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0521804647 - Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law

Anne Orford

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Reading Humanitarian Intervention

Human Rights and the Use of Force in International Law

During the 1990s, humanitarian intervention seemed to promise a world in which democracy, self-determination and human rights would be privileged over national interests or imperial ambitions. Orford provides critical readings of the narratives that accompanied such interventions and shaped legal justifications for the use of force by the international community. Through a close reading of legal texts and institutional practice, she argues that a far more circumscribed, exploitative and conservative interpretation of the ends of intervention was adopted during this period. The book draws on a wide range of sources, including critical legal theory, feminist and postcolonial theory, psychoanalytic theory and critical geography, to develop ways of reading directed at thinking through the cultural and economic effects of militarised humanitarianism. The book concludes by asking what, if anything, has been lost in the move from the era of humanitarian intervention to an international relations dominated by wars on terror.

ANNE ORFORD is Associate Professor in the Law School at the University of Melbourne. She researches and teaches in the areas of international human rights law, international economic law, psychoanalysis and law, postcolonial theory and feminist theory.

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University of Melbourne



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UNIVERSITY PRESS

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PUBLISHED BY THE PRESS SYNDICATE OF THE UNIVERSITY OF CAMBRIDGE
The Pitt Building, Trumpington Street, Cambridge CB2 1RP, United Kingdom

CAMBRIDGE UNIVERSITY PRESS
The Edinburgh Building, Cambridge, CB2 2RU, UK
40 West 20th Street, New York, NY 10011-4211, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
Ruiz de Alarcón 13, 28014 Madrid, Spain
Dock House, The Waterfront, Cape Town 8001, South Africa
<http://www.cambridge.org>

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First published 2003
Reprinted 2004

Printed in the United Kingdom at the University Press, Cambridge

Typeface Swift 10/13 pt. System L^AT_EX 2_ε [TB]

A catalogue record for this book is available from the British Library

ISBN 0 521 80464 7 hardback

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Preface

I have been blessed with the support of many family, friends, colleagues and students during the writing of this book. The shape and direction of my thinking about humanitarian intervention owe a great deal to my good fortune in being offered my first academic position at the School of Law and Legal Studies at La Trobe University in 1993. At that time, La Trobe was home to a community of many of the most exciting and creative critical and feminist legal scholars in Australia. My inspiring colleagues, in particular Greta Bird, Sue Davies, Ian Duncanson, Judith Grbich, Adrian Howe, Rob McQueen, Andrea Rhodes-Little and Margaret Thornton, provided me with a constant source of friendship, and taught me the great pleasures and responsibilities of critical scholarship and of engaged and innovative teaching. I was encouraged and stimulated in the later stages of the work on this project by my friends, students and colleagues at the Australian National University and the University of Melbourne, particularly Philip Alston, Jenny Beard, Jennie Clarke, Belinda Fehlberg, Krysti Guest, David Kinley, Ian Malkin, Jenny Morgan, Dianne Otto, Sundhya Pahuja, Jindy Pettman, Martin Phillipson, Kim Rubenstein, Peter Rush, Gerry Simpson and Maureen Tehan. Michael Bryan and Michael Crommelin at the University of Melbourne have been supportive of the project in many ways, and have made it possible for me to combine academic life with the pleasurable demands of caring for young children. My thanks also to Dimity Kingsford-Smith, David Kinley and Stephen Parker for allowing me to spend a research semester finishing the book at the Castan Centre for Human Rights Law, Monash University. My thoughts on the future of human rights and economic globalisation have been profoundly influenced by the experience of teaching and engaging with students at the University of Melbourne,

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the Australian National University, La Trobe University and the 1998 Academy of European Law at the European University Institute.

The book has also been shaped by ongoing conversations and careful readings that have informed my ideas about law, fantasy, human rights, feminism, economics, internationalism, bodies, the imaginary, militarism, colonialism, masculinity, and much more. My heartfelt thanks to: Judy Grbich for her insightful comments on draft chapters, for always asking the right question and for the example of her scholarship; Andrea Rhodes-Little who has helped me to make many of the connections in this book and to find 'the words to say it'; Ian Duncanson for being such a generous and thoughtful reader; Greta Bird and Adrian Howe, who reminded me at an important moment that it is possible to make meanings of human rights outside those deemed legitimate by the officials of the new world order; Peter Rush for coffee sessions and 'bibliographic digressions'; Karen Knop for her responses to earlier versions of this text and her assurances that one day I would submit the manuscript; Christine Chinkin and David Kennedy, for their helpful comments on an earlier version of this manuscript and their encouragement for the project; Philip Alston for his engagement with my ideas and support for my work over many years; Krysti Guest for her steady focus on the economic and our many Canberra conversations; Jenny Beard for her insightful comments on this text in its varied forms and the journeys we have taken together, and Ian Malkin for his friendship and generosity.

The ideas in this book have been presented at numerous conferences and workshops over the years, but those people involved in two such events in particular shaped my thinking and this text – I am grateful to the organisers and participants at the United Nations University Legitimacy Project Workshop held in Tokyo in 2002, and the Academic Council on the United Nations System/American Society of International Law Workshop on Global Governance held at Brown University, Rhode Island in 1996. My thanks also to Jenny Beard, Megan Donaldson, Simon Ellis, Jyoti Larke and Rowan McCrae for their invaluable research assistance and editorial skills. My commissioning editor at Cambridge, Finola O'Sullivan, has been a patient, steady and much-needed source of encouragement, while the comments of the anonymous referees and of the series editor, James Crawford, have contributed a great deal to clarifying and sharpening the connections and arguments made in these pages.

Parts of this book develop work that I have published elsewhere. Chapters 3 and 5 are substantially revised versions of articles published as 'Locating the International: Military and Monetary Interventions after

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the Cold War' (1997) 38 *Harvard International Law Journal* 443 and 'Muscular Humanitarianism: Reading the Narratives of the New Interventionism' (1999) 10 *European Journal of International Law* 679. Chapter 2 contains material included in 'Feminism, Imperialism and the Mission of International Law' (2002) *Nordic Journal of International Law* (forthcoming) and in 'Positivism and the Power of International Law' (2000) 24 *Melbourne University Law Review* 502.

I owe an enormous debt to the many people who have helped to care for my children during the period in which this book was written. In particular, my thanks to my parents Rolene and William Orford for all the many forms of support with which they provide me, not least being the intensive hours of baby-sitting they provided at key moments in the emergence of this text. The staff at the Queensberry Children's Centre at the University of Melbourne have made the work on this project possible. The extraordinary warmth, generosity, skill and dedication with which they have cared for my two young children during my working hours have allowed me to feel safe about taking the space and time necessary to complete this book. In particular, I would like to express my deep gratitude to Heidi Artmann, Gayle Babore, Georgina Coy, Amber Dwyer, Halayne Ford, Wendy Grace, Maria Hannah, Harmony Miller, Georgina Mitropoulos, Liz O'Brien, Effie Saganas, Cathy Simpson, Donna Taranto, Nancy Thewma, Averil Tweed, Remziye Urak and Emma Witham.

Finally, two people deserve particular thanks. I am extremely grateful to Hilary Charlesworth for her generous supervision of my doctoral thesis and her guidance and support while turning that thesis into a book. Her enthusiasm for the project from the outset and the gift of her friendship made the experience of writing this manuscript a wonderful and rewarding one. Her detailed and insightful comments on draft chapters were of enormous assistance in shaping my arguments, while the example of her scholarship guided and inspired my approach to writing about international law.

The constant encouragement and support of my dear friend and partner Andrew Robertson have helped make this book possible. My work has benefited enormously from our ongoing conversation about law, politics, life and critique, while his companionship and gentle faith in my ideas and aspirations have made all the difference. The book has been shaped by his close reading and valuable comments on many drafts over the years. The sweet company and small bodies of our beloved sons Hamish and Felix are a daily reminder to me of the wonder and fragility of life, and of all that is risked by careless power and wanton violence. This book, with its dreams of the future of human rights, is for them.