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### Author

Binder, Leonard

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# THE MORAL FOUNDATION OF INTERNATIONAL INTERVENTION

*by Leonard Binder*

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# THE MORAL FOUNDATION OF INTERNATIONAL INTERVENTION

*by Leonard Binder*



## Summary

International law, especially as it has been modified by the Charter of the United Nations, is grounded on actual or hypothetical agreements among sovereign states. The Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948, and related agreements, set a standard of human rights to be observed by sovereign states. Neither the charter nor the declaration specify under what circumstances human rights violations may justify intervention and contravention of the rule of sovereignty.

Despite the potential conflict between these two standards on international behavior, there is a widespread and common belief that a broad range of human rights are based on international law, and that international law is based on a foundation of universally recognized principles of morality.

*Moralpolitik*, or a morally grounded foreign policy, need not be the product of international agreements nor based on Western legalistic thinking. *Moralpolitik*, if it is to have any practical significance, must be rooted in the moral consensus of the political community. There is no reason to assume that all communities will adopt universalistic, legalistic, and rights-based ethical systems. But the ideological predominance of rights-based moral discourse has virtually precluded the serious consideration of alternative political moralities without providing for a hierarchical ordering of competing rights-based norms.

In particular, popular moral discourse does not differentiate between humanitarian rights and political rights. Rights are claimed indiscriminately on individual grounds, cultural grounds, collective social grounds, and political grounds. Often enough, these appeals derive from different and incompatible philosophical positions. For example, the goal of preserving the international system of sovereign states presupposes quite different values than the goal of diffusing democracy or preventing genocide. And although the material interests and the cultural perspectives of the victims of injustice may be invoked as of moral significance in imposing obligations on some or all states, the same sort of interests and perspectives of the states so obliged are rarely considered as a legitimate, integral part of their own *moralpolitik*.

Such a *moralpolitik*, predicated on states acting against their own interests is by definition self-defeating. Yet the exploitation of a narrowly defined, incoherent moral discourse

has led to the adoption by the United States of such self-contradictory policies as the premature ending of Desert Storm, the intervention and hasty withdrawal in Somalia, the abstention followed by intervention in Bosnia, and the assumption of too much responsibility in Haiti. Rather than simply respond to transient waves of popular moral revulsion at the nightly television images, it is the non-exclusive duty of the executive branch and the political elite to attempt to elaborate a moral vision which is self-consistent, which is tied to the American experience, which takes cognizance of national interests, and which lends itself to practical application in a coherent foreign policy.

Much of the rhetoric used to justify American involvement in Somalia and Haiti, or the lack of direct American involvement in Bosnia, is prevarication, heralding the construction of a new world order based on international morality and equality rather than the balance of power. Moral virtue plays a crucial role in this international game, as in all the rest, but the rules of the game have little to do with moral reasoning and much to do with the costs and benefits associated with particular moral claims. The winner in this game is the one who can invoke a moral principle which will justify a limited commitment, while benefiting one's allies, imposing costs on one's enemies, and embarrassing all of the free riders for failing to acknowledge the universal value of the principle selected.

In searching for an operational code that would provide both an efficient means and a moral justification of American leadership after the Cold War, the United States has effectively opted for a UN-centered multilateralism. The mixture of our own motives weakens our moral position precisely because it exploits legalistic formalism to mask questionable political goals. The United States has

failed to gain the high moral ground in the game of determining the structure of the emergent new world order. There is no common moral thread in the patchwork of inconsistent and ineffective policies; and the failures are largely due to the absence of any serious effort to integrate a consistent ethical position into the explanation of the role that we believe the United States should play when the international community is faced with issues of humanitarian intervention.

It is one of the primary responsibilities of the political leadership of democratic states to articulate a general political ethic and then apply it to the policy issues confronting the country. International moralists tell us that we should feed the starving; provide government where it is absent; strengthen democratic consensus; and respect ethnic and religious claims to political sovereignty. We are also told to avoid interfering except where there is compelling moral justification. And we are told to limit our intervention to our means and resources; to minimize the use of force; and to maximize the political neutrality of our efforts in order to maintain the political autonomy of the target population. But we are not told how we can reconcile all of these requirements, nor which to sacrifice in particular cases. Instead, the moral responsibility for the political consequences of intervention has gone unanticipated and unrecognized. A deeper understanding of moral responsibility demands that domestic political debate reflect the opinion that it is as important to coordinate our moral means and ends as it is to make sound prudential determinations of military costs and benefits—and that the difference between the two is not as great as some have thought.



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## Intervention and the New World Order

In December, 1995, the UN relinquished and NATO formally assumed responsibility for the international peacekeeping/making intervention in Bosnia. At the same time, the “real” purpose of the collective international intervention shifted from an attempt to institutionalize conflict resolution in the post-Cold War world to an attempt to reaffirm the international role of the victorious Cold War alliance. The NATO action has, therefore, two major significations: first, that the UN has failed both morally and strategically in dealing with regional humanitarian and security crises; and second, that without American participation, costly collective action among the European NATO partners is unlikely to be sustained. Together, these significations suggest that the emergent new world order may not resemble the “at will hegemony” sought by the United States. Neither the UN nor the European Union are likely to spell the United States when it would prefer to concentrate on domestic issues.

The irony of the pragmatic American intervention in Bosnia to save NATO is that the original American impulse to *avoid* involvement rested on what were already supposed to be pragmatic grounds. It is generally agreed that the United States has no vital interests in Bosnia other than those indirectly linked to the fate of NATO. Remaining aloof was also justified by the Somalian experience wherein “mission creep” was the consequence of permitting the UN to define both the moral and the military goals of the collective international effort. But mission creep is an inherent

risk in any collective enterprise—including the Bosnian venture.

Despite American recognition of the new Bosnian state, in the face of media reports of atrocities committed by Bosnian Serbs against Muslims, presidents Bush and Clinton strove to resist calls for American intervention. Under the pressure of moralistic arguments, the Clinton administration sought relief in redefining the issue at hand not as one of debating the moral imperative for intervention, but as one of defining the conditions under which the United States would be willing to become involved. In so doing, however, the United States appeared to be haggling over minor matters in the face of an absolute moral obligation.

But in setting forth the conditions for an American intervention, the Clinton administration was not merely recapitulating the accumulated wisdom gleaned from several disastrous experiences; it was also making a commitment to intervene when conditions were right. Only when the practical prerequisites were in place did President Clinton concede the morality of intervening, and even then, the administration insisted that the cost would be minimal and the duration strictly limited. Still, Clinton could not promise that the NATO intervention would be adequate to transform the two-plus-one Bosnian federation into a viable political entity.

As in Bosnia, interventionist projects elsewhere have filled the foreign policy vacuum left by the end of the Cold War—sustained by the euphoria following the questionable successes of Desert Storm. Before the full extent of the cost of Desert Storm was calculated, its benefits were exagger-

ated by premature announcements that a new world order was emergent which would be based upon multilateral initiatives that would be coordinated by the UN Security Council. The importance of this new vision could hardly be exaggerated because it redefined America's leadership role while seeking to avoid the fragmentation of the international system that had been so tightly structured, and so predictable, thanks to the pervasive influence of bipolarity.

More recently, however, exponents of the new world order have had some second thoughts, and their critics have become more vocal. The acknowledged failure of international intervention in a number of cases, and especially in Bosnia to date, has produced a situation of moral confusion. This is because the ineffectiveness of the intervening force in resolving the moral anomaly of ethnic violence implies that the norm which requires intervention is, itself, conditioned by a number of morally neutral factors such as the probability of rapid success, low casualties, and good weather.

In fact, most of the energy of the critics of multilateral interventionist projects has been directed at strategic lapses, political aimlessness, and the disparity of costs and benefits. Few have examined the moral claims without which collaborative intervention, or at least American participation, might well not have taken place. Even fewer critics have considered how the pursuit of a given moral principle might conflict with the achievement of other moral values. In the abstract, it might be possible to argue that every true good is compatible with all other true goods, but in practice, if a conflict appears, questions should arise regarding the validity of each of the moral claims, their relative priority, and their interdependence.

## Moral Theory and International Law

In the traditional, Aristotelian, definition, Ethics is a practical and not a theoretical discipline, according to which moral claims must be validated in historical or contingent contexts.<sup>1</sup> In other words, in the Western tradition, which has also known its saints and its martyrs, taking account of the apparent conflict of norms in practical situations is

<sup>1</sup> "Phronesis is the transformer that converts the knowledge of the eternal Good into the ethical movement of the will, and applies it to the details of practice." Werner Jaeger, *Aristotle*, 2nd ed., Oxford, 1948, p. 239.

central to moral discourse. But the Platonic alternative, "the abiding essence [of which is] the notion of the absolute norm and of the metaphysical transcendence of the Good," preferred by saints and martyrs as well as less sophisticated moralists, remains alive, well, and possibly more popular than the later Aristotelian conception.<sup>2</sup> Hence, for many observers, the moral basis of intervention has been unquestioned and unconditioned, leaving only the question of the potential inadequacy of limited means when measured against theoretically unlimited ends.

Despite the political saliency of moral claims, intellectual discourse regarding intervention is still dominated by the norms of general international law. Those norms, admirably summarized by Michael Walzer as "*the legalist paradigm*," simply proscribe intervention in the affairs of sovereign states and place a heavy burden of justification on those who claim the right or the duty to intervene. Walzer's legalist paradigm may be summed up as proposing that the international society of independent and sovereign states is governed by a law which establishes the rights of all member states. That law defines the use of force or the threat of force against other states as the crime of aggression, justifying a war of self-defense, a war of law enforcement by members of the international community, and punishment of the aggressor. Only aggression justifies war.<sup>3</sup> Hence, unless something like aggression takes place, there is no legal justification for international intervention. This legalist paradigm has been reaffirmed and adapted by the UN Charter in articles 2(4) and 2(7) which prohibit intervention by member states and by the UN itself.<sup>4</sup>

Some scholars have argued that there are both moral and practical reasons why the legalist paradigm ought to be upheld. Richard Falk, for example, has suggested

that a foreign policy that depends upon unilateral military intervention by one nation in the affairs of another usually violates clear norms of international law... The willingness of the United States to adopt illegal interventionary tactics, under the pressure of the Cold War, jeopardizes our moral commitment to a foreign policy of law abidance...<sup>5</sup>

<sup>2</sup> Jaeger, p. 243.

<sup>3</sup> Michael Walzer, *Just and Unjust Wars, A Moral Argument With Historical Illustrations*, Basic Books, NY, 1977, pp. 61-2.

<sup>4</sup> See the discussion in Richard B. Lillich, ed., *Humanitarian Intervention and the United Nations*, University Press of Virginia, Charlottesville, 1973, p. 41ff.

<sup>5</sup> "The Legitimacy of Legislative Intervention by the United

Falk may, therefore, be said to argue that the foundation of *moralpolitik* must be adherence to international law. Presumably, his conclusion is based on utilitarian considerations, in the sense that upholding the conventions of international law will produce more good than commitment to any non-reciprocal, culturally based, normative system.

Caroline Thomas declares that

Any attempt to establish a basis for interventionary action premised on a universal formula of human rights, even if this could be achieved in theory, cannot be translated into state practice for three reasons: state sovereignty, heterogeneity within the system, and the hierarchical nature of the system.... This may not be how the world *ought* to be, but this is how the world *is*... the heart may dictate that moral judgment must play a significant role in the relations between states, but the head says otherwise... it can be argued, and demonstrated, that most of the time intervention will do more harm than good... If states act out of moral considerations other than those flowing from the morality of sovereign statehood itself, the floodgates will be opened for intervention motivated by particularistic interpretations of human rights.<sup>6</sup>

Though Thomas states that there is a morality of sovereign statehood, she does not provide us with an explanation that would balance the evils of sovereignty against its benefits. She argues that intervention, or the disregard of sovereignty, will usually “do more harm than good,” and, therefore, does not assert that sovereignty is intrinsically good. Thomas argues that consistently respecting sovereignty will usually produce more good than consistently placing human rights above sovereignty. Thus Thomas prefers the aggregate good which is the consequence of respecting the sovereignty of national communities to the sum of particular goods produced by intervening in order to protect the human rights of individuals. In other words, if the pluralism and equality of states can only be had at the cost of the occasional deprivation of human rights, then it is worth the price. Because Thomas’ moral calculus compares predicted outcomes of two types of *moralpolitik*—the legalistic and the humanitarian—hers may be called a *consequentialist* ethic. The rejected *moralpolitik*, based on a calculation of the greatest good

to the greatest number of human beings, without regard to long-term consequences, may be called a *utilitarian* ethic.

Paradoxically, it is the great powers, and particularly the Cold War “superpowers” who most favor expanding the legal or moral justification of intervention. It is the smaller powers, both historically and in the present, who are most apprehensive of the inclination of the great powers to seek justification for their policies of trying to control their weaker neighbors, clients, former colonies, and the like. As a consequence, international organizations, from the UN to the Arab League, have been the venue for efforts to make the prohibition on intervention as iron-clad as possible. The inability of the UN to take enforcement action during the Cold War contributed to its suitability as an arena for reinforcing the prohibition of intervention. But with the end of the Cold War, the great powers, and the United States in particular, have been able to win approval for multilateral interventions, claiming that UN approval legitimates what might otherwise be considered an illegal and an immoral act.

Apart from this sort of *procedural* justification, a number of lawyers, scholars and government officials have argued that international law itself rests upon an implicit moral foundation which permits, or even requires, intervention under certain conditions. Other moralists argue that the moral bases of international society exist independently of international law and ought to have a more compelling claim on our consciences and our policies. There are, in fact, many different kinds of ethical theory proffered as justifications of intervention, the policy implications of which may be incompatible with one another.

We have already taken note of Werner Jaeger’s distinction between Plato’s metaphysical conception of an absolute and eternal good and Aristotle’s humanistic and practical conception. As alternative guides to moral action, the Platonic ethic is theoretical and universal, while the Aristotelian is both contextual and developmental. The Platonic theory, because of its absolute, theoretical, and universal foundation is readily recognized as *foundationalist*. The Aristotelian ethic encourages a consideration of cultural and historical particularity. Insofar as the Aristotelian is concerned with an ever-unfolding, yet-to-be-realized human nature which must continuously adapt to changing circumstances, his ethic is pragmatic and *anti-*

Nations,” in Roland J. Stanger, ed., *Essays on Intervention*, Ohio State University Press, 1964, p. 34.

<sup>6</sup> “The Pragmatic Case Against Intervention,” in Ian Forbes and Mark Hoffman, eds., *Political Theory, International Relations, and the Ethics of Intervention*, St. Martin’s Press, NY, 1993, pp. 91–2.



*foundationalist*.<sup>7</sup> But both Aristotle and Plato are primarily concerned with duties rather than rights.

Other theorists propose alternative definitions of political morality. Among the most widely prevalent are rights-based theories, themselves divided between those that give primacy to individual human rights and those that validate collective or cultural rights. Rights-based theories disperse the conception of the Good or of Happiness and they tend to discount the future. The dispersal of the Good occurs when morality is contingent on the condition of the individual or group to whom a right is attributed. The future is discounted when future consequences are subordinated to the interim exercise of rights. The teleological, like the Hegelian, values the present in terms of the future, and points toward various kinds of consequentialist and pragmaticist ethics; and these, in turn, vary with the relative emphasis placed on means and ends. The utilitarian theories may be differentiated in terms of whose utility is under consideration: that of the human race, of the international community of states, or of the multiplicity of cultural collectivities of which living human beings are comprised. Natural law theories tend to negate the importance of cultural differences, but they may be differentiated by whether they pursue a deductive or an inductive method of determining the content of a universal human nature.<sup>8</sup> And then we can find idiosyncratic, or simply syncretist combinations, such as Walzer's attempt to marry an ordinary language method of discovering the moral norms of international politics with a deconstructive conception of the political norm of cultural authenticity.<sup>9</sup>

In sum, one oversimplifies if one assumes that the debate over intervention is a confrontation between the formal legalism of international law and a well-intentioned but impractical rights-based

moralism. The debate has been framed by the legal paradigm, leading, dialectically, to the employment of a rights-based rhetoric which would provide an alternative foundation for international law. The tension between the law of nations and natural law as coordinate and competing sources of international law is a familiar one.

## Foundationalism and Human Rights

In seeking to identify humanitarian values upon which to construct norms of international morality, the choice of ethical premises makes a great deal of difference. If we start from Aristotelian assumptions which are both anthropological and developmental (teleological), rather than from God-given laws (what Jaeger called a "theonomic" ethic), we may get a conception of an ideal human potential which we are called upon to maximize. If we start with a Platonic conception, we may get a set of valued goals—such as order, balance, harmony, symmetry, or proportion—to be achieved. If we start with a revealed law, such as Islam or Judaism, we may get a set of discrete divine laws that must be obeyed. If we start with a means-oriented ethic, like Confucianism or Buddhism, we may get a norm emphasizing the morality of procedure rather than ends. If we start with a *consequentialist* or a *utilitarian* ethic we may get a norm which measures results against costs and outcomes against methods. If we start with a collectivist or a cultural ethic, we may get a norm which gives priority to political and social values rather than to individualist values. If we start with an ethic based on the moral values shared by educated and articulate persons within a national or cosmopolitan culture, we may get a norm which reflects those shared understandings. And if we start with a rights-based ethic, we may get a norm which defines human values as a set of claims which each individual may justly make against some or all other human beings.

Despite the profusion of alternative ethical systems, and the domination of the legalist paradigm in official internationalist circles, rights-based theories prevail among democratic publics as though they were the only possible moral basis for overriding the international legal convention prohibiting intervention. The gap between international law and a rights-based normative system is central to the problem of international intervention. Though many authors are exponents

<sup>7</sup> I read Jaeger as arguing that Aristotle's conception is pragmatic, but others may disagree both with my reading of Jaeger and Jaeger's reading of Aristotle. If Aristotle started with a fixed conception of human nature, then his ethic would be similarly *foundationalist*, even if the foundation were not the same as the Platonic.

<sup>8</sup> Deductive, that is, starting from an *a priori* conception of human nature. Inductive, that is, starting from the empirical, anthropological study of actual persons.

<sup>9</sup> An ordinary language approach would seek to understand moral action by observing the circumstances when common words of moral approbation, or the opposite, were actually used. Such an approach assumes that those engaged in conversation understand each other and use the same language. A deconstructionist view of cultural authenticity anticipates that what is approved in one culture may be disapproved of in another culture. See below for examples of Walzer's use of an ordinary language definition of morality and a deconstructive definition of cultural authenticity.

of rights-based theories of humanitarian intervention, Fernando Teson stands out because of his attempt to solve the problem by providing a human rights foundation for the morality of international law itself:

I argue that the assertion of a right of humanitarian intervention is the best philosophical position...because the ultimate justification of the existence of states is the protection and enforcement of the natural rights of the citizens, a government that engages in substantial violations of human rights betrays the very purpose for which it exists and so forfeits not only its domestic legitimacy, but its international legitimacy as well...foreign armies are morally entitled to help victims of oppression in overthrowing dictators provided that the intervention is proportionate...the intervention [must] be welcomed, actually or ideally by those citizens whose human rights are being violated...humanitarian intervention is justified not only to remedy egregious cases...but also to put an end to situations of serious, disrespectful, yet not genocidal, oppression.<sup>10</sup>

On the authority of Ronald Dworkin, Teson claims that “there is an essential connection in international legal discourse between propositions of law and moral-political philosophy.”<sup>11</sup> Rejecting theories which attribute original moral standing to collectivities of any sort, Teson holds that only individuals can be moral agents, hence states have no rights against foreign intervention which are not derivative of individual rights. Justifying his position with arguments based on both philosophical abstractions and customary law, Teson parts company from Walzer because of his validation of the cultural and moral rights of collectivities against intervention, and he criticizes Rawls for his validation of needs-based rights over political rights in some special cases.<sup>12</sup> For Teson, there is no di-

lemma in choosing between individuals and collectivities; and as a consequence, his arguments may be used to justify and legitimate intervention in cases of egregious violations of the rights of a few as well as more limited violations of the rights of many. In any case, the ethnic, cultural, social, or racial characteristics of the oppressors or those oppressed are ancillary and not central to the question of whether intervention is justified.

Other theorists are much more troubled by the intellectual challenges as well as the moral consequences of imposing the humanitarian and political values of the West on non-western peoples. N.J. Rengger, for example, argues that

The key difficulty with the rights-based interventionists is not simply cultural or moral relativity, but that any rights-based argument must adopt, at some level, foundationalist premises. Virtually all such positions rest upon two fundamental premises: first that the contemporary states system is still principally a system of states *in the traditional sense*; and second, that the most appropriate type of ethical discourse is expressed in the language of rights and interests...Neither of these two premises hold unambiguously. For this reason, alternatives to such strong foundationalist arguments need to be developed in order to deal with the complexities of intervention.<sup>13</sup>

Rengger does not provide us with a readily employable, non-foundational, ethical alternative that will tell when it is right to intervene and when not. he rejects both the principle of state sovereignty and the moral priority of the individual as foundationalist premises which are parochial rather than universal. Like other critical theorists, Rengger and Hoffman describe the transformations and fragmentations wrought by the advent of post-modernity, and call for a new form of discourse and new forms of intervention that conform to this new dispersed, multicultural reality. In Rengger’s view, moral judgment must be framed by “irreducible contextuality,” by which he means that every situation and every cultural context requires its own specific moral resolution. To him, no two cases are ever the same from a moral point of view.

<sup>10</sup> Fernando S. Teson, *Humanitarian Intervention: An Inquiry into Law and Morality*, Transnational Publishers, Dobbs Ferry, 1988, p. 15. Although Teson takes an extreme position, he cites many others with whom he shares some views, and especially those who also prefer rights-based theories. Leo McCarthy, “International Anarchy, Realism and Non-Intervention,” in Forbes and Hoffman, p. 87, comes very close to Teson’s position, arguing that, “the defense of the state must depend upon its actually securing the rights and justice-claims of its people to a higher degree than could result from any transformation of the domestic political order which could be achieved through intervention.”

<sup>11</sup> Teson, p. 245.

<sup>12</sup> Teson, p. 32 f., where he criticizes Walzer for “a sophisticated version of relativism, which he calls ‘pluralism.’ Also, p. 46 f. and 58 f. where he criticizes Rawls for (a) stating that there are circumstances in which economic well-being takes priority over equal liberty, (b) for limiting “his theory of justice to socie-

ties that are *already* constitutional democracies, and (c) for proposing a theory of international law which “relies on the analogy between state and individual” thus investing the state with rights against intervention. See also Raymond Plant, “The Justifications for Intervention,” in Forbes and Hoffman, p. 111: “To ground a theory of positive rights we require a theory of needs. Human needs are those needs which are necessary to pursue any sort of human action.”

<sup>13</sup> “Contextuality, Interdependence, and the Ethics of Intervention,” in Forbes and Hoffman, p. 185.

And yet, the idea of the good; the notion of political morality must be present in every proposed solution. So even though we cannot define political morality in universal terms, it must be possible to arrive at a moral solution which can be understood as such in context. Hoffman, like Rengger, does not share the (anti-foundational) ethical certitude of a Richard Rorty or a Michael Walzer, both of whom argue that one does not need a divinely provided scorecard to tell right from wrong.<sup>14</sup> Rather, Hoffman and Rengger believe that we need a new critical theory of international relations to solve such problems. Hoffman looks forward to the triumph of a critical theory of international relations that will introduce a new form of intervention which would seek

to advance forms of practical reason and communicative rationality through a process of undistorted dialogue between conflicting parties in an effort to promote a self-generated and self-sustaining resolution to the conflict.<sup>15</sup>

Over against this luxurious Habermasian utopianism, Raymond Plant offers a modest alternative to the standard foundationalist rights-based theory. He proposes a needs-based theory of rights rather than a theory based on “some idea of human consciousness.”<sup>16</sup> The virtue of a needs-based foundationalist theory of rights is that it “is consistent with an extreme degree of moral relativism” while yet providing a universally understandable and applicable basis for determining when intervention is morally justifiable.

One can accept all the differences between cultures and argue that nevertheless there is some non-culturally specific account of basic needs. These are necessary for acting in accordance with the values of any culture, whatever its values might turn out to be. Those needs would be *survival* and *autonomy*.<sup>17</sup>

With this interesting distinction between needs-based rights and other, presumably political rights, Plant may or may not have solved the cultural relativism problem. His success can only be measured in the degree to which he has made a meaningful distinction between the political and the economic, or between the humanitarian and the political. By joining survival and autonomy, it seems that he has conflated the two rather than

distinguishing them. Nor has he solved the other central problem with which he was concerned, and that is the distinction between positive and negative rights. Plant defines a positive right as imposing an obligation on someone or some group to provide a good; whereas a negative right imposes the duty of forbearance.<sup>18</sup> In both cases, obviously, the obligation or the duty are imposed on someone other than the individual or group which is endowed with the right.

It is apparent that any sort of rights-based moral theory which imposes universal obligations must be foundationalist. If the obligation to provide a good or to forbear from evil is conditioned by the culture of the agent, it cannot be universal. Under such circumstances what is a good for one culture may be a bad for another. In trying to save his rights-based theory while providing for cultural differences, Walzer turns this problem upside down by asserting that the criteria to be used to justify intervention on moral or humanitarian grounds must be derived from the community in which intervention is contemplated. But why would one wish to intervene in order to uphold alien values? Presumably, one has an obligation to intervene whenever the “fit” between a government and a society no longer obtains. That is, some portion of society X has a right to demand that state Y intervene on their behalf even if the values held by part of X are abhorrent to most of the citizens of state Y.

On Walzer's view there can be no way of avoiding the question of whether we should intervene in terms of our values or theirs because there are no transcultural values which could be the basis for justification. The answer has to be in terms of *their* values. Only when *their* values are critically understood can we have grounds for intervening in the life of another society.<sup>19</sup>

Walzer's position in his *Spheres of Justice* and in his “The Moral Standing of States” assumes that international political agents are capable of the critical understanding of alien values to the extent that they can not only understand when a foreign government is subverting the value system of its own society but also know how to employ that value system as a justification of intervention—presumably with the acquiescence of at least a part of that society.<sup>20</sup> But if our officials are capable of

<sup>14</sup> Forbes and Hoffman, p. 189. See Richard Rorty, *Philosophy and the Mirror of Nature*, Princeton, 1979.

<sup>15</sup> Mark Hoffman, “Agency, Identity, and Intervention,” in Forbes and Hoffman, p. 206.

<sup>16</sup> Forbes and Hoffman, p. 106.

<sup>17</sup> Forbes and Hoffman, p. 111. My emphasis.

<sup>18</sup> Forbes and Hoffman, p. 106 f.

<sup>19</sup> Forbes and Hoffman, p. 104, referring to Walzer's *Spheres of Justice*.

<sup>20</sup> Michael Walzer, *Spheres of Justice*, Oxford, 1983; “The Moral Standing of States,” *Philosophy and Public Affairs*, IX,

such understanding, why are not the officials of other countries similarly capable? Is our culture, which may value diversity, superior to others so that only we can understand and operate under alien rules? If so, why should we not prefer our culture and attempt to win others to it so that we might hold a dialogue of mutual understanding? If not, and if others are equally capable of a critical understanding of alien cultures, then why is it impossible to establish transcultural moral foundations?

At least one source of the logical problems we have encountered with Walzer's transcultural approach is his stubborn adherence to a rights-based theory of international morality which, despite the dispersal of cultural values, can be rendered understandable by means of ordinary moral discourse:

I am going to assume that we really do act within a moral world; that particular decisions really are difficult, . . . and that this has to do with the structure of that world; that language reflects the moral world and gives us access to it; and finally that our understanding of the moral vocabulary is sufficiently common and stable so that shared judgments are possible.<sup>21</sup>

One would expect that international morality would be based on *shared judgments*, but Walzer advocates that we suspend our own values when we contemplate intervention. This contradiction arises because of the asymmetry between the position of the one who claims a right and that of the one on whom the positive or negative obligation falls. Following Walzer, the right may be asserted in one cultural context and the obligation to respond be evaluated in another cultural context, despite the contention that both are integral parts of a singular moral structure of the international political system. Only the obligee is morally bound to act in accordance with the values of the other; but the claimant has no similar obligation to examine the demanded right in the context of a critical analysis of the culture of the obligee. Consider the claim of Algerian fundamentalists for international support for the purpose of establishing an Islamic state by means of a popular election.

A rights-based moral theory is burdened by both the asymmetry of position of the claimant and of the obligee, and by the cultural differences between the two, leading to a self contradiction in which to act morally is to act in accordance with principles with which one disagrees. Presumably, this moral paradox is the consequence of the ethi-

cal and cultural heterogeneity of the international community. But national communities are also often ethically heterogeneous, making it difficult to determine which of several alternative claims to satisfy. Such a theory may be the logical corollary of an established and effective international legal system, but because such a system exists only in a fragmentary or vestigial form, a rights-based theory is of little practical value.

We have already seen that a rights-based theory is only one of many possible ethical systems that might be applied to international relations. Other alternatives need not be tied to the idea of a global legal system, nor do they raise questions of positive and negative obligations, cultural relativism, or of structural asymmetry. Most ethical systems are characterized by self-imposed obligations resulting from the conviction that the system represents the highest moral good. That conviction may be rooted in human nature, historical experience, enculturation, philosophical speculation, the internalization of parental or religious teachings, socialization processes, or the rationalization of self interest. Those convictions may change. They may be the subject of political debate. They may be contingent on social position, occupation, wealth, and the like. Nevertheless, at any given time, every society is characterized by its own distinctive distribution of such beliefs, held with greater or lesser intensity. Such an ethical system is not about others, but about ourselves and our beliefs about human potentialities and the human condition. Most of us accept our self imposed obligations at least some of the time, and we expect others to be morally consistent much of the time.

Despite widespread cynicism, we know that there is a relatively high probability that moral considerations will have a non-trivial impact on foreign policy decisions in all countries. Consequently, it is of practical relevance to try to estimate the extent to which moral considerations will determine foreign policies. Different values lead to different policies, but only a rule-based system or one which is logically coherent allows for predictive analysis. For the same reason, in a democracy, it is even more important to examine, criticize, analyze, and debate the practical application and logical coherence of those ethical systems which have been adopted by various segments of our own society. To adopt the language of religion, if our foreign policy is guided by moral incoherence we are likely to lose both this world and the next.

The analysis of moral discourse in international relations is essential to foreign policy

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1978–9.

<sup>21</sup> *Just and Unjust Wars*, p. 20.

analysis and to the advancement of the positive theory of international politics. There is no necessary contradiction between neorealist theory and the analysis, critique, and clarification of moral discourse. On the contrary, recent interventions engaged in or eschewed by the United States have been the consequence of moralistic exhortation in the face of strong arguments that our vital interests were not at stake. The public outcry, occasioned by the graphic reporting of morally abhorrent events by the media, forced the hand of the government. The American public did not consider the rights of the victims. They were, rather, concerned about obligations (duties) which they assumed as a consequence of their own beliefs. Moreover, because of the absence of reference to the vital interests of the United States, many believed their motivation to be humanitarian and not political.

## Humanitarian Norms and Political Norms

Two types of norms are proposed as moral justifications of international intervention: humanitarian and political. The difference between the two may be referred to as the difference between a needs-based moral theory and a rights-based theory, but we have already seen that it is difficult to distinguish between the two. While the humanitarian norms might be related to some Aristotelian conception of the moral significance of the human personality, they are most often presented in a negative fashion, that is, what privations human beings ought not be made or allowed to suffer. When defined in a more positive way, the political aspects of humanism become immediately apparent. Hence if we start with the issue of human happiness and the capacity to attain it, we might propose such values as autonomy, liberty, equality, security, health, companionship, mobility, and the like. These values are not proposed as rights, but as prerequisites for the achievement of virtue or happiness or for the full realization of the moral capacity of the individual. The derivative norm is that each of us ought to strive to bring into being a world in which these values prevail to the extent that all human beings are endowed with the prerequisites of happiness. Though these prerequisites may be seen as attributes or endowments of individuals, only a little thought will affirm that they are the collective product of a politicized society.<sup>22</sup>

Despite this exercise in positive thinking, the humanitarian norms which are usually evoked in order to justify intervention are stated in individualistic terms and in a negative form, and thus seem to have no political import. Those humanitarian norms require that people should not be allowed to suffer extreme material privation. Specific questions may be raised regarding the difference between privation and simple want; or between privation and inequality; or between material privation and cultural or spiritual privation. Is the deprivation of freedom a breach of a humanitarian norm or a political norm? Does consideration of the cause of a given event of privation transform ethical discourse into political discourse? Obviously, the distinction between humanitarian norms and political norms is fuzzy at best, and for many, following the Western humanist tradition, that distinction is simply false. Still, such a distinction has been invoked, at times, to praise those who intervene despite their lack of any direct political interest in the situation, and the opposite has been sometimes employed to argue that those who have such a direct interest have the primary moral responsibility.

Though the question is complicated beyond easy resolution, and though we have no simple answer; the purpose of this essay is to explore the moral logic of both the assertion that humanitarian norms are obligatory without political condition, and the assertion that humanitarian norms are conditioned by particular political norms. In order to pursue this purpose, it will be useful to stipulate that there is a generally recognized distinction between humanitarian and political norms, even though we may discard that distinction by the time we are finished.

For example, advocates of the interests of the populations of Iraq, Serbia, Haiti, Cuba, and Bosnia, among others, have argued that strategies of achieving political change by imposing sanctions which cause human suffering are morally unacceptable. According to this absolute or unconditioned norm, no differentiation of those in need, in terms of their individual condition, experience, past behavior, or expected future action, should make a difference. It is also possible to propose conditions which might permit differentiation on the basis of humanitarian, but not political considerations. For example, priority might be given to those most in need, those least capable of fending

<sup>22</sup> As we have seen, both needs-based and rights-based theories attribute needs and right to individuals without regard for politi-

cal context. The resultant anomaly leads both Walzer and Rawls among others to differentiate between democratic and non-democratic states in the application of their respective theories.

for themselves, and those who, were all to die at the same time, would lose the most years of potential life (and in that order).

To accept any constraint which cannot be strictly defined as humanitarian on the distribution of humanitarian assistance, raises the general question of the empirical conditions which might justify sacrificing some measure of the absolute morality of relieving material deprivation. To take account of political consequences in making choices about the distribution of relatively scarce humanitarian assistance, is to suggest that some political norms are directed at a higher good than some humanitarian norms. But every act of charity takes place in a social and political context such that it either sustains or weakens existing social and political structure. The usual consequence of the extension of international humanitarian assistance is to strengthen the government in power in the recipient country, or to reduce the pressure on it. Withholding assistance and inhibiting normal commercial intercourse should weaken those governments. Iraq, Serbia, Cuba, Haiti, and Libya, against whom international sanctions have been applied, are relevant examples of governments (or ruling elites) that have been weakened.

The most important of the political norms that have been invoked in recent debates on Somalia, Yugoslavia, Iraq, Kuwait, Lebanon, Haiti, Azerbaijan, and other countries are that:

1. the territory of states which are members of the UN, and thus recognized by the international community, cannot be invaded with impunity;
2. that every political community has the right to have a government and to be free of anarchic civil strife;
3. that democratic government must be preferred to all other forms; and
4. that national self-determination must be preferred to all other bases of forming political communities.

Usually, these norms are considered to be universal in their applicability, so the question of whether intervention is primarily in the interest of the target country or in the interest of the larger international community is not confronted.

## Prudential Considerations

While the debates preceding international intervention rarely set one of these norms against the others, they may invoke one or both of two kinds

of prudential consideration. The first, and most frequent of these, argues that interventions ought to be limited in their purposes because they must, inevitably, be limited in their human and material costs. The second, and much less frequent, argues that international intervention may have unintended political consequences because the interests of some of the political elites within the target country may not coincide with the purposes of international intervention. Where those intervening have diverse interests and a desire to limit costs, resisting elites may find it possible to subvert or divert the international effort if they cannot profit from it. These prudential considerations are not without their own moral implications; especially when one considers that every multilateral international decision to intervene is composed of many decisions by individual states who act as agents of the international community while pursuing their own enlightened self-interest. Oversimplification of the moral context, inattention to prudential considerations, and conflation of national and international interests can transform action which is thus morally justified into action which has immoral consequences. While these considerations have much in common with the “clean hands” prerequisite for intervention, they have more to do with the prudential application of the logic of collective action in the strategic planning of intervention.<sup>23</sup>

## Conflict Between Humanitarian and Political Norms

The moral basis of international intervention in Somalia included both the general needs-based humanitarian norm and at least two of the four political norms. The humanitarian argues that where people are suffering from lack of food and other necessities, more fortunate human beings should make sacrifices to help those in need. The second of our four political norms argues that where people are suffering from the lack of government, they should be supplied with a government by those who are able to do so. The

<sup>23</sup> The “clean hands” principle requires that the intervening state have no interest whatsoever in political changes in the target country. Contrarily, the logic of collective action predicts that disinterested countries will free ride unless given side payments by those interested in maintaining world order or order in the target country. Paradoxically, the U.S., which ought to be the most interested in world order, sought to free ride in the Bosnian case.

third argues that the best of all possible regimes is a democratic regime, so that it is immoral to support any alternative form of government. The two political arguments are sometimes linked by the assertion that the reason why the Somalis were starving was because of the absence of government and because of the undemocratic character of what authority existed.

In spite of such assertions, only a few argued before the fact that dealing with the political dimension was a prerequisite for dealing with the humanitarian dimension; nor has anyone seriously argued that feeding people will produce democracy or stable government of any kind. Instead, it has been argued that feeding people is a necessary, but not a sufficient condition of ending anarchy, setting up a government, and working toward democratization. In the Somali case, at least, some may have thought that it was not necessary to solve political problems before solving the humanitarian problem, because in the absence of a government it was assumed that there was also an absence of politics. Still, the general problem remains: is there any reason to assign either a moral or a strategic priority to one or another of these moral obligations?

When the recipient society is governed by an ideal democracy, there may be no significant conflict between the humanitarian and the political dimensions of the moral basis of international intervention, but since there are few ideal democracies and most of the real democracies are not usually in need of humanitarian assistance, this category is of little practical significance. Alternatively, should the provision of humanitarian assistance strengthen well-established non-democratic governments, that would produce a contradiction between two of the moral justifications for international intervention. Such a contradiction might be resolved if it were possible to direct humanitarian assistance in such a way that it might induce benign change even in a non-democratic polity. Assuming the existence of a system that is open enough to allow the selective external control of the delivery of humanitarian assistance, it is possible to link the good intention of achieving democracy to the virtue of giving humanitarian assistance. The humanitarian claims in the argument are weakened insofar as anti-democratic social groups or individuals are left to starve for longer or shorter periods during the “transition to democracy.”

## Humanitarian Assistance to “Soft” Authoritarian Regimes

The possibility of selective external management of the aid process may be applied in a category of cases which cannot comfortably be called democratic, but in which political power is somewhat diffused, and where humanitarian and “economic” assistance may be offered in the hope that certain social segments will be strengthened and others weakened; leading, eventually, to change in the society and government. Western assistance to Russia and other Soviet successor states, to Egypt, to China, to several states in Central America, and others in sub-Saharan Africa has been justified by the use of this rather vague theory of democratization. Similar arguments have been made regarding Iran under Rafsanjani, Cambodia under Sihanouk, and even China under or after Deng.

Such arguments rely upon unsubstantiated theories of how authoritarian regimes break down and the conditions under which “civil society” asserts itself against authoritarian or patrimonial bureaucracies. We are not sure how such a manipulative strategy for delivering assistance should be worked out, because we disagree on whether it is best to support intellectuals, army officers, trade unions, religious leaders, or capitalist entrepreneurs. Merely strengthening non-governmental groups over some period of time, without a determination of how much support over what period will predictably produce a vigorous democratic movement, diminishes the moral persuasiveness of these arguments. Unless we can predict when “managed” humanitarian assistance will so change the risk-reward calculations of enough strategically placed individuals so that they will work together to demand democratization, then assisting even relatively benign authoritarian regimes remains morally questionable.

## Self-Interest and Assistance to Dictatorships

Where a well-established, non-democratic government exists, but where political power is more highly concentrated and where authority is monolithic, it is difficult for outsiders to control the distribution of humanitarian assistance and direct it so as to bring about a desired change. It is especially difficult to do so when military assistance is being given at the same time, and when democratization would require those who control the armed forces to share power with their political opponents. Here, Iraq, Afghanistan, imperial Iran, the Pakistan of Zia al-Haq, Ethiopia,

Tajikistan, and several African states provide good examples.

If we assume that the donor country is itself a democracy of sorts—and that is not always the case in UN-sponsored humanitarian interventions—a solution may be sought in terms of the perpetuation of the regime of the donor country. In other words, the absolute morality of charity may be subordinated to the absolute morality of democracy, permitting deviations from the ideal priorities in the distribution of assistance because such deviations contribute to the strengthening of democracy in the donor country. But in the case of monolithic authoritarianism, it is doubtful that the distribution of humanitarian assistance in a manner that benefits the authoritarian rulers is likely to win many converts to the democratic ideal.

This argument makes no connection between the existence of democracy in the donor country and the potential for democratization in the recipient country. It is “good” enough that a democracy anywhere is strengthened. There is little evidence that the existence of democracy anywhere renders the emergence of democracy elsewhere more likely, although the “victory” of the democracies in the Cold War, like their victory in World War II, has enhanced the pragmatic appeal of democracy in some circles for longer or shorter periods of time. In the Middle East, by contrast, there are recent cases where the existence of democracy in conjunction with non-Islamic cultures in other parts of the world has engendered a hostility to democracy and a search for alternatives.

But the argument for preserving democracy at home is not mere sophistry when public opinion identifies democracy with humanitarian action and demands intervention, or when public opinion rebels against the high cost of intervention. Should the donor country become overextended to the degree that its own democracy would be imperiled, the loss for the world community could be immense. One thinks, of course, of the domestic political consequences of the Viet Nam war.

As a consequence, it can be argued that democracies may resolve the moral dilemma posed by granting humanitarian assistance to sovereign states in a manner consistent with their own self interest as measured by the increased viability of the democratic regime. The argument would require that the good that is done for the democratic donor state must outweigh the bad that is done by strengthening a non-democratic state. One might also take account of the amount of humanitarian aid that trickles down as a consequence of efforts by ruling authoritarian elites to consolidate their

regime. Obviously, this conclusion itself raises serious moral questions because it conflates altruism and self interest, and it places a premium on short term democratic benefits while discounting long term threats.

## Assistance Where There is No Government

There is also a category of cases where political conditions range between anarchy and civil war, where neither the vestiges of repudiated authority nor a multiplicity of vulturine challengers are capable of providing civil and commercial order. In such cases, foreign intervention may also provide a measure of external control. Lebanon, Somalia, Afghanistan, Rwanda, Cambodia and pre-Dayton Bosnia may provide relevant examples of states where anarchy was for a time widespread, where there was no established and widely recognized regime, and/or where a multi-sided civil war was accompanied by the disruption of normal economic activity.

Such cases leap out at us as ideally suited for the exercise of international humanitarian morality without reservation. Since the inhabitants of anarchic states are in dire need of humanitarian assistance and also bereft of any government worthy of the name, it should be possible to satisfy at least two of the moral imperatives which justify international intervention. The provision of humanitarian aid cannot strengthen the government in power if there is no such government; and because there is no government in power, there can be no effective resistance to the use of humanitarian assistance to encourage the establishment of a democratic regime. Of course, if the solution is to work, both the warring factions and the supine central bureaucracy must be prevented from controlling the administration of the assistance program, and, initially, the assistance program itself must be used to strengthen the authority of the intervening powers.

It is often argued that any government is better than no government, even if that government is provided by other countries. But an alien government violates the absolute morality of democracy. Consequently, the provision of a government by an alien power is as problematic as the provision of food, clothing, and shelter. In both cases there is the risk, nay, the probability, that dependence will outweigh empowerment and, as a result, nullify the moral foundation of both humanitarian and politi-



cal assistance. In the case of Somalia, that nullifying probability was even greater because the UN plan called for wiping the political slate virtually clean.

It follows, then, that the consequent moral dilemma can be resolved only insofar as it may be possible for alien agents to establish a democratic government which will be (or become) completely independent of the agents of its establishment.<sup>24</sup> If such a political contrivance were possible, then it might have been sensible for the United Nations, or Professor Boutros Boutros-Ghali, to induce the United States to establish a democratic regime in Somalia and then to withdraw its forces, leaving the new Somalian democracy to the protective ministrations of the UN. The establishment of order and the distribution of humanitarian assistance by the United States would reduce the position of the warlords and clan leaders to that of ward committeemen and precinct captains, representing their erstwhile followers, who would, thanks to the Americans, no longer be dependent upon those same warlords and clan leaders for food, clothing and shelter or the weapons with which to acquire those necessities.<sup>25</sup> The UN would set up an indigenous administrative apparatus capable of managing the distribution of humanitarian assistance which would, in turn, be legitimated by a national assembly composed of contented country squires and tribal leaders who should have developed private business interests to replace their traditional sources of income.

## **Anarchy, Democracy, and the External Provision of Regimes**

This is the sort of thinking which barely masks the core of the moral conception which lies behind the Somalian disaster. The core idea is that the moral basis of democracy is that it does not rest on political power. Instead, democratic government can disregard power because it is founded on consensus, compromise, rational discourse, mutual good

<sup>24</sup> "Of two things, one: the interference in the case supposed either turns the balance, or it does not. In the latter event, it misses its aim; in the former, it gives the superiority to the side which would not have been uppermost without it and establishes a sovereign, or a form of government, which the nation, if left to itself, would not have chosen." quoted by Walzer, *Just and Unjust*, pp. 96–7.

<sup>25</sup> This is, of course, an ironic reference to the "power-sharing" scheme organized through the UN—a scheme which failed to take account of the actual distribution of power among the warring factions.

will, toleration, empathy, mutual respect, intersubjective understanding, civic virtue, and all the rest. Despite the tenuousness of extant democracies, the democratic regime itself is not perceived as a problem, but as a solution. One does not ask how is it possible to achieve a political life based on democratic values in the face of the inevitable necessity of constructing any possible government on a foundation of political power.

From such a perspective, anarchy might be welcomed as an ideal starting point for establishing a democracy. Rather than search for a strategy of inducing factional leaders to find common ground with their rivals; start by cutting them out as the middle men in the process of distributing assistance and then finish the job by employing them as administrative subalterns within the UN system. Once the system is emptied of power, that is, once disempowerment is complete, then it would become possible for a powerless organization like the UN to establish a regime of morality which would concentrate on providing for the needs of the Somali people.

The fatal flaw in the moral reasoning which brought us to the point of calamity in Somalia is the failure to realize that every regime is based on political power and that democracies are distinguished within this generality only by the fact that the structure of democratic political power is a little more complicated than the others. The UN plan, into which the U.S. bought, precisely because no vital American interests were at stake, entailed discounting the existing distribution of power and redistributing power in accordance with a formula based on the degree of cooperation with the emergent UN trusteeship authority. Both the United States and the UN considered the existing distribution of power among the warlords to be illegitimate, and an impediment rather than an instrument for achieving order. When they decided to punish Aidid for refusing to take his assigned place in an advisory council of local notables, both the United States and the United Nations reduced themselves to the level of the feuding warlords and clan leaders.

This deplorable outcome has been exacerbated as a result of the fact that, in their attempts to manipulate one another, the UN and the U.S., respectively, emphasized alternative moral imperatives. Boutros-Ghali insisted on the moral imperative of providing a government, while Clinton and Christopher insisted upon the moral imperative of providing humanitarian assistance. Neither the U.S. nor the UN have been up front about the moral dilemmas engendered by their pre-

ferred plans, though each has been critical of the limited perspective of the other. Both share responsibility for affirming the belief that a government set up and protected by the UN can provide a morally acceptable solution on *both* humanitarian and political grounds. Both affirmed the morality and the practicality of first subordinating all existing structures of political power and then constructing a democracy without political power atop the social debris. The United States did not deny the logic or the morality of the vision of the secretary-general; it merely refused to implement the political aspects of that vision.

## Lebanon: Another Example of Anarchy and Intervention

In retrospective-prospective comparison with Somalia, the Lebanese may be luckier than they thought they were. Despite 15 years of vicious civil strife, foreign interference, invasion, and the breakdown of all but the symbolic aspect of central government, Lebanon retains its legitimate boundaries and a central political authority has been restored. Throughout the entire period of the civil war, Lebanon managed to avoid the imposition of an externally controlled regime. Neither the PLO, nor Israel, nor the United States, nor Syria succeeded in establishing a protectorate so long as the civil war continued. And even the current Syrian protectorate has been conditioned by the requirement that Syria as well as the various confessional factions in Lebanon must recognize that 15 years of conflict settled none of the fundamental institutional issues. The power of the Maronite community has been broken but not eliminated, while the influence and the autonomy of the Shiite community has grown impressively. Druze influence has been reduced to a shadow of its former significance. But there is doubt that the new distribution of power can hold without direct Syrian management. And if Syrian control should wane, Iran may become better able to tilt the new balance.

It is noteworthy that the government and constitution established as a consequence of the Taif accords maintains a modified form of the previous denominational system and recognizes the plural character of Lebanese society. Fifteen years of conflict among the religious communities and their foreign supporters produced no decisive victory for anyone. There were important shifts of power within all the communities, and the new political

formula has altered the balance of power among the communities, but none has been eliminated. The new arrangement, flawed though it may be, recognizes the political and military capacities that were tested during the civil war, and it proposes to construct a new regime in which every community will share power according to a formula which takes some account of its numbers, its power, its international influence, its wealth, and its historical and cultural claims.

Obviously, such a complex power-sharing formula is difficult to calculate and apply. The distribution of seats in parliament simplifies and distorts the underlying reasoning on which the new constitution rests. But the formula is acceptable for at least two reasons, one bad and one good. The bad reason is that the Taif formula is better than nothing even if it is worse than each community's ideal. The good reason is that the new formula does not actually fix the position of each community. Instead, it provides all communities with a political forum within which each can put forward its claims, its arguments, its reading of history, its grievances, and its bargaining position. Hopefully, the result will be that the Lebanese will develop new methods of resolving their differences, including those that transcend confessionalism, through compromises that will avoid violence. And if they are successful, they may be able to reduce their reliance on the intervention of other countries, and the central government may be able to extend its control over all of Lebanese territory.

The uncertain promise of peace between Israel and Syria may provide for the extension of the authority of the Beirut government into the Israeli "security zone," but it will not guarantee the full integration of the Hizbullah dominated south into the Lebanese state. In fact, the current approach to peace recognizes Syrian dominance in Lebanon and assumes that peace between Israel and Lebanon will inevitably follow a Syrian-Israeli treaty. It is difficult to foresee the means by which Lebanon can exploit the Taif agreement to free itself of the Syrian embrace. Consequently, when we try to assess the virtues of that solution we must credit President Asad for his skill in devising a pragmatic formula which permits the prolongation of Syrian control, while considering whether or not he has sown the seed of the ultimate reassertion of Lebanese independence.

International intervention in Somalia may have been directed at producing a similar outcome in a shorter period of time, substituting an international protectorate for the Syrian one in Lebanon. The major difference, though, is that there seemed to be

some desire to carefully choreograph the agreement upon a least bad solution among the leaders of the warring factions in Somalia rather than providing some real test of their respective political strength. As a consequence, the formula imposed by the UN was challenged as soon as the most powerful factions had the chance. The Lebanese may be luckier, if they have learned that it makes more sense to settle issues of factional rivalry by non violent means.

## Ethnicity and National Self-Determination

The application of the Taif formula, made possible by the intervention of several Arab states, staved off the “cantonization” or the partition of Lebanon. In contrast, the precipitous international recognition of the larger and more self-sufficient communities which made up Yugoslavia completed the destruction of the existing framework of cooperation and, with a single blow, produced a profusion of ethnic and territorial and religious anomalies. Those anomalies are the result of the historical compromises and bargains struck in the process of exchanging a previously contested sovereignty for a variable share in the larger and more viable, but ethnically composite, polity that was Yugoslavia.

Although the adherents to a multi-ethnic contract often prefer to specify fixed and unalterable shares, demographic change, economic exigency, and international pressures often compel adjustments in the original formula. Adjustments may be resisted for a time by a monolithic authoritarian ruler like Tito, or by a stubborn traditional elite like the Lebanese Maronite bosses, or by a modernizing and dominant minority as in Iraq. Eventually, conditions compel adjustments or lead to violent repression, civil strife, secession, international intervention, and war.

Under more democratic regimes, the variability of ethnic shares in a composite polity becomes a part of the normal political process, so long as certain limits, guarantees, or compensatory payoffs are maintained. The ultimate sanction of the aggrieved parties is secession, but as in a contentious divorce, the parties may not agree on whether the dissolution of the union should restore the *status quo ante*, or whether cohabitation has produced new rights and obligations requiring an adjusted redistribution of common property.

The hasty recognition of the seceding Yugoslav provinces affirms the important role played by

the international community in the creation and dissolution of multi-ethnic states. As usual, individual states will recognize or refuse to recognize seceding states as suits their presumed national interest, taking account of such things as the regional balance of power, historical perceptions, and culturally rooted moral judgments. One is particularly surprised at the extent to which such moralizing prejudices (based on the history of Balkan conflicts of decades past) filled the vacuum of strategic rationality caused by the end of the Cold War. But moral judgments based on the attribution of blame for atrocities committed during the Second World War have not had much appeal outside of those whose ethnic identity is closely intertwined with parochial grudges originating in what others see as long ago and faraway events. The more potent moral argument justifies the recognition of seceding communities on the basis of a presumed right of national self-determination.

## National Self-Determination and the Right to Have a Government

The right of national self-determination intersects with the moral principle that every community deserves to have a government, but the two rights are not identical. That every human collectivity has the right to a government is not the same as saying that it has a right to a government of its own. In some forms, the national self-determination argument insists that only national communities have the right to their own government. In other forms, the legitimacy of multi-national political communities, or even communities that do not recognize national differences, may be admitted. Of course, the moral basis of the legitimacy of such “artificial” political communities would be limited to the specific contractual agreements made among groups and individuals who have agreed to the auto-limitation of their ethnic rights. The rights of ethnic communities that have not been explicitly contracted away cannot be limited by any general rule because they rely upon the subjective interpretation of the collective consciousness as expressed in the national culture. In this sense, most of those who affirm a right of national self determination would place that right above the legitimacy of ethnically composite polities. The same sort of reasoning holds for those who believe that religious groups should have the right to self determination.

The practical consequence, in many cases, has been to exacerbate the difficulty of establishing effective consensual government. Hence, the moral imperative of national self-determination may conflict with the moral imperative of replacing anarchical civil strife with orderly government. The conflict is not one of fundamental principle, because it varies from situation to situation. The Czechs and the Slovaks parted without an interlude of anarchy, while Croats, Serbs, and Bosnians of all kinds continue to undergo an agony of anarchical partition. But the compatibility of these principles in the abstract cannot be an adequate guide to the morality of international intervention. Practical morality is, by definition, situationally determined by the shape of the political communities involved as well as by the way in which the several diversely relevant norms impact on one another. If, in fact, two nationalist claims conflict in time and space, international intervention to resolve that dispute must also reconcile the moral requirements of relieving human suffering and of providing government. But which human beings and which political community are we talking about?

If humanitarian and political assistance must be justified in a collective or communal context, how should the deserving collectivity be determined? Does any collection of human beings, making an argument for their common and exclusive affinity, have a claim on the conscience of the international community? Does any such putative community have the right to secede and to demand that the international community strengthen its leadership by granting both humanitarian and political assistance? If national rights condition the morality of political intervention, how does the prospect for democracy fit into the picture?

## Democracy and National Self-Determination

Minimally, democratization requires government with the consent of the governed, which often translates into the increasing empowerment of an increasing number of segments of the society. Secession both simplifies and cuts short this process of democratization. It simplifies it in that fewer social groups or communities have to be accommodated; and it cuts it short in that the single act of separation is substituted for the more *time-consuming* process of continuous readjustment. At the same time, the priority granted to ethnic soli-

arity minimizes the significance of other social interests and solidarities (social classes, interest groups, associations, and other groups which, together, make up “civil society”) and inhibits the participation of such groups in the consensual process. Secession may, therefore, diminish the prospects for democracy in both the seceding community and the residual one. There is, consequently, some temptation to argue that democratic complexity, in ethnic, economic, social, and political terms, is preferable to democratic simplicity; and that, other things being equal, complex, composite democracies ought to be preferred wherever it is feasible to preserve or create them.

## National Self-Determination and Aggression

National self-determination, if treated as an absolute moral imperative, regardless of context, may also contradict the general applicability of the norm which prohibits aggression against other recognized sovereign political communities and may legitimate the changes achieved by such aggression. There may well be a general revulsion against the use of force, and there have been frequent efforts to invoke that revulsion when it suits a political purpose. There may also have been as many or more glorifications of the use of force to achieve political ends, especially the achievement of national self-determination by a group which claims to be a nation.

In practice, nationalistically justified “aggression” was successfully opposed in Kuwait, but it has been permitted to work its effects in Yugoslavia. There does not seem to be any consensus that the prohibition of aggression always takes precedence over the norm of national self-determination. The potential conflict of the two principles should not be surprising, because both are concerned with determining the legitimate basis of membership in the international community. A state must be recognized before its rights can be defended. Aggression is not aggression if it threatens the existence of a state which should not have been there in the first place. But why were the rights of Kuwait so readily recognized, and why are those of Bosnia so much in dispute?

The cases of Kuwait, Bosnia, Iraq, Cambodia, and Afghanistan, illustrate the moral contradiction between the norm that rights cannot be grounded on aggression and the norm which grants every community the right to a viable government. In all

of these cases, the old regime was destroyed or the territorial scope of political authority was greatly reduced as a consequence of military action. Only in the relatively simple case of Kuwait has it been possible to reestablish stable government, and even in that case there are many who regret that the opportunity for change resulting from the Iraqi invasion was not seized. In the other cases, the restoration of stable government has not been achieved and in these cases, human suffering has been increased by the prolongation of military action and by the weakening of political authority. International intervention has been justified by reference to both norms, but, in fact, opposing aggression has not produced viable government and it can hardly be argued that military intervention to prevent annexation or external domination has advanced the cause of democracy in the countries assisted.

### **Preventing Aggression and Providing Humanitarian Assistance**

In these and other cases, the norm of preserving legitimate states conflicts not only with the norms of national self-determination, the necessity of providing government, and the obligation to encourage the growth of democracy, but also the norm of relieving material privation. One aspect of the policy disagreement between the United States and its European allies regarding Bosnia turned on the question of whether humanitarian assistance should take precedence over the preservation of the integrity of states that have been recognized by the international community. The Clinton administration advocated the use of military force to prevent the Bosnian Serb forces from overrunning the areas still held by the Bosnian government which has been given such recognition. European governments which contributed troops to the international force which was charged with delivering humanitarian assistance opposed the use of military force because they believed that it would make it impossible to continue the humanitarian effort and that it would increase the danger to their own troops. Similar arguments have been made by UN agencies charged with providing humanitarian assistance to Iraq, while those charged with limiting Iraq's potential for aggression in the future insist on the importance of maintaining the sanctions despite the consequences for the Iraqi people.

### **Multilateralism and the Norm of Preserving the International State System**

The UN secretary-general has articulated a position which subordinates both the humanitarian and the political principles already discussed to the goal of preserving the international state system. As we shall see, his argument is reminiscent of the arguments of those who acknowledge the moral limitations of the "legalist paradigm," but who would sacrifice morality for legality in the interest of maximizing international order.<sup>26</sup> To recapitulate, most commentators have been willing to acknowledge that there have been some commendably humanitarian military interventions, but firmly insist on the need for a very restrictive definition of the conditions which would permit such breaches of the UN Charter if not of general international law. Several writers propose nothing less than genocide or a similar massacre as the moral threshold for humanitarian intervention. Walzer adds some cases of national self determination and the right to counter a preceding illegal intervention by another power.<sup>27</sup> Ian Brownlie enumerates 15 "situations" which go well beyond the limited license granted by Walzer.<sup>28</sup> Other commentators have proposed a number of restrictions or procedural norms as conditions of the moral acceptability of military intervention, such as: (1) clean hands, (2) proportionality, (3) an invitation from some legitimate authority within the target state, and (4) multilateral cooperation.<sup>29</sup> All of these issues were broached during the debate on Desert Storm, and both the successes and the fail-

<sup>26</sup> For example, Caroline Thomas in Forbes and Hoffman, p. 101, "Sovereignty and non-intervention are unique features of our system and not something to be dismissed lightly at the first onset of internationalist moral fervor." There are other views: "We therefore have here [Bangladesh in 1971] a very strong case of a discrepancy between the formal law of nonintervention in the affairs of another country and the moral law of human concern." Wolfgang Friedmann in Lillich, ed., *Humanitarian Intervention*, p. 114 "Any state capable of stopping the slaughter has a right, at least, to try to do so. The legalist paradigm indeed rules out such efforts, but that only suggests that the paradigm, unrevised, cannot account for the moral realities of military intervention." Walzer, *Just and Unjust*, p. 108. But even Walzer would strictly limit moral deviations from the legalist paradigm in the interest of preserving the state system, which, for him, is the prerequisite of freedom (p. 89).

<sup>27</sup> Countering the intervention of a rival power may be seen as reinforcing the existing international system, of which the UN is but a limited part. This was especially the case during the Cold War, and remains the case in some regional situations.

<sup>28</sup> "Thoughts on Kind-Hearted Gunmen," in Lillich, p. 140

<sup>29</sup> Lillich, pp. 66, 69, 112.

ures of United States' policy are tied to attempts to conform to these procedural norms. Of course, the greatest success was the achievement of multilateral cooperation on both a regional and a global level through the UN. So great did this achievement appear that the Desert Storm model was proposed as the preferred strategy in shaping the new world order.<sup>30</sup>

In an essay which purports to be a critical analysis of the emergent but still elusive desideratum which he calls "multilateralism," Professor Boutros Boutros-Ghali identifies two kinds of "ugly" nationalism as major impediments to further progress. The two uglies are the extremes of ultranationalism and micro-nationalism; but an examination of his arguments suggests that his goal is not really that of identifying and strengthening some golden mean of nationalism, plain and simple. Presumably, that golden mean is the kind of nationalism which should rightfully be expressed in the form of sovereign statehood. Instead of arguing that familiar, but still unresolved issue, Professor Boutros-Ghali takes the view that existing states represent beautiful, rather than ugly nationalisms.

Between ultra and micro-nationalism, the UN seeks to preserve the nation-state as the very foundation of international life and to bring states together in an enlightened multilateralism that can enhance their specific interests while advancing the common cause.<sup>31</sup>

In the secretary-general's view, wherever the UN is engaged in peace-keeping, peace-making, nation-building, or state-building, its goal is "nothing less than an effort to preserve the foundations of the state system while beginning to shape a post-Cold War structure of peace and security."<sup>32</sup> Elaborating on this theme, he asserts that "the defense and strengthening of a cooperative and healthy international state system while defending legitimate minority rights within state boundaries"<sup>33</sup> may be the most fundamental task of the post-Cold War era.

These statements make it clear that, despite the emergence of new states such as Ukraine, Belarus, the Central Asian republics, and the potential emergence of others such as Palestine and Bosnia, the building blocks of post-Cold War security should remain the existing states—even if, like

Somalia, or Lebanon or Cambodia, "the state and its sovereign authority and integrity ceased to exist."<sup>34</sup>

Hence, for the secretary-general, the UN mission in Somalia was not a response to the moral imperative of preventing starvation<sup>35</sup> or providing every community with a government. The mission was to rehabilitate even the most minor of states, members of the UN, in order to preserve and strengthen the international state system.

That state system is the foundation of the UN itself, and, therefore, it is not surprising that the secretary-general should place it above all moral considerations. But the existing state system can be vested with independent moral value only because it is a system and the only one that we've got—though not the only one that may be conceived of, nor the only possible one. In this sense, the morality of preserving the existing international state system, like any other institution, is strictly utilitarian and depends upon whose interests are best (pre)served by means of this preservation. Indeed, it may be argued that the original purpose of the UN and the discourse on the new world order were intended to provide for change in the sense of a moral improvement over the existing state system and its nationalist ideology. The discourse on the new world order was not and should not have been restricted to the discussion of utilitarian options for maintaining the status quo.

The secretary-general writes that the two forms of ugly nationalism threaten the state system. Micro-nationalism, such as seen in Somalia, threatens to "fracture" states. Ultranationalism is not nationalism at all, but a strategy of restoring the great power dominance of the Cold War era by having "the UN serve as a cover for such interests," while the UN would, in fact, revert to its earlier "marginal role." Both of these uglies take self-contradictory positions, according to Boutros-Ghali. The ultranationalist powers want to have multilateralism and unilateralism at the same time, but they cannot have it both ways. The micro-nationalists, or "subnationalist groups," want to undermine the states in which they reside, but they also want the "privileges of a sovereign nation state," and they, too, cannot have it both ways.

This bit of logic, may be good moral philosophy, but it is not a reliable political prediction. The secretary-general correctly posits "the nation-state as the very foundation of international life" which the UN seeks to preserve. The UN itself is the

<sup>30</sup> President George Bush addressing a joint session of Congress, March 6, 1991. *New York Times*, Thursday, March 7, 1991, p. A4.

<sup>31</sup> *New York Times*, Friday, August 20, 1993, p. A13.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

<sup>35</sup> Brownlie, p. 140, "(e) neglect, deliberate or not, by a government to take reasonable steps to remedy famine conditions."

product of the state system, however, so there is little doubt that most members will strive to preserve their sovereignty and territorial integrity through the UN. Member states have not abandoned self-interest on joining the UN. So the international system, with the UN as its major institutional component, is best seen as a collective action system in which individual players seek to exploit the rules of the system to their own advantage while holding other states to a standard of international morality or cooperation. Historically, some states have succeeded in having it both ways, most notably an ultranationalist power in the Korean War and in Desert Storm. The international system has also been an arena in which micro-nationalities or ethnic groups have successfully “fractured” legitimate sovereign states and then proceeded to enjoy the protection of the international system for their own legitimacy. Among the micro-nationalities who have had it both ways one might include the successor states of the Austro-Hungarian, the Ottoman, and the Soviet empires. Experience teaches us that an international system which rests upon the state system, sometimes encourages micro-nationalist claims to legitimate sovereign statehood.

Maybe it ought not be the case, but it is *not* true that micro- and macro-uglies cannot have it both ways. It is more correctly the case that, under the existing nation state system, all states strive to have it both ways, but few succeed. What the secretary-general asserts is that insofar as great power policies now wish to use the UN, in place of the bipolarity of the Cold War, as a device to enhance their hegemonic direction of multilateralism, he intends to exact a heavy price for his cooperation. That price is the requirement that all multilateral operations be turned over to the UN and to the control of the secretary-general, who will act to enhance the authority and the autonomy of the UN. It is, furthermore, with the goal of weakening ultranationalism, or American hegemony, that Boutros-Ghali proffers the hyperbolic slogan that “Multilateralism is the democracy of international society.”

The secretary-general has laid out a program to exploit a process foreseen by many scholars of international relations as an inevitable consequence of the UN-based multilateralism to which President Bush was forced to resort. Scholarly prophecy is rarely capable of transcending the extension of existing tendencies into the future, and the present case is no exception. There is no inevitability about the process of multilateralization, no guarantee that the UN will remain its chosen vehicle, and no rea-

son to assume that the political skills of the secretary-general will be equal to the task of achieving his policy goal. The new role of NATO in Bosnia is a case in point.

The prospects for institutionalizing multilateralism under the UN might have been brighter had Boutros-Ghali been willing to accept the idea that the initial efforts must serve the interests of the ugly ultranationalists if they are to be firmly associated with the process. Instead, Boutros-Ghali raised the price too high and too quickly by insisting on the priority of Somalia over Bosnia. President Bush countered with a temporizing response: agreeing to deal with the humanitarian problem only, leaving the political problems for others. The secretary-general never acknowledged the validity of the American position. He constantly maneuvered to induce the U.S. to undertake political and military tasks which would lead, eventually, to the establishment of a UN-directed government in Somalia.

## **Having it Both Ways: The State System and Neocolonialism**

In this new international game, neither side has a monopoly of virtue or logic, nor of vice or sophistry. Just as the U.S. sophisticatedly refused to acknowledge the inseparability of Somali politics from the humanitarian crisis in that country, so does the secretary-general ignore the essentially political character of the state system. Each side invokes a one dimensional morality and turns a blind eye to the larger moral setting in which the rejection of political realities transforms morality into its opposite. The U.S. employs the rhetoric of humanitarian assistance to mask its policy of minimizing the cost of invoking UN-sponsored multilateralism where and when it wants it—as in Iraq, and especially where it doesn't want it, as in Somalia. The secretary-general employs the rhetoric of preserving the state system as the basis of “an enlightened multilateralism that can enhance [the] specific interests” of sovereign states “while advancing the common cause.” The secretary-general would persuade those who support his vision that they *can* have it both ways; but his rhetoric masks a willingness to establish a neocolonial regime under UN auspices in Somalia, and by extension, in other sovereign states.

As Caleb Carr puts it:

The UN leadership is not swayed by...accusations of imperialism. If the multinational force moves with heightened vigor, Somalia could be a UN protectorate within the year...the protectorate status could be extended until ["leaders who care more about Somalis than personal power"] emerged. That might take months—or years.<sup>36</sup>

It isn't very clear whether Carr was serious in advocating such a solution because of the sheer preposterousness of the idea of the UN as an instrument of a neo-colonial redux. The stunning extravagance of such a proposal stands in sharp contrast to Carr's repeated admonition that "military intervention cannot be nonpolitical...Any attempt to portray a political conflict as a humanitarian crisis is simply sidestepping the terrible choice before us."<sup>37</sup>

## Humanitarian Assistance and the Ubiquity of the Political

While Carr's profound insight into the ubiquity of the political must be commended, his conception of what the political is, is equally profoundly disturbing. Carr argues that once the U.S. has recognized the political dimension of intervention,

we must determine the legitimacy of those leaders ["who are not capably addressing that crisis"] and whether we are prepared to remove them...Do we accept the legitimacy of the leaders of the conflict?...If not, we must be prepared...to arrest all such leaders, disarm their followers and create a UN protectorate whose term may be far longer than that in Somalia.<sup>38</sup>

In other words, for Carr, the political is not a process of deliberation, negotiation, strategic maneuver, compromise, and accommodation. It is a quasi-judicial process whereby some group, ranging from the Policy Planning staff at the State Department to the U.S. Congress to the UN Security Council to a panel of guests on a television talk show decides upon the legitimacy of the political leaders of countries in conflict or distress or that are just causing us problems, and then proceeds to change them or to establish a protectorate and run the country the way we want it run. Is Carr alluding to the removal of the president of South Viet Nam in 1962?

<sup>36</sup> *New York Times*, Thursday, September 16, 1993, p. A19.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

For Carr, politics is judgment and punishment, the necessary ingredient of which is military force rather than bargaining skills:

The U.S. and the UN entered Somalia believing they could direct the combat troops to ignore the political situation and pursue an extra-military—that is, extra-political—end...<sup>39</sup>

If the primary burden of this passage is to conflate the political and the military, its secondary assertion reaffirms the author's misunderstanding of the political. Carr states that the U.S. and the UN had the same belief about Somalia, but there can be little doubt that the U.S. and the UN, or at least the secretary-general, disagreed about the purposes for which troops should be used. It was the U.S. alone that proposed the absurdity which Carr decries, while the secretary-general was committed to providing a government for the un-governed, and was inclined toward Carr's view that "Seizing Generals Aidid and Morgan...should have been the first order of business." Moreover, like professor Boutros-Ghali, Carr also argues for the exclusion of any middle way; "There is no middle road" between intervening and being prepared to establish a protectorate and, in the dutiful opinion of General Colin Powell, diminishing "our chances of creating any true new world order."<sup>40</sup>

With this reference to the views of General Powell, expressed no doubt to justify the original, and sharply criticized, explanation of American intervention, Carr supports the secretary-general on the central issue in debate between President Clinton and Professor Boutros-Ghali. That issue is: What is the price that the U.S. must pay in order to lease the legitimacy of the UN in attempting to organize multilateral operations? In the somewhat abstruse terminology of contemporary international relations theory, the lease price is a transaction cost imposed on a hegemonic power which would organize international collective action. If the price is too high, other strategies may be chosen, like using NATO, or engaging in unilateral action, or doing nothing. The secretary-general says you can't have it both ways. If you choose multilateralism via the UN over unilateralism or ultranationalism, you must defer to the leadership of the secretary-general.

... when the Secretary General coordinates the political negotiations, humanitarian aid and peacekeeping operations, or approves the timing of military action, it is not out of hunger for power but because the Security Council has

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*



placed a responsibility on the Secretary General to do so.<sup>41</sup>

In retrospect, it appears that Mr. Carr's point of view and his advice were taken when the Clinton administration was constrained to act in the Haiti case. The U.S. has accepted responsibility for determining the legitimate regime in Haiti, and it has set about to put it in power with the approval of the UN, but with the UN playing a clearly secondary role. But it must be added that most of those who are willing to justify humanitarian intervention are unwilling to permit the imposition of alien political rule. The norm of national self-determination requires that the intervening forces withdraw as soon as their task is finished if only to conform to the requirements of clean hands and proportionality. Even so, Walzer writes that he finds no pure cases of humanitarian intervention—only cases of mixed motives;<sup>42</sup> and Caroline Thomas has doubts about the impartiality of international institutions as well.<sup>43</sup>

It is seemly that the UN should function so as to render both legal and moral, acts of humanitarian intervention that are not permitted by general international law, but that are believed to be morally justified. But multilateralism does not dispense with mixed motives, it merely mixes motives in a more complex way. If the political purposes being pursued via UN intervention are determined by the states supplying the armed force, we will find ourselves in familiar territory. If, however, the administrative bureaucracy of the UN itself is capable of defining the goals of multilateral intervention, then we will have entered new territory. Under such circumstances, it would be necessary to balance the benefits of expanding the functions of the UN against the cost of disregarding the norm of national self-determination—that is, unless one believes that the blessing of the secretary-general sanctifies its every object.

## Normative Discourse and the National Interest

Much of the rhetoric used to justify American involvement in Somalia and Haiti, or the lack of direct American involvement in Bosnia, is prevarication, heralding the construction of a new world order based on international morality and equality rather than the balance of power. Much of the

rhetoric used by the secretary-general is prevarication, investing the singularly amoral international state system, the epitome of *realpolitik*, with the virtues of democracy, in a crass appeal for the votes of petty dictators. Moral virtue plays a crucial role in this international game, as in all the rest, but the rules of the game have little to do with moral reasoning and much to do with the costs and benefits associated with particular moral claims. Political leaders and their advisors are not so stupid that they do not understand that there is a gap between moral principle and political practice, but they are constrained to play the political language game which requires the separation of the two forms of discourse. The winner in this game is the one who can invoke that moral principle, the pursuit of which will justify a limited commitment, while benefiting one's allies, imposing costs on one's enemies, and embarrassing all of the free riders for failing to acknowledge the universal value of the principle selected. The loser selects a principle which results in an unlimited and costly involvement which alienates all of the local political elites and fails to gain the support of any western allies. It appears that the United States has played this game rather poorly since "VI" (Victory over Iraq) day minus 100 hours.

The premature ending of Desert Storm was probably the result of several miscalculations, including an overestimation of the capacities of the Shiite and Kurdish opposition forces, a simple minded application of balance of power thinking to the Persian Gulf region, and an underestimation of the ability of the elite Iraqi forces to regroup. But aside from these military matters, the decision not to invade Iraq was tied to a strategic decision to seize the moral high ground and thus establish a foundation for future foreign policy gains. UN support and, in particular, the cooperation of Egypt and Syria, were tied to a commitment to liberate Kuwait and thus redress the Iraqi invasion which was a breach of the UN Charter, if not of general international law. The legitimacy of both the Iraqi and the Kuwaiti regimes was virtually ignored, and U.S. national interests were subordinated to the larger common interest of preserving the existing international system. The principle of national self-determination was dealt with ambiguously: Iraqi claims to Kuwait were ignored, but the potential impact on Arab public opinion throughout the region of an American drive on Baghdad was a major consideration. Indeed, Arab nationalist feeling ran against Desert Storm even when rational thinking predicted that the cost of supporting Saddam Hussain would be much greater than the

<sup>41</sup> *Ibid.*

<sup>42</sup> *Just and Unjust*, p. 101

<sup>43</sup> Forbes and Hoffman, pp. 91 f.

benefits that non-Iraqis might expect. And despite all the moralizing rhetoric of scholars, lawyers, and statesmen, little attention was paid to the extraordinary conditions of oppression that obtained in Iraq.

Desert Storm was not intended to be an act of humanitarian intervention in Iraq, justified by the moral consciousness of all humanity. It was merely an act of redress based on the narrow legality provided by the UN Charter. Subsequently, with the failure of the Shiite and Kurdish rebellions, and with the re-establishment of Saddam's monopoly of power, the domestic regime of Iraq became a moral issue for the United States and its reluctant allies. Once again, UN approval was sought in order to legitimate humanitarian intervention to protect the Kurdish enclave in the north and to prevent the use of air power against the Shiite Marsh Arabs in the south. But these humanitarian motives have been mixed with the application of sanctions intended to force Iraq to comply with requirements that it destroy or dismantle all weapons of mass destruction and compensate Kuwait for its losses. Moreover, it is widely expected that the UN will lift the sanctions when the weapons issues are resolved even if Kuwait is not compensated, Kuwaiti detainees not returned, Kurdish and Shiite human rights not guaranteed, and the legitimacy of Saddam Hussein's totalitarian dictatorship reaffirmed.

American policy and principles have emerged from Desert Storm and the extended Persian Gulf crisis in a fog of ambiguity and self-contradiction. In searching for an operational code that would provide both an efficient means and a moral justification of American leadership after the Cold War, the United States has effectively opted for a UN centered multilateralism. It may be doubted that this "institutional" strategy was the first preference of President Bush and Secretary Baker. Congressional opposition, largely on prudential grounds, probably forced the administration into a two-pronged effort, seeking a morally ambiguous UN endorsement while presenting a much less ambiguous moral case to the American public.

To some extent, the public has become confused by the disparity between the legalistic limits to the intervention against Iraq which have been set by the UN and the moralistic expansion of American goals begun by President Bush and continued by President Clinton. Simply put, the UN Charter does not justify American intervention in Iraq to change the government of Iraq. Depending upon how grievous one believes the human rights violations of the Saddam regime to have been, most commentators agree that any state including the

United States has the right, and possibly the moral obligation, but not the duty, to intervene in Iraq.

Both natural and analytical international legal jurisprudence conjoin, in humanitarian intervention, in viewing the jurisdictional exclusivity of any nation State as conditional rather than absolute. The conditionality of the jurisdiction is most obvious in respect to minimum human rights.<sup>44</sup>

The right or moral obligation to intervene is usually conditioned by a number of procedural norms, the most important of which is the consent or the invitation of the population of the target country. Walzer readily justifies intervention when welcomed by a clear majority of the people,<sup>45</sup> but he believes that it is morally preferable that a people achieve self determination through an unaided revolution.<sup>46</sup> The case of oppressed minorities is more difficult, but Walzer agrees that intervention is morally acceptable where the minority is subject to massacre:

And when a government turns savagely upon its own people, we must doubt the very existence of a political community to which the idea of self-determination might apply.<sup>47</sup>

Teson, of course, goes much further, arguing that oppressed minorities are "entitled" to receive foreign help if they want it even if the degree of oppression falls short of genocide.<sup>48</sup> Tom Farer, however, notes that humanitarian intervention aimed at rescuing an oppressed minority "will not represent a tolerable alternative in most cases of massive human rights deprivation...Hence rescue...will require elimination of the threat at its source. The delinquent elite must alter its policies or be removed. There must, in other words, be direct and sustained involvement in the political processes of the target state."<sup>49</sup> Farer concludes that such a course is impractical in most cases, while Walzer, following Mill, finds it undesirable because of its incompatibility with the norm of self-determination.

<sup>44</sup> Michael Reisman, with the collaboration of Myres S. McDougal, "Humanitarian Intervention to Protect the Ibos," in Lillich, p. 169.

<sup>45</sup> Cited in Teson, p. 120.

<sup>46</sup> "for revolutionary activity is an exercise in self-determination, while foreign interference denies to a people those political capacities that only such exercise can bring." *Just and Unjust*, p. 89.

<sup>47</sup> *Just and Unjust*, p. 101.

<sup>48</sup> Teson, p. 121.

<sup>49</sup> "Humanitarian Intervention: The view From Charlottesville" in Lillich, p. 153.

It is evident that there is little reason to expect that the U.S. will receive much material or moral support for a policy of attempting to manage political change within Iraq. Our allies, as well as opponents of our policies, understand that our insistence on maintaining the sanctions has, at least, the secondary purpose of changing the Iraqi regime or its leadership. But the mixture of our own motives weakens our moral position precisely because it exploits the legalistic insistence on peace terms to mask questionable political goals. At the same time, the suffering of the Iraqi people as a consequence of the imposition of economic sanctions obscures the degree to which the government of Iraq is itself guilty of massive human rights violations.

Obviously, the United States has failed to gain the high moral ground in the game of determining the structure of the emergent new world order. The confusion of moral, legal, and strategic motives that is the legacy of Desert Storm may well explain the floundering which has characterized our efforts to deal with the situations in Somalia, Haiti, and, now, Bosnia. In Somalia, as we have seen, in an effort to minimize our commitment while making a small payback to the UN, the United States took the position that humanitarian intervention, on the invitation of the target population, could be politically neutral. In Haiti, recognizing that we could not do the same without supporting an oppressive government, we imposed sanctions which resulted in an unacceptable level of refugees fleeing to Florida. After much hesitation, demonstrating invidious distinctions among Haitians, Cubans, Iraqis and Somalians, the U.S. decided to rescue the Haitians by means of a "direct and sustained involvement in the political processes of the target state." In Bosnia, the U.S., after opposing sanctions, opposing intervention, and refusing to take sides, reluctantly agreed to support limited military intervention to support humanitarian relief to one side, and went on from there to impose a treaty and agree to enforce it on the ground, along with NATO allies, for a year or so.

It is difficult to discern a common moral thread in the patchwork fabric of these inconsistent and ineffective policies; and the failures are largely due to the absence of any serious effort to integrate a consistent ethical position into the explanation of the role that we believe the United States should play when the international community is faced with issues of humanitarian intervention. It may appear to many that the secretary-general has a case, that the U.S. is pursuing an ultranationalist policy of using the UN to sustain its own hegemony,

that the U.S. is actually threatening the integrity of the international system by discounting the interests of smaller nation-states, and that the interests of the United States have no moral significance.

In the aftermath of the Viet Nam war, military leaders rarely tire of reminding us of the necessity of having a clear and attainable goal before committing to the use of force. This seems a prudent counsel, with little moral relevance except for a class of Platonic guardians or public officials who are obligated to act in the interest of their wards and not in their own interest. Nevertheless, it is probable that some efforts to pursue partitive interests will contribute to the general interest. Walzer, and others, hold the view that moral international action is highly unlikely to occur unless it coincides with the interests of states that are capable of making a difference. "Circumstances sometimes make saints of us all," as it did India in its intervention in Bangladesh.<sup>50</sup> It follows that the moral evaluation of prudential decisions to intervene or not, depends upon comparing the predicted consequences of possible failure with the predicted consequences of avoiding international moral responsibility, and both of these with the expected payoff for success and the payoff for doing the right thing. There will be some cases in which it is possible to have it both ways, that is, where morality and national interest coincide to some extent. Given the ubiquity of the political, those are the only cases in which we can expect, or predict, effective international intervention—though we cannot predict that the outcome will appreciably benefit the intervening state.

The complexity of the moral context does not nullify all arguments for intervention any more than would the adequacy of the means at hand justify intervention without further moral inquiry. Invoking the lessons of Viet Nam serves many and even conflicting purposes. Most, but not all, who engage in this didactic rhetoric are not advocating intervention. They are proposing prudent reasons for avoiding intervention whether or not intervening is the moral option. They would place the partitive interest before, but not necessarily above, the interest of the whole, and insist that the burden of pursuing universal goals be shared equitably. The argument of those who advocate restraint or inaction is clinched by setting virtually impossible standards as the only justification for intervention. Many insist that intervention can only be justified where complete military victory is attainable and

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<sup>50</sup> *Just and Unjust*, p. 105.

where the target community can be, and will be, completely transformed to meet the standards of the international community. But Desert Storm and Bangladesh are counter-examples, making it plausible to argue that there may be some situations in which it is the interest of capable powers to act unilaterally at high cost and high risk, but with the justification of moral rectitude.

It is interesting to note that in the Bangladesh and Desert Storm cases, the intervening military forces were withdrawn without setting up a government in the manner of the Haitian case. This sort of restraint is praised by Walzer as an extension of the principle of national self-determination, as we have seen, but it is widely regarded as commendable because it minimizes the disregard for the general principle of non-intervention. Against such a formal adherence to a general legal principle, it is argued that the rescuer ought to stay until the job is done or until the interests of the state which has acted in the common interest are secured.

## The Moral Significance of the Interests of the Intervening Power

The common theme that has run through the preceding discussion is whether or not the interests of the intervening power have any moral significance. From a practical point of view, it seems inescapable that the frequency of moral acts of humanitarian intervention will be greatly diminished if the test of their morality is the willingness of the moral agent to sacrifice its own interests and to abstain from any benefit. Moreover, this perspective not only represents a particular sort of ascetic moral ideal, it also absolutizes the moral significance of acts which are abstracted from temporally continuous processes. There are not very many capable moral agents in international politics, so that the common interest may well be served by maximizing both the number and influence of such agents. If every moral act entails a sacrifice and thus diminishes the number or the viability or the influence of international moral agents, then everyone will be worse off. It follows that the national interest of a state acting as an agent of international morality does have moral significance. For all practical purposes, the agent cannot be subtracted from the act, even though

rights-based theories, by concentrating on the claimant, would do just that.

As soon as we agree to take the interests of the moral agent into account, we move beyond the abstract evaluation of individual acts and we enter the realm of moral *praxis* or what the critical theorists call contextuality. It is, however, noteworthy that when the critical theorist Hoffman discussed the role of external intervention, that is, the action and not the agent, he stated that its purpose ought to be to “advance forms of practical reason and communicative rationality through a process of undistorted dialogue” between the parties to a dispute.<sup>51</sup> Presumably, the disputants come to understand and appreciate the situation of their adversaries by means of undistorted dialogue, thus facilitating a resolution of the conflict. In other words, this process allows the disputants to become fully aware of the contextuality of their adversary. But the situation or contextuality of the intervening state, that is, the third party, is not referred to as an important ingredient. The idealism of these critical theorists leads them to see all acts of intervention as oppression unless they are limited to anonymous facilitative activity which has no impact on the contextualities of the disputants—a kind of immaculate conception of humanitarian intervention. This disregard for the situation of the intervenor is also shared by rights-based theorists, who remain vague in the extreme about the identity of those who are obligated to intervene.

We have argued that the same kind of contextual considerations which make the history, culture, social organization, and political institutions of target populations morally determinative of the nature and scope of humanitarian intervention also apply to the definition of the moral obligations which are incumbent upon the state which acts as the moral agent of the international community. Once we have departed from ethical foundationalism—from rights- or needs-based theories—or from revealed ethical commands, we are drawn toward a *political* ethic—one which can be the product of rational discourse in cultural contexts that are congenial to humanistic and democratic norms.

That is not to say that the political ethic of all liberal democracies should be identical. They will differ because of the different cultural contexts of each country and because of the diverse roles each plays in the international system. It cannot be expected that each state will share the same definition

<sup>51</sup> Mark Hoffman, “Agency, Identity, and Intervention,” in Forbes and Hoffman, p. 206.

of its own moral obligations to the international community as each shares a more or less common conception of international law. Thus the self-imposed moral obligations of the United States are not the same as those of Italy or Japan or Argentina, and surely not the same as those of Iran, Myanmar, or Mozambique.

The articulation of a national political ethic, especially within democratic states, is a continuous process of discussion, debate, and political contest; so there is little wonder that such a process will be influenced by practical considerations of the relevance of diverse formulations for policy making. Indeed, it is one of the primary responsibilities of the political leadership of democratic states to articulate a general political ethic and then apply it to the policy issues confronting the country. To do less is to abandon decision making power to the mass media and to campaign managers, as we have seen in the matter of humanitarian intervention. Rather than find ourselves engaged in interventionist adventures which have been imposed upon us, it should be recognized that there is no more compelling moral authority than that which we are capable of imposing upon ourselves. In this sense, acts of humanitarian intervention ought to be fully integrated parts of our foreign policy rather than part of the necessary but distracting cost of doing business in the world.

The moral principles which justify international intervention cannot be applied independently of one another, nor can they be applied as absolutes. Even if it were possible to order these principles in terms of their moral superiority, it would still be necessary to adapt their application

to the political situation.<sup>52</sup> International moralists tell us that we should feed the starving; provide government where it is absent; strengthen democratic consensus; and respect ethnic and religious claims to political sovereignty. We are also told to avoid interfering except where there is compelling moral justification. And we are told to limit our intervention to our means and resources; to minimize the use of force; and to maximize the political neutrality of our efforts in order to maintain the political autonomy of the target population. But we are not told how we can reconcile all of these requirements, nor which to sacrifice in particular cases. Instead, the moral responsibility for the political consequences of intervention has gone unanticipated and unrecognized.

But if directly confronted, a deeper understanding of that moral responsibility may begin to creep into the consciousness of the citizens of the intervening countries. When that occurs, the full measure of the moral consequences of international intervention may be grasped, and their political impact may be as great in the donor country as in the recipient. When that time comes, the domestic political debate will reflect the opinion that it is as important to coordinate our moral means and ends as it is to make sound prudential determinations of military costs and benefits—and that the difference between the two is not as great as some have thought.




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<sup>52</sup> There is a brief discussion of this matter in Plant, in Forbes and Hoffman, *Political Theory*, p. 110: "What a rights-based theory would need if it were to provide a basis for intervention is a hierarchical ordering of rights, where the rights gradually become more peripheral. Developing that kind of ordering relation is in fact extremely difficult. If there are human needs which would ground such a theory of rights, then we would have to derive the hierarchy of rights from an account of those needs which were related to the capacity for agency, however that agency was realized in different and culturally specific forms." Obviously, if one cannot ground the rights-based theory on a theory of needs, one is simply left with culturally specific forms of agency; that is, no hierarchy.



## THE UNIVERSITY OF CALIFORNIA INSTITUTE ON GLOBAL CONFLICT AND COOPERATION

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**T**he University of California Institute on Global Conflict and Cooperation (IGCC) was founded in 1983 as a multi-campus research unit serving the entire University of California (UC) system. The institute's purpose is to study the causes of international conflict and the opportunities to resolve it through international cooperation. During IGCC's first five years, research focused largely on the issue of averting nuclear war through arms control and confidence-building measures between the superpowers. Since then the research program has diversified to encompass several broad areas of inquiry: regional relations, international environmental policy, international relations theory, and most recently, the domestic sources of foreign policy.

IGCC serves as a liaison between the academic and policy communities, injecting fresh ideas into the policy process, establishing the intellectual foundations for effective policy-making in the post-Cold War environment, and providing opportunities and incentives for UC faculty and students to become involved in international policy debates. Scholars, researchers, government officials, and journalists from the United States and

abroad participate in all IGCC projects, and IGCC's publications—books, policy papers, and a semiannual newsletter—are widely distributed to individuals and institutions around the world.

In addition to projects undertaken by the central office at UC San Diego, IGCC supports research, instructional programs, and public education throughout the UC system. The institute receives financial support from the Regents of the University of California and the state of California, and has been awarded grants by such foundations as Ford, John D. And Catherine T. MacArthur, Rockefeller, Sloan, W. Alton Jones, Ploughshares, William and Flora Hewlett, the Carnegie Corporation, the Rockefeller Brothers Fund, the United States Institute of Peace, and The Pew Charitable Trusts.

Susan L. Shirk, a professor in UC San Diego's Graduate School of International Relations and Pacific Studies and in the UCSD Department of Political Science, was appointed director of IGCC in June 1992 after serving for a year as acting director. Former directors of the institute include John Gerard Ruggie (1989–1991), and Herbert F. York (1983–1989), who now serves as director emeritus.





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- Federal Executive emphasis sparked explosive growth in public availability and use of Internet resources (the so-called “information superhighway”).

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Jennifer R. Pournelle, Managing Editor  
Institute on Global Conflict and Cooperation  
University of California, San Diego  
9500 Gilman Drive  
La Jolla, CA 92093-0518

phone (619) 534-1979 or (619) 534-3352

Fax (619) 534-7655

email: [jpournelle@ucsd.edu](mailto:jpournelle@ucsd.edu) or [ph13@sdcc12.ucsd.edu](mailto:ph13@sdcc12.ucsd.edu)

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