14 The State’s Right to Intervene

The most clear-cut affirmation of the rights of states was the assertion of the principle of sovereignty. In defending this claim such writers as Bodin and Hobbes (pp. 136 and 40 above) had in effect declared that the ruler could do as he pleased within his own lands; and that those who had previously enjoyed rights independent of the prince – feudal lords, municipalities and the church – were subject to his sovereign power. The most fundamental right of rulers, and therefore of states, was to order the lives of those within their borders according to their own discretion.

But the idea of sovereignty also had important implications for relations with other states. The independence of each state within its own borders implied that it had the right to be free of interference from others. If each was content to exercise sovereignty within its own borders, and to allow other states to do the same within theirs (assuming that there was no conflict about where those borders lay), then all should in theory be able to live in peace together.

In practice states were not always willing to accept that self-denying ordinance. Especially after the French Revolution and the national uprisings of the following century, intervention – for or against such revolutions – became increasingly frequent. As a result the right of a state to intervene in other states was discussed almost as intensely in this age as it was to be debated 150 years later, after the Second World War, in another revolutionary age, among statesmen, lawyers and commentators. Many of the same arguments, on the same points of principle, were employed in both periods.

The first question to be debated (in both ages) concerned what gave the right to intervene? Could it be justified only if the state against which action was envisaged was itself guilty of offensive action elsewhere? Or could it be undertaken even if the offence was less overt and less immediate? Some argued, especially the more conservative commentators (in both ages), that a country might represent a dangerous threat even though it had undertaken no overt offensive action against other states in the region. This was the view that, in a later age, was to be taken by some in Stalin’s Russia, Nasser’s Egypt and Qadaffi’s Libya in the period after 1945 – sources
of infection that might need to be neutralised. At this time it was put forward by Edmund Burke in his *Letters on a Regicide Peace* reproduced below. He claimed that the regime then established in France represented a form of public nuisance, which was a standing threat to the established governments throughout the continent. On these grounds outside states had the right to take action to suppress the nuisance. The states of Europe, he argued, formed a kind of commonwealth, sharing a similar culture and tradition, and no single state could be allowed to remain in exile from that tradition. The other states thus had the right to prevent any “innovation” which might, like the new regime in France, amount to a dangerous threat: what in civil society was a ground for a legal action was in international society a ground for war, which remained the only ultimate means of securing justice among nations. This was the argument of a conservative observer, disturbed both at the illegitimacy of the regime established in France and its consequences for the rest of the continent.

This kind of argument – that states had the right to intervene against a revolutionary regime elsewhere (closely parallel to the arguments to be used 150 years later to justify US intervention against Cuba, the Dominican Republic and Nicaragua) – was widely used by conservative statesmen after 1815 to justify intervention, unilateral or collective, to put down revolution in other states. But the right of states to use force elsewhere could be put forward on quite other grounds. While Metternich (like Burke) had wanted intervention to suppress revolution, others wanted intervention to support it. J. S. Mill, for example, as a liberal observer of the international scene, defended the right of a state to intervene in the affairs of another to prevent tyrannical or alien government. According to him the legitimacy of a government and its right to rule could be challenged because of its non-representative character: because it was imposed rather than willingly accepted. He refused to accept that this argument could be used to challenge the right of the British to rule in India or France in Algeria, since he held that in those cases they had substituted good government for “barbaric” systems. On the other hand Austria’s attempt to reassert her power in Hungary in 1849 against the will of most Hungarians could not be so justified; and there was thus no reason for Britain to decline assistance to the revolutionaries there (or presumably in Poland, Italy and other countries seeking national independence at the time) on the basis of the same general principle of “non-intervention”. But this right of