indeed few governments are willing to expend the blood and lives of their soldiers for something where there is no other national interest involved. That's the rare case. So I accept that there will be some ulterior motives.

But it is important, in assessing whether a war is humanitarian intervention, to ensure that at least the dominant motive is humanitarian.

That's important not because I want to look into the inner soul of the president of the invading country, but rather because motive matters in real-life terms. The motive of the intervening government will tend to dictate a whole variety of decisions made on the battlefield. If humanitarianism is your dominant motive, you tend to make those decisions in a way that is most protective of the civilian population. If you go in for ulterior motives you tend to make those decisions in ways that might be more self-serving, more dangerous to civilians.

We know that relieving the suffering of the Iraqi people was not the dominant motive, nor even the dominant stated motive at the time. It was very much a subsidiary factor. Did that matter? I think it did. Let me give you a few illustrations of the way that motive affected the way the war was waged to the detriment of the Iraqi people.

First, if humanitarianism had really been the guiding principle, Defense Secretary Donald Rumsfeld would not have been using the Iraq war as the place to prove his theory that a leaner, mobile, more flexible, more rapid, more lightly staffed invading army was the way to go. Rumsfeld, as many of you that follow these debates know, hates the army. He hates its clunkiness, its heaviness, its slowness. He believes in quick reaction, mobile units. He loves special operations. He prefers the Air Force or high-tech gadgetry to the traditional army. So you may remember that when the Army head at the time, Gen. Eric Shinseki, was testifying in Congress he was asked how many troops will be needed for the then-forthcoming Iraq war, and he said several hundred thousand. He was immediately slapped down by Rumsfeld. That was not the right answer as far as Rumsfeld was concerned.

Rumsfeld's answer was 150,000, max. It turned out that 150,000 max was enough to win the war. Saddam toppled quickly; the Iraqi army was no contender whatsoever. But 150,000 was no where near enough troops to win the peace, and we have been suffering those consequences ever since.

Those soldiers who dashed to Baghdad were utterly exhausted when they got there. They could not continue fighting. They were not in any position to secure weapons depots, secure government buildings against looters, or prevent a general aura of lawlessness that pervaded Iraq in the days and months after the government fell.

An invasion that had been motivated genuinely by humanitarianism would have gone in with something closer to Gen. Shinseki's numbers. It would have made sure that, when they got to Baghdad, the fighting forces would have been replaced with policing forces who could secure the peace and make sure that these weapons depots were not emptied, only to come back to haunt American soldiers as well as civilians throughout Iraq. They would have made sure that, in those critical few days after the war was won and the regime toppled, an atmosphere of lawfulness was established, not an atmosphere of chaos. Once you break that aura of invincibility, once you make clear that in fact the Americans are not really in charge because they are so lightly staffed, it is difficult to reestablish order.

So, an invasion that had been motivated mainly by humanitarianism would have gone in with more troops, with different troops, policing troops, following on the war-fighting troops. It would have gone in with different orders, not just orders to topple the government and secure the oil ministry, which was of course well guarded, but orders to secure the other ministries, secure the weapons depots, and secure the people of Iraq.

We are also seeing the consequence of this non-humanitarian motivation in the way that the question of bringing Saddam to justice is playing out. The United States certainly agrees that Saddam should be brought to justice, there is no question about that. The big question, though, is: What kind of tribunal do you establish? Anybody looking at this question from the perspective of the welfare of the Iraqi people would say it is essential that Saddam be brought to justice but it's important that he be brought to justice fairly, that his trial show scrupulous regard for due process and the rule of law. There

should be no question about the legitimacy of his trial once he is convicted. That is the best way to seize the opportunity of Saddam's trial to establish the rule of law.

Unfortunately, the Bush administration has not taken that route. Because if you wanted a genuinely fair trial, one that was unquestionably professional, you would bring in some of the international jurists who over the last decade have developed considerable expertise in trying cases of this sort. It is not easy to put together a case on genocide; I can speak from personal experience. People are needed who have done this already and who can ensure that Saddam's crimes are laid forth comprehensively and that they are tried in a fair manner.

The Bush Administration will have nothing to do with these international jurists because it hates international justice. It particularly hates the International Criminal Court because, unlike other international tribunals for Yugoslavia, Rwanda or Sierra Leone, the International Criminal Court at least theoretically could apply to Americans. The Bush administration wants nothing to do with that court. It fears that even though the International Criminal Court will have nothing to do with Iraq because it has no technical jurisdiction there, an international criminal tribunal for Iraq might somehow lend legitimacy to this whole project of international justice and thereby indirectly build up the prestige of the International Criminal Court.

Because the Bush administration wants to avoid that, it has decided to push what it calls an Iraqi-led tribunal, meaning that only Iraqi jurists will be in charge of Saddam and his henchmen. In principle, you would say: What's wrong with that, he's their criminal, shouldn't they be able to prosecute him? The Human Rights Watch team in Baghdad has spent quite a bit of time talking to Iraqi lawyers. We have yet to find an

Iraqi lawyer who remembers a criminal trial that has lasted more than a day and half.

There is no capacity in Baghdad to try a case as complex as one for genocide, let alone to try it fairly. That doesn't seem to matter to the Bush Administration, because its motive here is not one primarily of humanitarianism; it has other concerns, such as avoiding international justice.

So motive matters. My fear is that this great opportunity to build up the rule of law in Iraq ? to show that justice can be done right, to set a positive precedent ? is being squandered. In fact, I fear what we are going to get is an Iraqi-led kangaroo court, a show trial. I hope not. We are doing everything we can to avoid that. But because of the Bush Administration's refusal to countenance an international tribunal, even one that has mixed international-local involvement, we have a much greater risk of undermining rather than bolstering the cause of the rule of law in a future Iraq. So that is why motive does matter as a justification for humanitarianism.

Respecting international law

A third factor that I would look at is the way that the war is carried out. Does the invading force scrupulously respect international humanitarian law, or the laws of war?

I say this because none of us would want to have, in the name of saving people from genocide, a war that goes and slaughters a bunch of civilians

There's no guarantee against civilian casualties even if you scrupulously abide by the Geneva Conventions. Mistakes happen, accidents happen, civilians die. So it's not a zero-tolerance test. Nonetheless, you do want faithful adherence to international

humanitarian law to minimize the risks to civilians. International humanitarian law is designed to spare civilians as much as possible the hazards of war.

Did the coalition's invading forces in Iraq abide by humanitarian law? In many respects, yes. They were particularly good when it came to attacking fixed targets that they could plan for. So if it was defense headquarters or a particular weapons facility or a particular concentration of troops, they were very accurate. The Air Force has this down to a science. They not only choose the kind of weapon that is most likely to make the building implode rather than explode so there are fewer casualties around it, they choose the time of day when there will be fewer people in the building, they choose the trajectory so, if they miss, the bomb is more likely to go into an empty lot rather than a school. They are very good at attacking these planned targets.

Where the U.S. military fell short of the requirements of humanitarian law was when it came to attacking targets of opportunity ? emerging targets, to use Air Force parlance.

I'll highlight two categories of targets where I believe the U.S. invading forces fell short in significant ways of the requirements of international humanitarian law. One had to do with the so-called "decapitation strikes." These were the efforts to bomb and kill Saddam and his senior leadership. The commander-in-chief is a legitimate military target, as is anybody in the military chain of command. So my objection is not to the idea of trying to kill Saddam per se.

The problem was in the way they tried to identify where this Iraqi leadership was. They used a very imprecise method. They figured out that the Iraqi leadership liked to use satellite phones to communicate. Each of these phones had a global positioning

device on it, which would give out signals, so they could figure out where that phone was. The problem is that they could only figure that out roughly. They could determine within a radius of 100 meters with some assurance that that phone was in that radius. If you take a football field and imagine holding on to one goal post and swinging the whole football field in a circle, that would be a circle with a 100-meter radius. If you are in the middle of the desert there is probably only one vehicle or one person in that radius and you aim and try to get that person. But if you are in the middle of a city there could be a lot of buildings in that 100-meter radius. For the most part, Saddam was not hanging out in the desert, he was hanging out in cities. So they were firing precisely with these very accurate weapons but they didn't quite know what they were firing at. They fired anyway.

That is the definition of an indiscriminate attack, an attack that treats an entire area as a target when you only have one point within it that's really the target. There were 50 attempts to kill Saddam and his henchmen. How many do you think succeeded? Zero. They were 0 for 50. Scores of civilians died, because they used this inexact method to locate the target. That is one example where they simply didn't do everything feasible to avoid civilian casualties; they never should have been pulling the trigger in those cases without knowing more precisely where the target was in these heavily populated areas.

Let me give you another example in which the invading forces did not strictly abide by humanitarian interventions law. This has to do with the use of cluster munitions.

Many of you are probably familiar with cluster bombs; this is something that Human Rights Watch and others have been campaigning about for some time. With these bombs, a canister is dropped from the sky and it opens and scatters bomblets over a wide area. Each hits the ground ? highly explosive, highly volatile, very deadly. If these are dropped in the middle of the desert, odds are it's probably only a military target that is in the vicinity. But if they are dropped in populated areas they get scattered over houses, schools, churches and a lot of civilians die.

Human Rights Watch has been working with the Air Force to try to get them to stop using cluster bombs in populated areas. We found that in the Yugoslav war a quarter of the civilians killed by NATO bombing died because cluster bombs were used in civilian areas. After pressing and pressing, we got the Air Force to significantly cut back on the use of cluster bombs in populated areas of Afghanistan and virtually to stop using them in Iraq in populated areas. The problem is that the Army wasn't paying attention and evidently no one in the Air Force side of the Pentagon talked to anyone in the Army side of the Pentagon. The Army went into southern Iraq and used cluster munitions extensively in populated areas. They would fire them not from planes, but from artillery. There was something called the multiple launch rocket system, six rockets in a volley sent off all at once. They tended to drop 3,800 cluster sub-munitions in a one-kilometer radius, a huge area and a huge number of sub-munitions. These were raining down on neighborhoods. Hundreds of civilians died.

The Army did this in response to incoming artillery fire, but they didn't shoot back with something of precision – a unitary artillery shell – or call in close air support. They did not do a variety of things that would have allowed them to pinpoint that

incoming artillery fire. Those other approaches might have posed greater risk to the U.S. soldiers, but nonetheless would ensure that there would have been fewer civilian casualties. Instead, the Army took the easy way out. They simply scattered the entire area with these sub-munitions.

So these are two examples of ways in which invading forces did not scrupulously abide by international humanitarian law. Which makes it all the more difficult to argue that this was a humanitarian intervention. The means were not consistent with the stated humanitarian end.

Will people be better off?

A fourth factor that I look to is a simple question about the people of the country to be invaded. Is it reasonable to believe that they are going to be better off after the invasion than before?

A question like that stops us from contemplating humanitarian intervention in a place like Chechnya. While awful things are happening in Chechnya, if the consequences of invasion are nuclear war, nobody's better off. That admittedly introduces a certain inconsistency. It's unfortunate, but there are times when you can't reasonably say that the world will be better off had this invasion taken place. In the case of Iraq, though, if you go back to March 2003, I think at that stage it was reasonable to believe that the people of Iraq would be better off with Saddam overthrown, just because Saddam was so awful.

It clearly is looking like that may not be the case. It's increasingly possible to imagine Iraq falling into chaos and civil war that may even be worse than Saddam,

difficult as that is to imagine. Certainly if the invading force had been staffed up sufficiently so that it was able to deal with the chaos of the downfall of the regime, today's violence would likely have been less. But, nonetheless, I think this is one that we will have to give to the Bush Administration. From the perspective of a year ago, it was reasonable to think that the Iraq people would be better off without Saddam despite the chaos of an invasion than to allow the oppressive status quo to continue.

That is one factor that might militate in favor of calling this humanitarian intervention, but it's only one out of six factors, so it is hardly decisive.

Multilateral support

The final factor that I look to is that I would generally want multilateral approval before humanitarian intervention goes forward. By this I don't mean a coalition of the willing, which means "Whoever agrees with me, stand up." That is not good enough. But if there is a significant existing multilateral body with moral authority in the relevant region, I would look to that body to approve a humanitarian intervention, ideally before moving forward.

In the best of cases this would be the UN Security Council, but in theory it could be other bodies as well. You can imagine the Organization of American States speaking for Latin America or the African Union speaking for Africa, etc. I would prefer such multilateral approval, but I wouldn't insist on it. Particularly in the case of the Security Council, I am aware of how difficult it is to get the Security Council to act, and there is a tendency for China to veto anything that looks like a humanitarian intervention in a place that resembles Tibet. Or for Russia to veto something that looks like humanitarian

intervention that resembles Chechnya. The French are inclined to veto anything that looks too American. There are a lot of other agendas in the Security Council.

I think it is better for the Security Council to sign off on humanitarian intervention because I see it as a much better way to test a number of these factors that I have mentioned: To test sincerity of motives, to make sure that adequate preparations are made, to ensure that intervention was really a last resort option, to test the battle plan to make sure that civilians will be maximally spared. Those are all the kinds of things that a good solid debate in the Security Council should address.

But because of the parochial veto, because any one of the permanent five Security Council members can say no for whatever ridiculous reason they have, I would not insist on Security Council approval. I'd be more likely to insist on it in a less urgent situation. But I think back to the Rwanda genocide, and even though the Security Council was utterly paralyzed, I would have been happy had anyone gone in to stop the genocide, even if they couldn't have gotten that multilateral approval. In the case of Iraq, given that there was not ongoing slaughter, one would feel more comfortable insisting on Security Council approval. Yet approval was never forthcoming, as we all know.

Conclusion

So where does this leave us? If you look at my one-plus-five test, there was not imminent or ongoing slaughter. Humanitarian intervention was not the last reasonable resort to address Saddam's tyranny. Humanitarianism was not the dominant motive of this intervention. The intervention did a decent job of respecting humanitarian law but fell short in several important respects. There was not multilateral approval. The only

positive thing you can say is that probably the people of Iraq are better off with Saddam gone. But that one factor in the absence of the other five was not sufficient in my view to call this humanitarian intervention.

I come to this conclusion not just to score political points. I come to this conclusion because I want to make sure that humanitarian intervention is available when we need it. I am very fearful that the governments of the world are going to be much more reluctant to intervene militarily tomorrow because of this inappropriate justification of the Iraq war yesterday. In the future we are going to need humanitarian intervention as an option. Just today, my organization is working intensely trying to draw international attention to the humanitarian crisis in Darfur in Western Sudan. A million people there have been displaced and estimates are that 20 to 30 percent of them could die because of exposure, malnutrition and the like unless urgent steps are taken to provide them with relief and stop the marauding of Sudanese government-sponsored militia, which have been behind the persecution in the last year of ethnic groups in that region. We may need humanitarian intervention.

Before the Iraq war, people like Michael Ignatieff spoke about humanitarian intervention as being dead following the September 11 terrorist attacks. In fact, it wasn't. We had humanitarian intervention of a more consensual sort ? not invasions, but interventions where forces were invited in and therefore the standards are more lenient. We had those in Liberia, Eastern Congo, Ivory Coast all within the last couple of years and, going back a little further, in Sierra Leone. Even with heightened security concerns because of terrorism, the world is willing to act humanitarily in a military way. I worry that the Iraq war risks discrediting this whole project of humanitarianism if we don't

soberly recognize that, despite humanitarianism now being cited to justify the Iraq war, humanitarianism is not a justification that survives critical scrutiny in that case. It does not meet the six-part test I outlined today.

So, for the sake for saving this important institution, I think it is important to speak out when the Bush Administration tries to justify the Iraq war as a humanitarian intervention and say, “No, that is not what it was.”