

# Justice Beyond Borders

*A Global Political Theory*

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## Humanitarian Intervention

The voyager reflected: It's always a serious business to intervene decisively in other people's affairs. He was neither a citizen of the penal colony nor a citizen of the state to which it belonged. If he wished to condemn this execution, or even to prevent it, they could say to him: You are a stranger, hold your peace. To that he could make no answer, but simply add that in this instance he was a mystery to himself, for he was voyaging as an observer only, and by no means with any intention of changing other people's judicial systems. But here the circumstances were indeed extremely tempting. The injustice of the procedure and the inhumanity of the execution were beyond all doubt. No one could presume any kind of self-interest on the voyager's part, for the condemned man was unknown to him, was no fellow countryman, and by no means a person who inspired sympathy.

Franz Kafka, *In The Penal Colony* (1992 [1919]: 138)

What does this non-intervention principle in real fact now mean? It means precisely this—Intervention on the wrong side; Intervention by all who choose, and are strong enough, to put down free movements of peoples against corrupt governments. It means co-operation of despots against peoples, but no co-operation of peoples against despots.

Giuseppe Mazzini 'Non-Intervention' in *Life and Writings of Joseph Mazzini*.

(Smith, Elder (1870: vol. vi, pp.305–6) as quoted in Wight (1966b: 114))

The last chapter analysed one kind of injustice—what I termed *external* injustices. This chapter continues to examine non-ideal theory and turns its attention to what I have termed *internal* injustices. What should an external agent do when injustices are taking place within another political society? The chapter addresses the following sorts of question: is state sovereignty inviolable? How morally defensible is Article 2(7) of the United Nations Charter, which affirms the principle of non-intervention? How acceptable is Article 2(4), which proscribes the use of force? May a state or international institution (like the United Nations) intervene in the affairs of another state or international institution? Is there, for example, a case for intervention on humanitarian grounds when a political regime is harming its own citizens? In such cases, is there a right to intervene and do we have an obligation to intervene? It is important to examine these questions because situations frequently arise in which wrongs are taking place within another regime and they prompt the question of whether external

agencies (like states or international institutions) are justified in acting to prevent them, and, if so, when and how. Furthermore, we are often faced with occasions when external agencies have engaged in intervention but others have questioned their morality and occasions when external agencies have not intervened but some have thought they should have. In both cases we need to address the moral justifiability of intervention.

There have, in recent years, been many interventions. The United Nations, for example, sought to create 'safe havens' in northern Iraq in April 1991 (Griffiths, Levine, and Weller 1995: 48–50) and to create 'an aerial exclusion zone' in southern Iraq during the summer of 1992 to protect Shiite Muslims (Griffiths, Levine, and Weller 1995: 50). And, of course, the United States of America and Britain have also intervened in Iraq in 2003, giving as one of their justifications the argument that this is needed to protect the human rights of Iraqis.<sup>1</sup> In addition to these interventions, other recent interventions have included the United Nations' intervention in Somalia. This took the form of an arms embargo in January 1992 and then was followed by the United Nations sending in troops to enforce the peace and to defend those supplying aid (Morphet 1995: 222–3).<sup>2</sup> Similarly, in the former Yugoslavia it adopted several measures including applying an arms embargo in 1991, granting UNPROFOR permission to deploy force to defend itself in 1992, and creating safe areas in a number of places including Siebrenica and Sarajevo in 1993 (Griffiths, Levine, and Weller 1995: 53–5). Such activity has not been confined to the UN and single countries have also engaged in acts of intervention: thus India intervened in what was then East Pakistan in 1971 and America intervened in Grenada in 1983. And, of course, NATO waged a bombing campaign in 1999 against the Federal Republic of Yugoslavia in the name of preventing the oppression, slaughter, and ethnic cleansing of Kosovars (on which cf. Wheeler (2000: 257–81, 283–4)).

To address the ethical justifiability of intervention this chapter will begin by analysing how we should define humanitarian intervention (Section I). It will then examine the main cosmopolitan argument for humanitarian intervention (Section II) before then examining four types of counter-arguments (Sections III–VI). Having argued that there is a case for intervention on humanitarian grounds, the chapter will then analyse the conditions that must be satisfied before intervention is attempted (Section VII) as well as the principles that should guide the conduct of an intervention (Section VIII). It concludes by examining whether international law should affirm a right to humanitarian intervention (Section IX).

I

As in earlier chapters, it is necessary to begin with a clear understanding of the concept to be analysed. We need then to start by addressing the question 'what is humanitarian intervention?' and to answer this I want first to provide a definition of 'intervention' before then analysing the nature of a *humanitarian*

intervention. Much has been written on the issue of how to define 'intervention' and a number of different definitions have been proposed.

A good place to start is the definition given by Bull. Intervention, he maintains, is 'dictatorial or coercive interference, by an outside party or parties, in the sphere of jurisdiction of a sovereign state, or more broadly of an independent political community' (1984b: 1). Whilst this definition has several virtues it does, however, need to be modified. In particular, its use of the pejorative words 'dictatorial' and 'interference' is unhelpful, suggesting, before any normative considerations have been adduced, that intervention is wrong.<sup>3</sup> What is required, therefore, is a definition which abjures the use of such value-laden words (Caney 1997a: 28). In line with this, we can revise Bull's definition as follows: an intervention is a coercive action 'by an outside party or parties, in the sphere of jurisdiction of a sovereign state, or more broadly of an independent political community'. This is, I believe, a plausible and accurate definition.

Three features of this definition should be stressed. First, it is important to note that intervention necessarily involves coercion and thus not all action that alters a state's behaviour counts as intervention. Non-coercive forms of action (like persuasion or diplomacy), on this definition, do not count as interventionary (Brown 1992: 112).<sup>4</sup>

Second, as Bull's definition recognizes, and as others have also stressed, the agents engaging in intervention may be bodies other than states (Hoffmann 1984: 10; McMahan 1986: 25–6; Vincent 1974: 4–5). Intervention can be conducted by a number of different bodies—including, for example, states, associations of states, international institutions, social institutions like churches or even economic enterprises. This is important for two reasons. In the first place, the world we currently live in includes such bodies (like NATO and the United Nations and the European Union) and to restrict intervening agents to states is accordingly inappropriate. Second, it would be unhelpful to define intervention in such a way that the concept could not be applied to the supra-state authorities defended in Chapter 5. Given that Chapter 5 proposed the construction of accountable global political authorities and suggested an increased role for such authorities, it is appropriate to ask whether such bodies, as well as states, may or indeed should intervene.<sup>5</sup>

The third important feature of the definition being proposed is that the entity in which intervention is taking place (what Bhikhu Parekh calls 'the object of intervention' (1997: 53)) need not be a state. Bull refers thus to interventionary action in 'the sphere of jurisdiction of a sovereign state, or more broadly of an independent political community' (1984b: 1, my emphasis). Interventions can then be directed at political regimes other than states. As with the preceding point, this refusal to define intervention in a wholly statist fashion is important for two reasons. First, in our current world, there are instances which it is natural to describe as interventions but in which a state is absent. The clearest example of this is Somalia—a country in which civil war had broken out

and there was no monopoly of power. The United Nations' actions in Somalia (under UNOSOM II) are nonetheless surely interventions. Consider also institutions such as the European Union. It resists categorization as a state but it is clearly a political entity which has its own institutions (such as the European Commission, the Council of Ministers, and the European Parliament) which make political decisions. There is no reason to define intervention in such a way that it could not by *definition* be subject to intervention. A second reason for including political regimes other than states as potential objects of intervention corresponds to a point made above, namely that there is as we have seen a powerful case for instituting powerful global political bodies. It therefore follows that there is little point in providing an analysis of intervention which employs concepts of utility only in a purely statist framework. The terms to be deployed (including most obviously the definition of intervention) should be applicable to the institutional framework defended earlier as well, of course, to the current institutional framework.<sup>6</sup> The object of intervention should thus include political units other than states.

The account of intervention proposed (like the analysis of war in Chapter 6) is therefore designed to be applicable to a wide variety of different international institutional frameworks. It is, for example, applicable to a purely statist order; a system which includes states and supra-state political bodies like the UN (the current situation); and the system defended in Chapter 5 (one with sub-state entities, states, and supra-state authorities). Characterized as such the concept of intervention is relevant to the contemporary international political system (the scenario assumed by almost all discussions of intervention) as well as to the non-statist type of political framework favoured by some cosmopolitans. As in Chapter 6, I shall hereafter generally refer simply to 'political regimes' as the object of intervention to cover these different scenarios.

Several scholars have proposed narrower definitions and it is worth addressing some of these proposals. First, some argue that intervention must necessarily employ force or military power. Donnelly, for example, defines intervention in terms of coercion and then identifies coercion with force (1993: 608–10).<sup>7</sup> As several writers have pointed out, however, this is an unduly narrow definition (McMahan 1986: 25; Vincent 1974: 7–8; Smith 1989: 4).<sup>8</sup> It neglects non-military ways of determining another state's behaviour like economic sanctions or trade embargoes. As Mark Wicclair points out, the misgivings some people have about intervention apply not just to military modes of intervention but also to non-military modes (1979: 143). What is sometimes objected to is the use of coercion—for one state to be determining what happens in another country—but coercion can take different forms and we therefore have no reason to limit intervention to military modes of coercion alone.

A second restriction should also be considered. Some, for example, argue that intervention, by definition, is an action against the interests or wishes of another state (cf., for example, Moellendorf 2002a: 103; Wicclair 1979: 143–4). Thus, for A to engage in intervention in state B, A must be acting against B's wishes.

Whilst this is often so, we have no reason to narrow intervention solely to such cases (McMahan 1986: 26–7; Smith 1989: 2, fn. 3). In some cases, for example, a state invites outside agencies to come to its assistance (perhaps to overcome some internal revolutionaries) and it is natural to describe those outside agencies as intervening in that country's affairs. In addition, sometimes an external body is invited in by two parties to a conflict to help resolve the disagreement. In April 1990, for example, the government in El Salvador and the rebels invited the United Nations to intervene to help resolve the conflict (Munck and Kumar 1995: 169–79, esp. p. 170).

A more general point about defining intervention should also be made. As Beitz notes, there is a good case for adopting a wide definition of intervention (1999c: 72–4). A wide definition enables us, when considering the moral legitimacy of intervention, to bear in mind the variety of different methods available and to distinguish between the advantages of different modes of intervention. The wider the definition the more types of action are considered and the fuller picture one gets as to what should be done.<sup>9</sup>

Having defined intervention, we can now analyse what is meant by terming an intervention a 'humanitarian intervention'. In this chapter, I shall define an intervention as a humanitarian intervention if one of its central aims is to protect the welfare of the members of another political regime. Some might demur from this definition, arguing that humanitarian interventions are interventions undertaken for no reason other than to protect the welfare of members of another political regime. As Mason and Wheeler plausibly argue, however, on such a definition there are no humanitarian interventions and there is little point in proposing to define a phenomenon in such a way that it has little, if any, application to our world (1996: 95). Thus, a humanitarian intervention, as I define it, is an intervention which is undertaken in part for humanitarian reasons. Interventions which are undertaken simply in order to increase the intervener's prestige or security interests are therefore not included as humanitarian interventions. In addition, and perhaps more controversially, on this definition, interventions designed to protect one's own nationals residing in a foreign political regime are also not included as humanitarian interventions (Akehurst 1984: 99–104).

Now, combining this account of humanitarianism with the earlier definition of intervention, it follows that humanitarian intervention should be defined as: coercive action 'by an outside party or parties, in the sphere of jurisdiction of a sovereign state, or more broadly of an independent political community' (Bull 1984b: 1) which is undertaken, partly or exclusively, to protect the welfare of the members of that political community.

Two further points should be made before appraising the justifiability of humanitarian intervention. First, when judging these arguments we should bear in mind whether they address the (weaker) claim that outside agencies have a right to intervene or the (stronger) claim that they have an obligation to intervene. The latter is, clearly, more difficult to establish since it claims not just that

they are permitted to intervene but that they ought to do so. In what follows, I shall concentrate on this stronger claim but will draw attention to the weaker claim when it is relevant. Second, it is important to stress that a sound appreciation of the case for and against intervention should note the many forms that intervention can take. Military interventions, for example, can involve the creation of safe havens, or the deployment of troops, or the provision of training and weapons. Alternatively it might involve weapon inspections and the destruction of weapons. Furthermore, as was mentioned earlier, intervention may involve non-military types of coercion including embargoes or sanctions or monitoring elections. All of these are acts that coerce another political regime or the members of another political regime. It is important, however, to note their diversity because some objections to intervention may have force against some types of interventionary behaviour but not others.

## II

Let us now therefore address the normative question of whether humanitarian intervention is justifiable and in particular whether external agencies have an obligation to intervene. Many do believe that humanitarian intervention is sometimes justified. Many, for example, think it right for external agencies to intervene to prevent a state engaging in genocidal policies against some of its own people or if there is widespread human rights abuse. On what grounds, however, can we defend intervention? What kind of internal wrongs would justify humanitarian intervention?

A plausible answer to this question, I believe, cannot be divorced from the issues considered in Chapters 3 and 4. That is, whether one thinks there is a justification for intervention depends, in part, on whether one affirms principles of civil, political, and economic justice and what those principles affirm. It would, in other words, be odd to think that persons have inviolable fundamental human rights but that this should not inform in any way one's judgement of the legitimacy of a political system. The moral justifiability of intervention, it should be stressed, only depends *in part* on whether one accepts human rights for, as we shall see shortly, one might affirm civil or political or economic human rights but nonetheless reject intervention. A commitment to human rights is insufficient to justify humanitarian intervention. Nonetheless, this point is quite compatible with the looser point I want to make here that one should not divorce the question of 'is intervention justified?' from the question of 'what universal principles of justice are there?'

In what follows I want to do two things. I shall first argue that most (if not all) arguments for humanitarian intervention share four crucial premises which jointly justify intervention. The aim here is to set out the abstract features—the bare bones—of any convincing argument for humanitarian intervention. Second, I aim to illustrate and develop these four crucial premises by presenting and defending an argument for intervention that draws on the egalitarian

cosmopolitan principles defended in Chapters 3 and 4. The aim here then is to put flesh on the abstract argument and to spell out what I take to be the most plausible argument for humanitarian intervention, namely that which is grounded on cosmopolitan liberal principles of civil, political, and distributive justice.

1. *The standard cosmopolitan argument.* Let me begin then with the first of these aims. The standard case for humanitarian intervention rests on four important claims.<sup>10</sup> First, proponents of humanitarian intervention affirm the cosmopolitan claim (made by, amongst others, Barry, Beitz, and Pogge) that individuals have moral interests or a moral status which is worthy of respect.<sup>11</sup> As we have seen in Chapters 3 and 4, some would employ the concept of rights and emphasize people's human rights, say, not to be killed or imprisoned without trial. Others eschew the concept of rights and might emphasize people's needs or interests, arguing that there is a humanitarian case for intervening when people are in great need. Whichever approach is adopted, however, both are united in their commitment to the claim that individuals have a moral worth which should be respected and moral interests which should be protected.

Second, and relatedly, proponents of humanitarian intervention make the further claim that political institutions have value only to the extent that they respect people's moral interests or moral standing. Political regimes do not have a right to rule regardless of their citizens' welfare. Thus not only do individuals have moral standing (assumption 1); political institutions, like states, have moral value only insofar as they respect people's interests (Barry 1999: 35–40; Beitz 1988a: 192, 1994). This claim is familiar from Chapter 5. It can be articulated in a number of ways. Drawing on the analysis in Chapter 5 we can distinguish between at least two possibilities. (i) Some human rights theorists adopt an *instrumental* approach to political institutions, arguing that political regimes treat people with respect and thereby have value only insofar as they act in a just fashion and respect people's rights. If they violate them then external intervention may be justified to rectify this situation (Barry 1998: 153, 160; Barry 1999: 40; Beitz 1999c: 69–92; Doppelt 1980: 398–403; Pogge 1992a; Smith 1998: 76–8). (ii) A different reading of this second premiss is provided by those who adopt an *intrinsic* approach. The latter maintain that political institutions (like states or transnational institutions) treat people with respect and thereby have legitimacy if their members have chosen or would choose to be governed by them. On this intrinsic (or contractarian) approach, therefore, political systems are not legitimate when they do not command the consent of their people (Teson 1988: 112–13; Wicclair 1980: 293–302).<sup>12</sup> This position is clearly articulated by Luban: '[a]ccording to contract theory, a political community is made legitimate by the consent (tacit or explicit) of its members; it thereby acquires rights which derive from the rights of its members. Thus the rights of political communities are explained by two rather harmless assumptions: that people have rights, and that those rights may be transferred through freely given consent' (1980a: 167). Underlying the differences between these instrumental and intrinsic versions,

there is nonetheless the common assumption that political institutions are justified only when they treat persons with respect. They do not have any value in themselves.

These first two assumptions, however, do not establish an obligation to intervene on humanitarian grounds. The latter requires a third assumption, namely that people's rights generate obligations on others (Pogge 1994a: 89).<sup>13</sup> That is, external agencies have a duty to ensure that other people's rights are respected. Without this further assumption, one can show at most that humanitarian intervention is permissible, i.e. that people have a right to intervene.<sup>14</sup> To show that people have an obligation to intervene, this further third assumption is required. Here it is appropriate to note that many, but not all, philosophers would conceive of such duties as being positive duties.<sup>15</sup> One exception to this is Pogge who also subscribes to this third assumption but who employs the notion of 'negative' duties: as we have seen earlier, on his account persons have a negative duty not to be part of an oppressive social and political system. He further argues, recall, that given the extent of global interdependence, people have a negative duty not to be part of a global system in which some members' rights are being violated and this entails that one should prevent such actions.<sup>16</sup>

Fourth, and finally, the case for humanitarian intervention rests on the further assumption that acts of humanitarian intervention can work. Clearly this assumption is crucial and if it proved to be the case that humanitarian interventions never succeeded in meeting the appropriate humanitarian ends, there could be no case for such policies. Here, it is appropriate to note that many who are deeply committed to the protection of human rights are wary of humanitarian interventions. Distinguished cosmopolitan thinkers like Beitz (1980: 390–1) and Booth (1994: 65–70; 1995: 120–1), for example, are critical of military intervention for precisely this reason.

To sum up, therefore, the cosmopolitan case for humanitarian intervention claims that all persons have fundamental interests (assumption 1) and that political institutions do not have value except insofar as they respect these interests (assumption 2). It claims further that external agents have duties to protect people's fundamental interests (assumption 3) and that this obligation sometimes requires external intervention because the latter is an effective way of protecting such interests (assumption 4).<sup>17</sup>

2. *The 'egalitarian liberal' cosmopolitan argument.* The above account is very abstract and needs filling in both to illustrate what it entails and to provide concrete guidance. With this in mind, it may be useful to illustrate and flesh out the abstract argument with the egalitarian liberal cosmopolitan principles defended in Chapters 3, 4, and 5. Let us consider the features of the standard argument for intervention in turn, starting with the first key assumption, that individuals have a moral status which should be respected. The well-being based arguments considered in Chapter 3, Section VI suggest that respect for individuals should

take the form of providing liberal civil and political rights, rights to freedom of worship, conscience, action, and association. In addition, the analysis conducted in Chapter 4 suggests that there is a powerful case for cosmopolitan principles of distributive justice. These include meeting basic needs, granting all persons equality of opportunity, rules of fair trade, and, over and above this, prioritizing the position of the least advantaged. The abstract assumption that individuals have a moral status that should be respected thus should, if the arguments in Chapters 3 and 4 are correct, be elaborated to take the form of egalitarian liberal civil, political, and economic rights. In this respect this argument differs from that presented by other cosmopolitans, like Tesón, who defend intervention to protect civil and political rights but not economic rights (1988: 118–19). The egalitarian cosmopolitanism defended earlier in this book represents one way of explicating this first claim.

Moving on to the second feature of the standard argument for intervention, we can see that, as was argued in Chapter 5, political institutions (like states or transnational institutions) have worth only to the extent that they respect persons and protect their interests. In the context of the egalitarian cosmopolitanism developed in Chapters 3 and 4, this entails that political institutions have

value only to the extent that they respect people's fundamental interests and this, in turn, requires that they protect people's civil, political, and economic rights (including their right to determine the social forces that impact on their other rights). Where political institutions are not protecting its members' rights, then, they lack moral standing.

Turning to the next assumption, an egalitarian liberal cosmopolitanism provides an argument for the claim that all persons have a duty to protect human rights. In so doing, as we have seen, it counters the suggestion made by nationalists like Miller that the duty to protect someone's rights falls mainly on that person's fellow nationals (1995: 75–7, 79–80, 108; 1999: 200, 202) (Chapter 4, Sections X and XII). Similarly, it contests the realist claim discussed earlier that outside bodies like states lack a duty to protect human rights overseas and that states are obliged simply to pursue the national interest (Chapter 3 Section XII, and Chapter 4 Sections XII and XIII).<sup>18</sup>

Turning finally to the fourth assumption, the egalitarian liberal cosmopolitanism developed earlier does not have anything specific to say on this matter. As with all variations of the standard argument, it claims simply that there is no case for intervention if it will not work.

Now conjoining these four claims we can see a distinctive egalitarian liberal cosmopolitan version of the standard argument for intervention. It stipulates that persons have political human rights (including rights to freedom of belief, religion, worship, association, and communication) and economic human rights (including rights to have their basic needs met and to be accorded equality of opportunity). It argues further that political institutions—be they states or transnational polities like the European Union or global institutions—have worth only in so far as they protect these values. Thus political institutions lack

legitimacy when they fail to protect these rights. Furthermore, given that all persons have duties to respect and protect these human rights (claim 3), it follows that intervention is justified when it could successfully protect these rights (claim 4). Indeed, it is not just morally permissible; it is a duty.

Prior to moving on to consider counter-arguments, it is worth returning to the observation made earlier that both this presentation of the abstract cosmopolitan argument for intervention, and the egalitarian liberal variant of it, confirm and illustrate one of the claims advanced in the introduction of this book, namely that it is arbitrary to separate issues (like 'international distributive justice') from others ('intervention'). As the analysis of the egalitarian cosmopolitan argument for intervention reveals, discussions of intervention draw on analyses of civil and political justice (what civil and political rights, if any, are there?), distributive justice (what economic rights, if any, are there and who has the duty to protect them?), and the sources of the value of institutions (when do institutions have moral standing?).

### III

Many have deep misgivings about humanitarian intervention and the following sections seek to explore some of the most commonly expressed counter-arguments.<sup>19</sup> Attention will be focused, in particular, on four types of counter-argument, namely the arguments that humanitarian intervention is illegitimate because: (a) it fails to respect a people's right to self-government; (b) it is presumptuous and arrogant; (c) it destroys international stability; and (d) it rarely succeeds. The rest of this section will examine (a) before considering the three other types of argument in the next three sections.<sup>20</sup>

One very common counter-argument to intervention invokes a community's right to be self-governing. Those who are sympathetic to the ideal of a society of sovereign states, for example, articulate one version of this argument, claiming that intervention is standardly wrong because it represents an infraction of the rightful autonomy of the state. The most uncompromising version of this argument can be found in the work of Christian Wolff who in his *Jus Gentium Methodo Scientifica Pertractatum* affirms the intrinsic right of states to be independent in order to defend non-intervention. He writes, for example, that 'the law of nations is originally nothing else than the law of nature applied to nations, which are considered as individual persons living in a state of nature' (1934 [1764], ch. II, sec. 156, p. 84). Throughout his work, states are assumed to be analogous to persons and given that the latter should be respected as independent, it follows that states should be as well (1934 [1764], prolegomena, secs. 2 and 3, p. 9). As Wolff writes, 'since by nature nations are bound to each other in the same way as individuals are bound to individuals, every nation also ought to allow to another nation its right' (1934 [1764], ch. II, sec. 264, p. 135). Hence, 'no ruler of a state has the right to interfere in the government of another' (1934 [1764], ch. II, sec. 257, p. 131, cf. also secs. 255–60, pp. 130–3).

The analogy on which this argument depends has already been encountered in Chapter 6, Section II, where it was invoked to defend the right of a state to employ force in self-defence. As we saw there, however, it is not plausible to claim that states are analogous to persons (Beitz 1999c: 69–71, 74–6, 81; McMahan 1986: 28–30, esp. p. 29). They lack the moral properties we attribute to human beings. We therefore have no reason to think that states should be given intrinsic value and Wolff's view that, like persons, states possess independent value—value that is, regardless of how they affect humans—is, as we have seen, highly implausible. The cornerstone of this traditional argument is thus deeply counter-intuitive. It is worth exploring this point further. The argument under scrutiny must overcome three problems. The first is that it must establish that an entity,  $X$ , has value independently of whether  $X$  has an impact on human beings. Even if this task is met, however, and someone shows that some entities have some value regardless of how they affect humans, this approach faces a second task. She must establish that states are a member of this class of entities. Someone might, for example, accept that some entities have value independently of their effects on persons but think that, whilst works of art or environmental scenes belong in this category, states do not. Suppose, however, that these two problems are overcome and that someone establishes that states have value in and of themselves. This does not establish Wolff's position on non-intervention: one has to show that this value possessed by states overrides the importance of human rights. Otherwise, it is quite possible that states possess independent value but that this does not outweigh the importance of saving human lives from slaughter. To argue therefore that intervention is wrong because it is incompatible with the intrinsic value of state independence is not credible and encounters three severe problems.

There are, however, ways of spelling out the thought that intervention is illegitimate because it violates a people's right to self-government which do not rest on Wolff's implausible assumptions. For instance, some who emphasize the moral value of self-determination object to intervention because it violates the autonomy of *nations* (Miller 1995: 77–8). Similarly, Walzer has developed an argument against intervention which, like the preceding argument, affirms the right of a collectivity in order to oppose intervention but which, unlike the preceding argument, does not attribute independent moral value to states. It appeals instead to the rights of 'communities'.<sup>21</sup> Walzer's argument makes two essential claims. First, he defends what he terms 'communal integrity', reasoning that 'the idea of communal integrity derives its moral and political force from the rights of contemporary men and women to live as members of a historic community and to express their inherited culture through political forms worked out among themselves' (1980: 211). In short: communal self-government is desirable (1980: 225–6).<sup>22</sup> Walzer then argues that those outside a state are unable to judge whether that state represents a form of communal self-government. And since they are ignorant about the internal affairs of another state they should adopt a 'morally necessary presumption ... [namely] that there exists

a certain "fit" between the community and its government and that the state is "legitimate". It is not a gang of rulers acting in its own interests, but a people governed in accordance with its own traditions' (1980: 212). Thus given that communal integrity is valuable and given that external bodies must (because of their ignorance) assume that a state embodies the norms of the community, external bodies should eschew intervention. They do not have a right (let alone an obligation) to intervene.<sup>23</sup>

Walzer's argument is, however, unpersuasive for a number of reasons. One serious problem with it concerns his second claim that external agents are too ill-informed to be able to assess whether there is a 'fit' between a people and a state (and should therefore simply assume that there is). As many have noted, this claim is simply implausible (Beitz 1980: 386; Doppel 1980: 400; Luban 1980b: 395; McMahan 1986: 42–3). External bodies, like the United Nations, can surely draw on research of another country, survey its infrastructure, socio-economic base, traditions, history, and so on and thereby reach an informed opinion on whether there is 'fit'.

Furthermore, in many cases there is no match between a state and a community, most states being multi-national, multi-ethnic, and multi-cultural (Brown 1993: 517–18). And there are many glaring cases where the political elite does not represent the values of the entire population but only a subsection (Beitz 1980: 385–6). In such cases, to respect the state is to grant protection of one community but in doing so to enable it to persecute other communities (McMahan 1986: 33). A particularly striking example of this is the Federal Republic of Yugoslavia which from 1989 revoked Kosovo's status as an autonomous province and persecuted Kosovar Albanians.

In addition, the very idea at the centre of his argument, that of 'cultural autonomy', is insufficiently precise to do the job required of it. To see this one needs only ask 'which community?' Walzer's argument presupposes that we can identify a clearly marked community but this is an inaccurate and misleading assumption (Smith 1997: 16). Often there is no one clear community. Differing communities exist depending on whether one focuses on religion or language or ethnicity and so on. Different criteria for specifying a community yield different results and this is destructive of the idea of communal autonomy. For these three reasons, then, the idea of 'communal integrity' provides very little support for state sovereignty and non-intervention.<sup>24</sup>

Thus neither version of the claim that intervention violates a people's right to self-government is persuasive.

#### IV

Let us therefore consider a second argument against intervention. One sentiment commonly voiced defends non-intervention on the grounds that to intervene is presumptuous, arrogant, and involves an outside body playing God. What gives us the authority, someone might ask, to determine someone else's

affairs (Benn and Peters, 1959: 362)? Isn't intervention presumptuous? Aren't we just imposing our values on someone else?

There are, however, four problems with this argument. The first is that it focuses exclusively on the position of a would-be intervening force but does not apply that question to the political bodies governing that political regime. The question it poses applies in any instance where political power is being exercised.

It is thus right to ask of a would-be intervening force 'what gives them the right to exercise political power?' and 'are they just imposing their values on some subject people?' but one should equally ask the same question of existing political regimes. In other words, we have no reason to suppose that the questions being posed count against intervening agents. And we should not simply assume that the currently ruling authorities have the right to rule there. It may be equally presumptuous of them to exercise power. Indeed they may be as alien and foreign as the intervening force.

Second, the argument runs into the following countervailing line of reasoning: in our interdependent world outside bodies inevitably affect what happens within another polity. No political regime is utterly unaffected by the outside world and, consequently, outside bodies cannot fail to make a difference. Put another way: powerful outside agencies cannot avoid playing God because whatever they do will make a difference (Chapter 2, Section XIV). Given this, however, then the question that arises is not 'should we make a difference?' but 'given that we do make a difference, how should we exercise our power?' (Caney 2000c: 545–7). The force of the argument presented in Section II of this chapter is that outside bodies have a duty to exercise this power by intervening when certain conditions arise (including, among many other conditions, considerable rights violations). Nothing that the argument considered in this section has said undermines that reasoning.

One can then add to this, third, that while intervention brings with it risks (such as acting in a presumptuous arrogant fashion and being dismissive of others who espouse different values), non-intervention also brings with it risks (such as indifference and callousness). The decision not to intervene in 1995 when Serbs killed nearly 8000 Muslims at Srebrenica is, certainly, open to the charge of indifference.

Finally, we should note that this argument assumes that one party is foisting its values on others but that this applies only in some instances. It does not, for example, apply in cases where intervention is welcomed and invited by some party. In such a situation, there is no hierarchical relationship in which one party (the intervening force) is telling the other (the country or political system to be intervened in) how the latter should conduct their arrangements. It is simply responding to their claims. In other words, one can have intervention without condescension and arrogance. Whether intervention is regarded as presumptuous would depend, in part, on procedural factors, such as *how* the intervention takes place (whether there is dialogue and consultation with people within the regime being intervened in). It is also reasonable to suppose

that it depends also on *who* intervenes and this important issue will be addressed later.

In the meantime, however, the four considerations already cited suggest that humanitarian intervention need not be guilty of the vices of arrogance and immodesty.

## V

Given the failure of the two previous arguments against humanitarian intervention let us consider another critique of such interventions. Many of those sympathetic to the ideal of a society of states advance a third argument against intervention. This argument affirms the importance of a stable international order. It then argues that permitting (or defending) humanitarian intervention encourages other interventions and thereby destroys international order. Intervention should therefore be rejected because to permit it would engender instability. This argument has been stressed by a number of prominent defenders of the 'society of states' including Bull (on which see (Wheeler 1992: 463–77)), Nardin (Nardin 1983: 5, 18–19; Slater and Nardin 1986: 87), and Vincent (1974: 328–33).<sup>25</sup> A particularly clear statement of it is given by Jackson who, in *The Global Covenant*, opposes humanitarian intervention on the grounds that it jeopardizes '[i]nternational order and stability, international peace and security'. He continues '[i]n my view, the stability of international society, especially the unity of the great powers, is more important, indeed far more important, than minority rights and humanitarian protections in Yugoslavia or in other country—if we have to choose between those two sets of values' (2000: 291).

This argument is unpersuasive. First, the argument's empirical assumption that defending intervention will encourage further interventions and thus destabilize the global order is implausible. As Beitz and McMahan note, many interventions have taken place which have not triggered other interventions or in any other way destabilized global politics (Beitz 1988b: 187; McMahan 1986: 44).

As McMahan further adds, it is hard to see why reaching a conclusion about the moral justifiability of intervention will affect the conduct of states (1986: 43–4). At this point, it is worth distinguishing the argument under scrutiny from a distinct argument which appears similar but which is importantly different. The argument being considered, recall, states that intervention is morally unjustified because it destroys international order. This claim should, however, be distinguished from the following often made claim: *international law should not include a legal right to intervene because this would destroy international order*. The latter is not a claim about whether intervention is morally right or wrong; it is a claim about whether there should be a legal right to intervene.

This distinction will be explored in more length in Section IX of this chapter but it is worth drawing attention to it here because the concern about instability is more forceful as a critique of the claim that there should be a legal right to intervene than it is of the claim that intervention is morally justified. Whilst it is

hard to see why reaching a moral conclusion about the justifiability of intervention will affect the conduct of states, it is not hard to see that creating a legal right to intervene may well affect the conduct of states and that it might conceivably bring about the collapse of the international order. My claim here, I should stress, is not that this empirical thesis is true. (Indeed, as we see in Section IX of this chapter, these dangers can be avoided). It is simply that this argument against the legal right to intervene has more credibility than the argument under scrutiny in this section and that the latter gains illicit plausibility if it is run together with this superficially similar claim. We should, for that reason, distinguish between the two claims.

In addition, even if humanitarian intervention did generate instability this alone does not establish that it is wrong. It would do so only if we attributed supreme importance to preserving the international status quo. We therefore need to know whether the current international system is worth preserving and whether a more attractive alternative is attainable. The value of stability (including international stability) is a function of the value of the current arrangements. Appeals to international order are therefore incomplete and need to be supplemented by an argument showing that the international system is fair and morally legitimate (Beitz 1988b: 187–8; Wicclair 1979: 150). Furthermore, and relatedly, to prioritize stability is to reward the most powerful who—if they cannot get their way—will generate instability. It appeases the most powerful and it disenfranchises the weak who are unable to threaten instability (Caney 1997a: 30). As Rawls expresses the point: ‘to each according to his threat advantage is not a principle of justice’ (1999c: 122).

Arguments invoking the importance of order are thus incomplete and rest on the dubious assumption that intervention engenders instability.

## VI

For many, however, the problem with humanitarian intervention lies not with its disregard for the rights of states or its alleged propensity to cause disorder. Rather the problem is that, for a number of reasons, intervention does not succeed in its objectives. This is certainly a common response from those who are sympathetic to realist claims about the possibility of effective moral action in the international realm and who accuse such projects of utopianism. Someone might accept assumptions 1, 2, and 3 of the argument for humanitarian intervention but have deep misgivings about the efficacy of humanitarian intervention (i.e. assumption 4). Those who oppose intervention are, thus, not necessarily indifferent to the plight of others.<sup>26</sup> Caroline Thomas, for instance, affirms a pragmatic argument, drawing on examples like Tanzania’s intervention in Uganda in 1978–9 and the Vietnamese intervention into Cambodia, to argue that interventions rarely work (1993: 91–103, esp. 93–5). In addition, a recent analysis of UN peacemaking activities concludes that these have standardly proved to be unsuccessful (Diehl, Reitschneider, and Hensel 1996). These empirical examples cast doubt on the

case for humanitarian intervention but before we accept them, they need to be supplemented with theoretical explanations, showing why no intervention will further humanitarian ends. A number of reasons have been suggested as to why intervention will not work.<sup>27</sup>

1. *Knowledge.* First, some argue that external agencies are insufficiently well informed about another state and its population to make good decisions (Donnelly 1993: 640). The experience of a number of interventions lends support to this argument. Joan Lewis and James Mayall record, for example, that the UN intervention in Somalia (UNOSOM) was ill-informed. They argue that [v]ery few adequately representative Somali advisors were recruited, and UN officials generally could hardly have been more inadequately briefed about Somali society and culture. The huge gap between traditional Somali methods of dealing with foreigners and American high-tech put most of the UN staff at a great disadvantage in their local dealings. This is perhaps most graphically illustrated by US helicopters dropping leaflets on a population with a primarily oral tradition whose sensitivity to radio broadcasting is famous in Africa. (1996: 121)

Similarly, the UN intervention in Cambodia (UNTAC) was afflicted by poor information. Mats Berdal and Michael Leifer, for instance, draw attention to the failure to have an intelligence unit tracking the movements of the Khmer Rouge and Vietnamese troops present in Cambodia (1996: 48–9). They argue, further, that UNTAC’s success ‘required intimate knowledge of and sensitivity to the host culture. Yet both were in short supply and UNTAC’s attempts to control the administration with any effect were wholly unsuccessful’ (1996: 43–4).

Nonetheless, as a number of scholars have pointed out, the assumption that external agencies are always insufficiently informed is too sweeping (Adelman 1992: 71; Wicclair 1979: 153). States and international institutions can finance thorough and comprehensive analyses of the socio-economic structure of another society, its political system, and its political culture. Moreover, all the examples above point to technical problems which can be rectified rather than to any deep or fundamental obstacle to one group of people understanding the nature of another society.

2. *Improper motives.* A second reason for doubting whether interventions will further humanitarian objectives is voiced by Stanley Benn and R. S. Peters (1959: 361). They argue that states rarely act out of altruism and contend that they will usually intervene to further their national interest rather than the fundamental rights of people abroad. Similarly, realists are sceptical of the motives of states and hence are sceptical of the likelihood of genuinely humanitarian intervention (Morgenthau 1967: 430). The point is made particularly forcefully by Schmitt:

<sup>26</sup>When a state fights its political enemy in the name of humanity, it is not a war for the sake of humanity, but a war wherein a particular state seeks to usurp a universal concept against its military opponent. At the expense of its opponent, it tries to identify itself with

humanity in the same way as one can misuse peace, justice, progress, and civilization in order to claim these as one's own and to deny the same to the enemy. The concept of humanity is an especially useful ideological instrument of imperialist expansion, and in its ethical humanitarian form it is a specific vehicle of economic imperialism. Here one is reminded of a somewhat modified expression of Proudhon's: whoever invokes humanity wants to cheat'. (1996 [1932]: 54)

The charge, then, is that humanitarian intervention is just a cover for self-interested action.

Four points, however, should be made about this argument. First, as Wicclair points out, it does not show that interventions will not further humanitarian ends. This would be the case only if we assume that a state's pursuit of its interests never includes policies that also further humanitarian aims (like the observance of human rights or the prevention of starvation). Policies motivated in part by the national interest may also have beneficial outcomes for others. Furthermore, states might acquire prestige and standing through humanitarian acts. A political leader might, for example, seek to enhance his or her reputation through securing a foreign policy success (such as facilitating peace in the Middle East) (Wicclair 1979: 152).

A second problem with this argument lies in its rather crude understanding of the motivations of states. It would be utopian and idealistic to think that states do not seek to further their national interest but it is also unrealistic to think that they are never motivated by other concerns, including ideological commitments (Jervis 1988: 342–3; Waltz 1979: 91–2, 205). Given the definition of humanitarian intervention presented in Section I (which identifies interventions as humanitarian if they are in part motivated by humanitarian concerns) the argument in question works only if we make the extreme assumption that the sole motivations are non-moral considerations. To claim that states are motivated by their own interests is certainly plausible; to claim that they are always only motivated by this is simply inaccurate.

Furthermore, it is artificial to characterize a state's national interest independently of the moral beliefs of its leaders. For many, a state's national interest affirms and embodies certain moral principles and ideals (cf., for example, Murray's (1996) analysis of Morgenthau).<sup>28</sup> Consequently, a state's pursuit of the national interest can include a commitment to humanitarian ideals.<sup>29</sup> It is also important at this point not to lose sight of the point made in Section I that interventions can be undertaken by non-state bodies since non-state bodies, like the United Nations, even more clearly construe their role in moral terms. This is not to claim that such institutions actually do act in a morally decent way. Rather it is to point out that such bodies do not define their goals in a value-neutral way: they construe their ends in moral terms. The institutions of the United Nations, for example, perceive their various roles in terms of certain ideals and it is artificial to separate their 'interests' from their 'values'.

A fourth limitation of this argument is that it fails to take into account the motives of a state towards its own citizens. External agencies, it is true, may seek

to further their own interests and therefore not have the interests of those abroad at heart but we should also note that many political elites, too, are not greatly concerned about the welfare of their own people (Teson 1988: 105). This is particularly likely to be true in non-democratic states where the political leaders have no incentive to respect the rights of their subjects. In addition it is likely to be the case in countries containing ethnic or cultural minorities. In such circumstances it is simply utopian to think that the leaders of a state will always care more for the interests of all of their people than will external agencies.

The concern about power politics is, thus, a salutary one but it does not show humanitarian intervention to be inherently unsuccessful.

3. *Resistance to intervention.* Even if external agencies are suitably well-informed and motivated by the right considerations, humanitarian intervention might not succeed for other reasons. Interventions sometimes flounder simply because they encounter resistance from some of the members of the country which is subject to intervention. UNOSOM, for example, encountered considerable resistance from Somalis once Admiral Howe began to hunt down General Aideed (Lewis and Mayall 1996: 116–18). Furthermore in Cambodia, 'SOC [State of Cambodia] ministries and officials deliberately obstructed UNTAC. It was made impossible, for example, for it to "work as a partner with all existing administrative structures charged with public security" as stipulated in the implementation plan' (Bernd and Leifer 1996: 44).

Like the preceding points, this third consideration has a great deal of force and should not be dismissed lightly. Like the others, however, it does not represent an insuperable obstacle to humanitarian intervention. First, we should note that sometimes external agencies are invited in to help resolve a problem and hence there is little resistance to intervention. The UN intervention in El Salvador is perhaps a good example of this: both participants in the civil war agreeing to UN intervention (Munck and Kumar 1995: 170). Second, even where there is local resistance to intervention (say by a tyrannical state) it will not necessarily be more powerful than the intervening authority. Clearly small local forces have often humbled interventionary forces and external agencies have notoriously underestimated the potency of resistance. Nonetheless, we have no reason to assume that those who resist will in all cases prove to be more powerful than those intervening.<sup>30</sup> In short, then: interventions will not always encounter opposition and when they do, those who oppose them are not always powerful enough to thwart the intervention's success. The third consideration thus does not establish that intervention will always prove futile.

4. *Millian considerations.* A further reason for being sceptical about the success of humanitarian intervention has been suggested by J. S. Mill. Mill argues that external interventions will rarely secure long-term success.<sup>31</sup> He argues that a political system will prove viable only if the people are committed to it and, he adds, a people will be committed only if they (and not some outside body) have fought for it. Thus external agency will not secure long-term stability.

As Mill writes 'If a people ... does not value it [their freedom] sufficiently to fight for it, and maintain it against any force which can be mustered *within* the country, even by those who have the command of the public revenue, it is only a question in how few years or months that people will be enslaved' (1984 [1859]: 122). Again: 'the evil is, that if they have not sufficient love of liberty to be *able to wrest it* from merely domestic oppressors, the liberty which is bestowed on them by other hands than their own, will have nothing real, nothing permanent' (1984 [1859]: 122, emphasis added). So, even where external bodies have the requisite *knowledge, motivation, and capability to overcome resistance*, intervention will not work.<sup>32</sup>

Now Mill is right to argue that a political system will thrive only if the people endorse it. This, however, does not justify a blanket repudiation of intervention. The central flaw in the argument is that it is simply incorrect to stipulate that only those able to conquer their oppressors (without outside aid) are committed to their political vision. Put another way: people may be wholly committed to their political ideal (they have 'love of liberty') but are too weak because of a lack of resources and force to be able to overcome a despotic ruler (they are not 'able to wrest' power 'from merely domestic oppressors') (Mill 1984 [1859]: 122). An inability to fight should not be confused with an unwillingness to fight. Mill's argument overlooks the possibility that a people may be willing to fight for a state but be unable to overthrow the current tyranny without external aid (Mason and Wheeler 1996: 105; Wicclair 1979: 151). One can therefore endorse Mill's central point—that people must be committed enough to their political vision to fight for it—and yet also support humanitarian intervention. A people might, for example, be committed to their political vision and also be aided by outside bodies to achieve their political objectives.

In general, then, each of the four considerations raised against humanitarian intervention does have force. But none of them—either alone or combined with others—shows that intervention will never succeed. What is needed is a cautious and nuanced approach which, rather than rejecting intervention outright, bears these weighty factors in mind and analyses the circumstances in which interventions succeed.

Four further general points are also worth bearing in mind. First, when assessing the success of an intervention in meeting humanitarian goals it is important to compare it with other options (including non-intervention) in meeting those same goals. Consider, for example, a military intervention which does not eliminate military conflict but does lessen the loss of human life more than a policy of non-interventionism. In such circumstances it is implausible to criticize humanitarian intervention as 'unsuccessful' when it is more 'successful' in meeting the humanitarian objectives than any of the other courses of action. In 'absolute' terms, it does not meet its objectives but 'relative' to the other options available it is the most successful and, if our concern is to further humanitarian ends, the latter (i.e. 'relative') criterion is the one which we should adopt.

Second, when considering whether interventionism (or non-interventionism) best furthers humanitarian ideals we should take into account *not just* those cases where intervention did not promote the desired objectives as well as other options *but also* cases where a policy of non-intervention was adopted but in which, as a consequence, people suffered or lost their lives. People tend to focus on interventions that do not succeed (either in absolute or relative terms) in furthering humanitarian goals. But they should also consider cases where no intervention takes place and in which such non-interventionism is in relative (or absolute) terms a failure in promoting humanitarian ends. (A possible illustration of this is the decision by the United Nations not to intervene effectively in Rwanda in 1994 when 1,000,000 people were killed in 100 days (Keane 1996: 29)). They should, in other words, consider the good sacrificed (in terms of meeting humanitarian objectives) by non-intervention.

Both of these factors point to ways in which our judgement of the success of humanitarian intervention may be distorted and in which we may wrongly reject intervention when it represents the most successful of all the options available. They may result in our losing sight of the point that a critique of the efficacy of interventions is plausible only when it takes the form of a consequentialist comparison of whether intervention or non-intervention best secures people's rights (a policy that is in line with the 'goal rights system' defended in the last chapter; Chapter 6, Section VIII).

This second point introduced above brings to the fore a third important point that must not be overlooked, namely that two of the factors adduced as to why interventions may fail also apply with force against non-intervention. That is, they show that a policy of non-intervention is also frequently a failure. To see this consider the following chain of reasoning. First, as we have just seen, all the arguments considered in this section appeal to outcomes (arguing that intervention results in unsuccessful outcomes). In claiming that interventions do not in fact save lives, say, they are invoking the relevance of outcomes as an appropriate ethical criterion. Similarly, in defending non-intervention their claim is that this results in better outcomes. Bearing this in mind, we should also note that bad outcomes may result from inaction as well as from action. Furthermore—and this is the important point—the first two factors adduced against a policy of intervention apply equally to a policy of non-intervention. Specifically, they may bring about non-intervention in cases where intervention may have achieved important humanitarian objectives. Consider the first factor: ignorance. This may, it is true, lead intervening forces to blunder and thereby to fail *but* it may also lead external bodies not to intervene (they do not realize how bad things are) and consequently to fail to intervene in cases where they are able to protect rights. As such it contributes to a policy of non-intervention which fails in humanitarian terms. It produces a state of affairs in which people lost their lives, lives which could have been saved were it not for the ignorance of the external agents. Consider also the second factor: self-interest. Again, this may result in unsuccessful humanitarian interventions, *but* it may also result in unsuccessful non-interventions, that is, cases where

a state or international institution is able to help but chooses not to do so out of self-interest. Again, therefore, it may produce a state of affairs in which people lost lives, lives which could have been saved were it not for self-interest. The central point then is that from the consequentialist viewpoint adopted by the critics, appealing to ignorance and self-interest is a double-edged sword. Both factors may result in unsuccessful interventions and *unsuccessful non-interventions*. This point is standardly ignored but again it represents an important consideration that should be recognized when assessing the dangers to which intervention (and non-intervention) are susceptible.

Finally, given the problems interventions have routinely faced, there is a need for analyses of the conditions in which interventions are likely to work. Instead, however, of focusing exclusively on the question 'can interventions succeed?' it would be helpful to address questions like 'in what situations can interventions succeed?' and 'how can interventions be rendered more successful?'. The question 'can interventions work?' is perhaps rather misplaced because, as we have seen from the analysis of the four reasons as to why interventions may fail, the answer to that question is that there is no fundamental reason why some interventions cannot work. Given this perhaps the more appropriate question is 'when are they most likely to work?' (a topic addressed by Munck and Kumar 1995: esp. 163–4). To illustrate this point, consider one important factor, namely that the intervening agent be cohesive and well-organized. What is striking is that this condition has often been absent and that many interventions (including interventions in Somalia and Cambodia) are simply poorly organized with no unified overarching authority. In their analysis of the failure of the United Nations intervention in Somalia, for example, Lewis and Mayall point out that the Secretary General of the United Nations and the United States disagreed about how UNOSOM I should be constituted (1996: 110). In addition, the US government itself was internally divided, with the Pentagon and White House opposing the position of the Office for Disaster Relief (1996: 109–10). Lack of coordination also afflicted the intervention in Cambodia. Berdal and Leifer for example report that UNTAC's police force combined personnel from '30 different police forces world-wide' (1996: 44) and that '[i]n Cambodia, several battalions arrived with no knowledge of either French or English' and few were capable of speaking the Khmer language (1996: 50). They further write that '[t]he lack of civil–military integration, in particular, remained a serious problem throughout the entire operation' (1996: 46) and add later that 'the absence of clear and unambiguous chains of command *internal* to UNTAC, as well as proper coordination between the Secretariat in New York and the field, resulted in a loss of operational efficiency' (1996: 50).

Finally, we might also criticize (3). This is the most plausible condition of the three that Walzer affirms but one might reasonably ask why Walzer justifies intervention only when people are being massacred or put into slavery—why not 'political murder or torture' (Slater and Nardin 1986: 91)? Why not when they do not have enough to eat?

When then is humanitarian intervention legitimate? To answer this question, it is important to make two preliminary points. First, a satisfactory account of when humanitarian intervention is legitimate should cohere with the case for humanitarian intervention. An account of *why* humanitarian intervention is legitimate (if it is) should guide our account of *when* it is. The account that follows therefore draws on the case for humanitarian intervention outlined in Section II. Second, when framing the conditions under which humanitarian intervention is appropriate it is worth bearing in mind the principles of just war discussed in the preceding chapter. As Mona Fixdal and Dan Smith point out, discussions of humanitarian intervention rarely make links with the just war tradition and, as they further note,

Having analysed both the justification and criticisms of humanitarian intervention and found that none of the objections to humanitarian intervention justifies a blanket rejection, it is important to analyse when intervention is morally

defensible.<sup>33</sup> If, as the argument of Section II maintains, there is a case for humanitarian intervention, we need to know what circumstances would justify intervention. A number of different proposals have been made.

Given the prominence of Walzer's discussion of intervention, it is appropriate to begin with his account of when intervention is legitimate. According to Walzer intervention is justifiable in three circumstances:

1. When a particular state includes more than one political community, when it is an empire or a multi-national state, and when one of its communities or nations is in active revolt, foreign powers can come to the assistance of the rebels' (1980: 216–17; cf. 1977: 90–2);
2. When a single community is disrupted by civil war, and when one foreign power intervenes in support of this or that party, other powers can rightfully intervene in support of the other party' (1980: 217; cf. 1977: 90, 93–101); and
3. 'Interventions can be justified whenever a government is engaged in the massacre or enslavement of its own citizens or subjects' (1980: 217; cf. 1977: 90, 101–8).

such an omission is somewhat surprising (Fixdal and Smith 1998: 283–312). However, since humanitarian intervention can, and often does, involve military action, one would expect the principles guiding military action employed to address internal wrongs (armed humanitarian intervention) to cohere with the principles guiding military action employed to address external wrongs (just warfare). To this we should, of course, note that humanitarian intervention need not take the form of military action and hence there will not be a perfect correspondence. Nonetheless one would expect the two accounts to be congruent and have some common points.<sup>34</sup> Given this, the discussion that follows seeks to relate the principles arrived at to the principles informing the just waging of war. These principles, recall, state that there must be:

- (1) Just cause
- (2) Proportionality
- (3) A consideration of less awful measures (the least awful option)
- (4) Reasonable chance of meeting objectives
- (5) Legitimate authority.<sup>35</sup>

With these two methodological points in mind, we can now draw up a list of the circumstances in which humanitarian intervention is justified. Humanitarian intervention is legitimate when

- (1\*) a political regime violates people's human rights (where this includes rights to a decent standard of living as well as rights against torture, murder, unjust imprisonment, or enslavement) (just cause).<sup>36</sup>
- This is a straightforward principle and requires little further comment.<sup>37</sup> A second condition that must be satisfied before humanitarian intervention is justified is:

- (2\*) the intervention is a proportionate response: by this is meant that the costs incurred as a result of the intervention are not disproportionate in comparison to the internal wrongs which the intervention is supposed to address (proportionality).<sup>38</sup>

This needs to be unpacked. Intervention can generate (at least) two kinds of cost. First, there is the cost to the people in the political regime that is the object of intervention. In the case of armed intervention, these can include the death of soldiers or civilians who are resisting any armed intervention. It should also include instances where the intervention led the government being attacked to step up their oppression (as was alleged to be the case in Kosovo). Second, however, we should not ignore the costs on third parties. We must include in our calculations cases where an intervention has malign effects on outsiders. Suppose, for example, that a humanitarian intervention resulted in the instability of a neighbouring just regime.<sup>39</sup> An appropriate principle of proportionality must factor in such costs and stipulate that humanitarian intervention is justified only if the benefits produced by the intervention exceed the costs (including both the costs to members of the intervened-in state and non-members).<sup>40</sup>

A third principle that follows from the cosmopolitan argument is (3\*) intervention (military or non-military) may be resorted to only having considered less awful options (such as, say, diplomacy) (the least awful option).

Humanitarian interventions, whether military or not, should not be adopted unless other less severe means for achieving the same result have been given due consideration. Four additional comments about this principle are worth making. First, (3\*) claims that intervention may be resorted to only if other less awful options have been explored first but this does not of necessity require actually putting these other options into practice and then intervening only if they have not proved successful. It might sometimes require this but if there is overwhelming evidence for believing that another less severe option just will not work then it would be irresponsible, knowing this, to implement it nonetheless (Caneys 1997a: 32).<sup>41</sup> Second, it is worth returning to the discussion of (5) and (5i) in Chapter 6. As we saw there, the conventional principle that military action should be a last resort (principle (5), the *principle of last resort*) depends on a more fundamental moral principle, namely that war may be resorted to only having considered less awful measures (principle (5i), the *principle of the least awful option*). We can now see the relevance and importance of this distinction because it is possible to argue that some types of non-military intervention are actually more awful than military intervention. And where war is not the very worst option then it should not be regarded as a last resort and should, of course, be regarded as a better option than whatever else it is that is even more awful. One possible illustration of this point is economic sanctions: these may last for many years and can bring about more deaths than a military intervention.<sup>42</sup> In such circumstances, military intervention should not be considered a last resort: rather, sanctions should. Of course, military force often is the worst option, but the point is that whilst this might very often be the case there is no a priori reason to think that it is always the worst option available. The third point is that we should note that there are two aspects to the principle of the least awful option—what we might term the external and the internal aspect. The external aspect compares non-interventionary actions and interventionary actions and mandates the latter only if intervention is a less awful option. The internal aspect compares different kinds of interventionary actions (such as employing sanctions, sending in troops, imposing weapons inspectors), and it mandates that kind (or those kinds) of interventionary actions which are the least awful option(s). For (3\*) to be met, the form of intervention adopted must then be a less awful option than both non-interventionary actions (external aspect) and alternative interventionary actions (internal aspect).

Finally, we should note that I have referred to the 'awfulness' of different options without indicating what metric we should use to gauge 'awfulness'. A full account cannot be given here. I think, however, that we can say that any reasonable account must incorporate three elements. First, it must take into account the *nature* of the rights violations. It must, that is, assess the moral significance of the rights that are being violated. Second, it must take into

account the *number* of rights violations. How may rights violations have occurred? Third, it must take into account *whose* rights are violated. Is it the rights of combatants or non-combatants? Given these three quite different considerations the application of the principle of the least awful option will require considerable judgement.<sup>43</sup>

If we return to the normative rationale underpinning humanitarian intervention we can also derive a fourth principle, namely:

(4\*) the intervention has a reasonable chance of meeting its objectives).<sup>44</sup>

This is an obvious principle although explicating what it requires is more complicated than might at first seem. First, as we saw earlier (Section VI) we need to be careful in specifying what constitutes 'meeting its objectives'. Second, to render this principle more concrete we would need to clarify what is meant by 'reasonable' prospects of working. Does that mean a 50 per cent chance of working? Or 60 per cent? Or something else?<sup>45</sup>

We should also include a fifth principle, namely:

(5\*) the intervention is authorized by a legitimate body (legitimate authority). (5\*) also needs a little explanation. Many accounts of humanitarian intervention do not address the question of *who* should engage in humanitarian intervention (cf., for example, Beitz 1988b). One might argue, however, that interventions can be legitimate only if they are authorized by a legitimate body. Several considerations support this. First, as we saw earlier in this chapter (Section IV), much resistance to humanitarian intervention draws on this intuition, asking in effect 'what gives you the right to intervene?' Second, there is an important distinction between thinking that a principle is unjust and should be coercively implemented, on the one hand, and thinking that 'we' therefore are authorized to coercively implement this principle, on the other. Consider a domestic example: suppose that a man does not repay a loan he has taken out. Now we think that he should, other things being equal, be made to repay the loan but it does not follow from this that I or any other citizen have the authority to make him pay (and, say, to threaten punishment if he does not comply). The same point applies at the global level: that X should be prevented by force does not establish that I have the authority to employ force (Kymlicka 1995: 165ff., 233, fn. 15). An account of who is authorized to act is required. Third, as we saw in our examination of just war theory (in Chapter 6), many accounts insist that a just war can only be authorized by certain authorities. There is, therefore, a case for bringing discussions of humanitarian intervention into line. Given these first three considerations, then, we need to address the question: 'which *institution* or *institutions* possesses the *authority* to intervene?' A fourth, and final, consideration which also supports (5\*) provides an answer to this question. Let me explain. An additional argument in favour of (5\*) starts from the analysis of political institutions in Chapter 5. As we saw there, there is a case for a set of transnational political institutions whose role it is to uphold persons' civil, political, and economic human rights. But then given that they have this

role it surely follows that they are *authorized* to act to protect these rights: this is their responsibility. Given this, it would be odd to construct an account of humanitarian intervention which does not accommodate and reflect the fact that some global institutions have been assigned the role of protecting human rights. The best articulation of (5\*), then, would attribute the authority to intervene to impartial transnational political authorities.

But what if there are no such institutions? One might suggest that we should normally encourage multilateral interventions in preference to unilateral interventions. Unilateral interventions are, quite reasonably, often perceived to be strong case for claiming that interventions should normally be undertaken by an agent incorporating as wide and ecumenical a coalition of support as possible.<sup>46</sup>

The claim that interventions are justified only if they are authorized by a legitimate body is challenged by Moellendorf. His argument was presented in Chapter 6 and need therefore only be briefly restated. He argues thus. First, legitimacy has no intrinsic value. The only possible value it might possess is that it may contribute towards order. Second, to insist that military action (or in this context interventions) must be authorized by a legitimate authority has a cost attached to it. Acquiring the permission would take time and this is time in which people are being killed.<sup>47</sup> In short, then, the value of legitimacy has no intrinsic value and it does have a considerable cost (2002a: 121). Although this argument was considered and criticized in Chapter 6 it might, however, be profitably re-considered here for two reasons. First, as was noted in Chapter 6 Section V, Moellendorf actually makes this claim about (all) military action in his discussion of intervention and his argument may have more relevance to discussions of intervention than it does to war between political regimes. To assemble a military force which enjoys a wide coalition of support does take time. Second, some further points can be made against his argument, points which are especially appropriate in the context of humanitarian intervention.

If we proceed now to evaluate Moellendorf's argument we can see that both steps in his argument are questionable. To take the first step first, Moellendorf's assumption that legitimacy has only instrumental value and, more particularly, that it has value only insofar as it engenders stability, is implausible. If legitimacy had only instrumental value then we would be indifferent between the following two cases. In the first case, a man commits a murder and the political authority with jurisdiction for that area tries and imprisons him. In the second case, a man commits a murder and I try him and imprison him. In both cases, a man has committed a wrong and, *ex hypothesi*, the same treatment is meted out to him. Surely, though, we make a significant moral distinction between the two cases, and we do so because we care not just about outcomes but also whether the decision-making process was legitimate and authoritative. I do not have the authority to imprison people for misdemeanours. This establishes that legitimacy has intrinsic value: we care about how decisions come about and who makes them. That is why we are not indifferent between the two cases above.

account the *number* of rights violations. How may rights violations have occurred? Third, it must take into account *whose* rights are violated. Is it the rights of combatants or non-combatants? Given these three quite different considerations the application of the principle of the least awful option will require considerable judgement.<sup>43</sup>

If we return to the normative rationale underpinning humanitarian intervention we can also derive a fourth principle, namely:

(4\*) the intervention has a reasonable chance of meeting its objectives.<sup>44</sup>

This is an obvious principle although explicating what it requires is more complicated than might at first seem. First, as we saw earlier (Section VI) we need to be careful in specifying what constitutes 'meeting its objectives'. Second, to render this principle more concrete we would need to clarify what is meant by 'reasonable' prospects of working. Does that mean a 50 per cent chance of working? Or 60 per cent? Or something else?<sup>45</sup>

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But what if there are no such institutions? One might suggest that we should normally encourage multilateral interventions in preference to unilateral interventions. Unilateral interventions are, quite reasonably, often perceived to be promoting a state's own ends (Donnelly 1993: 628–9). There is, therefore, a strong case for claiming that interventions should normally be undertaken by an agent incorporating as wide and ecumenical a coalition of support as possible.<sup>46</sup>

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To further strengthen this point consider another example. Suppose that a serious wrong is being committed against me. Let us suppose further that someone can prevent this wrong, that the response they will take will be proportionate, and that they will only use force if it is the least bad resort. It is implausible to conclude that they can undertake this action unless they have been authorized to do so, especially by me. Suppose I don't want them to undertake this action and refuse them my consent. Even though the conditions of just cause, proportionality, success, and least awful option are satisfied, they do not have the authority to act on my behalf.<sup>48</sup>

A second, *ad hominem*, problem with Moellendorf's argument is that his dismissal of 'legitimate authority' is at variance with what he says elsewhere in *Cosmopolitan Justice*. For he himself recognizes elsewhere that a fair political structure is one to which people consent (2002a: 135–6). He refers, for example, to 'the interest of persons in being governed by state structures to which they consent' (2002a: 135). But the principle at work here appears to be nothing more than a specific (contractarian) principle of legitimacy.

A third, and related, problem with Moellendorf's analysis is that he argues that if we insist that intervention may only be waged by a legitimate authority we face a clash between order (this is what legitimate authority provides) and justice. But it is a corollary of the first point that this is not the choice. Rather what we face is a choice between two different kinds of justice. On the one hand, we have a procedural ideal of justice: power can only be exercised fairly if the agent exercising it has been authorized to do so. On the other hand, we have a substantive ideal of justice: power is being exercised to protect people's rights. The choice, then, is not one of '[t]rade-offs between order and justice' (2002a: 121). Hence, to claim, as Moellendorf does, that we must choose justice does not settle the case against 'legitimate authority'.

The preceding three points have called into question Moellendorf's dismissal of the intrinsic value of legitimacy. We might also question the second step in his argument—the claim that to insist on legitimacy necessarily incurs a cost to human life. The phenomenon that Moellendorf draws attention to is not, however, a reason to abandon the idea of a legitimate authority. It is, rather, a reason to reform existing institutional structures. It would be quite wrong to resign ourselves to 'authorities' who do not defend rights, regard them as a given, and then adjust our behaviour accordingly. Should we not, rather, revise the system? Moellendorf's argument wrongly treats any delays as an unalterable fact and uncritically accepts them. Surely the most suitable course of action would be to improve the system by which decisions about interventions are made. A domestic example illustrates the point. Suppose that the state fails to protect someone's property from constant attack. In such circumstances, we might think that citizens can step in. However, what would surely be best would be to ensure that the state system is better rather than allow it to continue to be unresponsive. We should consider in this light proposals for a United Nations Volunteer Force. Such a force was proposed by, among others, the Commission on Global

Governance (1995: 110–12) and defended in Chapter 5 Section VI. The Commission suggested that there be a 10,000 person volunteer force under the control of the United Nations (1995: 111). Part of the rationale for this is to prevent huge and damaging time delays and also to deal with the fact that countries are frequently reluctant to commit troops (1995: 111). It would thereby address Moellendorf's concerns.

For these four reasons, (5\*) remains intact.<sup>49</sup> One final point is in order. The arguments in defence of (5\*) adduced above have at several points employed examples from the 'domestic' domain to show that international intervention must be authorized by a legitimate authority. This suggests another way of thinking about (5\*). In particular it suggests that a critic of (5\*) must show why it is that although we care about legitimate authority in domestic politics we can disregard it when it comes to global politics. The 'domestic' examples employed above, in effect, issue a challenge to those who reject (5\*) for they say 'Given that we think that legitimate authority is necessary for the just exercise of power in the domestic realm what reason do we have for thinking that it is not as important in the global realm?' And, given this, a compelling rejection of (5\*) requires an excursus into what Chapter 1 termed level-1 analysis and an explanation of how global political theory and domestic political theory may be categorically different on this particular question.

To the above five conditions we should add one further consideration, namely that if we are considering whether external agencies have a binding *obligation* to intervene we should add the further condition:

(6\*) intervention does not impose undue costs on the intervening authorities. Here the distinction between a right to intervene and an obligation to intervene is highly pertinent since to establish the former one does not require this sixth condition. People can have a right to intervene even if doing so is costly or dangerous for them. (6\*) is, however, extremely relevant if one wishes to argue that people have an overriding obligation to intervene since where the costs are great it is sometimes reasonable to conclude that external bodies are not obligated to intervene (or their obligation is overridden). Of course all interventions will impose some costs on the intervening agent and this does not imply that intervention is not obligatory. (6\*) thus refers to 'undue' costs.

To provide an account of undue costs, and thereby an account of when people are obligated to intervene, we need to provide an account of whether persons have special obligations of justice to their fellow nationals or fellow citizens and, if so, how weighty these are (Buchanan 1999a; Mason 2000: 195–7, 199–200). If one takes a wholly cosmopolitan view (what was termed ambitious cosmopolitanism in Chapter 4) one will treat the lives of fellow nationals or fellow citizens on a par with foreigners and hence will be more inclined to endorse humanitarian intervention. One would determine what constitutes 'undue' cost by treating any wrong to a fellow national as the same as a wrong to a foreigner. If, however, one thinks that we have weighty duties of distributive justice to fellow nationals or fellow citizens then one will ascribe greater moral weight

to the wrong committed against one's own soldiers and hence will sometimes think that there are occasions in which foreigners' rights are being violated and humanitarian intervention could work but that it is wrong to call for the sacrifice of the lives of fellow nationals even where that would save more lives.

The point made in the last paragraph, it must be noted, presupposes a situation in which a nation-state or state (or group of such states) intervenes in another political system. In these circumstances, the question of whether an intervening nation-state (or state) has special duties of justice to its own people arises. However, it would not arise in a situation in which an intervention is undertaken by a multi-national United Nations Volunteer Force. To be sure the leaders of any such force have a duty of care to the members of the military force: the point, though, is that the issue of whether there are special obligations of justice to fellow-nationals is not a relevant one.

## VIII

Having discussed when humanitarian intervention is justified (the equivalent of *jus ad bellum*), we should now consider what methods may be employed during intervention (the equivalent of *jus in bello*). This topic is almost always neglected and indeed even Fixdal and Smith explicitly abstain from discussing what principles should guide the conduct of humanitarian intervention and whether conventional rules of *jus in bello* apply (1998: 285, 291). It is nonetheless of considerable practical importance. To outline the appropriate principles, it is worth distinguishing here between non-military and military forms of humanitarian intervention and discussing each in turn. In the case of military intervention it is hard to see why there should be any difference between the principles of *jus ad bellum* analysed in Chapter 6 and those appropriate to armed humanitarian intervention. Accordingly, armed humanitarian intervention should be proportionate and should observe non-combatant immunity (as defined in Chapter 6).

Consider now non-military humanitarian interventions, such as economic sanctions. What principles should guide the use of such measures? First, the concept of proportionality is readily applicable to non-military modes of intervention. To give an example: if a political regime commits a minor rights violation it would be quite wrong to respond to this by imposing sanctions that it is known will induce widespread poverty. The latter is both unnecessary and wrong for it imposes a greater harm on the people than the wrong merits. What of non-combatant immunity? At first glance it might seem that this principle is of no relevance for there are no combatants in a non-military humanitarian intervention. Whilst the latter is true, we should not hastily dismiss the principle for the intuitions underlying it have relevance for the conduct of non-military interventions. To see this consider the principle of non-combatant immunity. Roughly stated this maintains that

It is wrong to deliberately *employ military means* against those who are *non-combatants* (although such action may be justified if it is a product of deliberately targeting *combatants* and one has taken every step to minimize harm to *non-combatants*).<sup>50</sup>

The intuition underlying it (again put very crudely) is that it is wrong deliberately to inflict harm on those who are not party to the conflict. But if this is the rationale, then it suggests the following principle:

It is wrong to deliberately *employ (non-military) means* against those who are *not perpetrators of injustice* (although such action may be justified if it is a product of deliberately targeting *perpetrators of injustice* and one has taken every step to minimize harm to *non-perpetrators*).

The logical structure of this principle corresponds exactly to the logical structure of the principle of non-combatant immunity. Where the latter refers to 'combatants' it refers to 'perpetrators of injustice', and where the latter refers to 'employing military means' it refers to 'employing non-military means'. If we accept the principle of non-combatant immunity, then, we have good reason to accept the second principle. If it is wrong to deliberately attack non-combatants is it not also wrong to inflict harm on innocent members of another regime who are not committing any wrong?

This principle is, moreover, of considerable practical relevance as an example brings out. Consider the use of economic sanctions. These, so it is often argued, frequently harm the 'wrong' people (such as children or those being oppressed in a country). The implications of the above principle are that sanctions are illegitimate if they deliberately target people who are not perpetrators of injustice. Furthermore, they are illegitimate unless steps have been taken to minimize harm to non-guilty parties. However, sanctions may be justified even if they result in harm to non-guilty persons if the sanctions are not intended to harm the non-guilty, other methods which inflict less harm on the non-guilty have been considered, and the harm to the non-guilty has been minimized.<sup>51</sup>

## IX

The discussion in the earlier sections has focused on the *moral* question of whether intervention is defensible and if so when? In this final section, I want to conclude and complete the analysis by noting briefly that even if we think (as I think we should) that there is sometimes a *moral* case for intervention this does not establish that international law must grant a *legal* right to intervene. This distinction, recall, was briefly introduced earlier in the chapter in the discussion of international order (Section V). The salient point is that it is arguable that intervention is sometimes morally right but that international law should nonetheless disallow it (Slater and Nardin 1986: 95).

Why might one think that there should not be a legal right to intervene?<sup>52</sup> The main, and most powerful, argument is that to entrench a right to humanitarian intervention in international law would in practice allow not just humanitarian interventions but also non-humanitarian interventions. It would enable powerful states to impose their will on powerless states (Brownlie 1973: 146–8; Farer 1973: 152, 155–7). As Frank and Rodley put it, 'if such a right were to receive the sanction of international law and international lawyers, it is likely to remain, in the future as in the past, the prerogative of a few powerful states' (1973: 290).

Granting this legal right would, then, produce worse moral outcomes than simply legally banning it.

As a consequentialist argument this requires a careful consideration of the empirical effects of such a codification. Three points can, I think, be made against this argument. First, one might argue that what the argument shows is not that there should not be a legal right to intervene but rather that it should be tightly circumscribed. One might argue that it is possible to entrench a legal right to intervene that minimizes the problems (Mason and Wheeler 1996: 106). As Chopra and Weiss point out, one can tighten up laws to prevent abuse (1992: 100). One can, for example, seek to restrict the power of superpowers by denying them the right to intervene and allocating that to an international institution and by ensuring that the latter is an independent institution which is not in the thrall of dominant states. Second, this argument dwells on the incentive effects of the legal permission to intervene but one should also bear in mind the incentive effects of a legal prohibition on intervention. If the legal right to intervene encourages some power hungry states to intervene, the legal prohibition on intervention will also by a similar logic encourage some despots to persecute their own subjects in the knowledge that others are prohibited by international law from intervening. Third, to grant a legal right to intervene under certain highly specific circumstances would clarify the legal situation which at present is vague and disputed, and as such would strengthen international law, making it emphatically clear when intervention is illegitimate (Chopra and Weiss 1992: 100–1). Thus, although there is no straightforward relationship between the claim that external bodies have a moral right or obligation to intervene and the claim that such a right or obligation should be affirmed by international law, we have some reason to endorse such a legal right.

## X

This completes the analysis of this chapter. The aim throughout has been to assess the question of whether political regimes may intervene in another political regime to address internal wrongs. More particularly, it has

- (1) identified and outlined four key premises underlying all cosmopolitan conceptions of humanitarian intervention;
- (2) illustrated the general structure of the cosmopolitan approach by drawing on the principles of justice derived in Chapters 3 and 4 and the institutional analysis of Chapter 5.

It then considered four challenges to cosmopolitan arguments for humanitarian intervention. Accordingly it criticized the claims that intervention is wrong because

- (3) it conflicts with the right of political communities to be self-determining;
- (4) it is presumptuous;
- (5) it destroys international stability; and
- (6) it rarely works.

Having rejected all of these counter-arguments it turned to the question of when intervention is justified and drawing on the cosmopolitan arguments presented in Section II and the analysis of just war in Chapter 6, it

- (7) defended five preconditions of a right to intervene (adding a sixth that must be met if one is to claim that intervention is an overriding duty);
- (8) set out two principles that should guide the ways in which interventions are undertaken; and
- (9) raised the question of whether international law should affirm a right (or duty) to intervene, cautiously arguing that it should.

One further point bears stressing. In the same way that Chapter 6 ended by noting how the analysis of just war bore out the claim that it is artificial to analyse different questions in global political theory in isolation from one another, we should note in the closing section of this chapter that our analysis of intervention similarly supports this claim. For what we have seen is that the principles of justice that ground the right and duty to intervene draw on the analysis of civil and political rights in Chapter 3, the principles of distributive justice considered in Chapter 4, and the evaluation of the normative significance of political institutions conducted in Chapter 5. We have seen further that the issue of whether there is a duty to intervene takes us back to Chapter 4's analysis of the claims of fellow nationals. In addition to this the account of when to intervene has drawn on the norms of both *jus ad bellum* and *jus in bello* advanced in Chapter 6.

We should, however, close with the thought that humanitarian intervention is essentially a 'reactive' policy that is adopted after people's needs or rights have been harmed. Given the difficulties to which interventions are susceptible, there is a strong case for tackling the roots of these problems and seeking to prevent them from occurring rather than responding to them once they have arisen (Booth 1995: 121; Parekh 1997: 68; Pogge 1992a: 100–1). This, we should note, returns us to the subject matter of Chapter 5 since, as we saw there, institutional structures can influence the extent to which peoples' rights and interests are protected. An adequate analysis of the problems to which intervention is a response should thus impress on us the importance of constructing political institutions that minimize rights violations. It also reminds us that a normative account of intervention articulates remedial principles.

## NOTES

1. Of course, as was noted in Ch. 6, this action was also justified in terms of preventing a future external wrong. That is, it was claimed that it was necessary to destroy weapons of mass destruction which, it speculated, would otherwise have been used against the United States.
2. For further details see Gordon (1994: 550–7), Griffiths, Levine, and Weller (1995: 51–2), Lewis and Mayall (1996: 107–24), and Slim and Vismann (1995).

3. Other definitions of intervention also define intervention in terms of 'interference' and hence are also vulnerable to this criticism. For instance, Donnelly defines intervention as 'any coercive *interference* in the internal affairs of a state' (1993: 609, emphasis added). Cf. also Vincent (1974: 13). This point also applies to McMahan's otherwise accurate definition of intervention as 'coercive external *interference* in the affairs of a population organized in the form of a state' (1986: 27, emphasis added). Once the term 'interference' is exchanged for 'action', McMahan's definition is, I think, a plausible one.
4. In this respect, my definition differs from that given by some. Michael Joseph Smith, for example, writes that 'intervention can be defined as discrete acts which try to affect the domestic affairs of another state' (1989: 2). On this definition, non-coercive acts (like one leader trying to persuade another by force of argument) count as intervention.
5. This practice follows that of Ch. 6 where the term 'political regimes' is preferred to the term 'states' so as to accommodate the issues that arise between non-sovereign political systems as well as states.
6. For a contrary position see Parekh (1997: throughout and esp. pp. 49, 56–8). Parekh argues that interventions are, by definition, directed against states. But his reasoning for this conclusion is, I think, suspect. He rightly argues that it is not possible to intervene in a situation in which there are a number of unconnected individuals (1997: 53). This suggests that interventions take place in political communities. It does not follow from this, however, that they necessarily take place in states since there are other types of political community.
7. He does, though, recognize the existence of non-military ways of determining another state's conduct, preferring to call such action 'quasi-intervention'; Donnelly (1993: 610).
8. Indeed, in line with his definition (cf. note 4 above), Smith argues against 'trying to definitively intervene according to its means' and includes 'propagandistic broadcasts' as a form of intervention (1989: 4). Whilst I think Smith is right to challenge the claim that intervention requires force, my view is that according to ordinary usage of the term, intervention is partly defined in terms of the means employed and that non-coercive acts should not be deemed to be interventionary.
9. This marks a contrast with the discussion of external wrongs (analysed in Ch. 6). This chapter considers both military and non-military means of response to injustice whereas Ch. 6 focused on military means of response to injustice (although the claim that war should be resorted to only once less awful alternatives have been explored thereby acknowledges the existence of alternative types of response and recognizes their importance).
10. For the moral assumptions underlying those critical of a principle of non-intervention see the following: Beitz (1979: 413–16; 1988b: 182–95; 1999c: 71–92); Doppelt (1980: 398–403); Luban (1980a: 167–70, 173–6, 178–81; 1980b: 392–7); Pogge (1992a); Tesón (1988: 15–16, 111–23).
11. See Barry (1998: 144–5, 153; 1999: sec. IV, esp. pp. 35–6); Beitz (1979: 417–20; 1988a: 191–3; 1994: 123–6); Pogge (1994a: 89–90).
12. Cf. also Wicclair (1979: 147–8).
13. Some, like Gerard Elfstrom, deny that external agents have a duty to protect the rights of others; see Elfstrom (1983, esp. pp. 711–12, 715–16, 718).
14. Some, it should be noted, seek only to argue for this weaker claim: cf. Tesón (1988: 117). Tesón is not denying that there might be a duty. He is sympathetic to this view but wishes to concentrate on establishing the milder claim (1988: 117, fn. 15).
15. Many, of course, criticize such duties: for an important analysis, and defence, of positive duties see Shue (1996: 35–64).
16. For Pogge's analysis of intervention see Pogge (1992a). The claim in question rests, of course, on Pogge's institutionalism: see the discussion of the latter in Ch. 4, Sect. III, and the references to his work cited there.
17. My claim is not that every single argument for humanitarian intervention rests on these four assumptions. Rather it is that almost all arguments for humanitarian intervention make these four claims and that all plausible arguments do. It is, thus, possible to construct an argument for humanitarian intervention which does not rest on these four premises. For example someone might argue that communities have a moral standing which is not reducible to the interests of the individual members and argue that intervention against a state or political system is justified to protect the rights of the penalized communities. This more communitarian argument does not rest on the first and second (individualist) assumptions of what I have termed the standard argument. I do not think, though, that it is a promising approach for two reasons. First, its moral claim is highly dubious—a claim developed and argued for more extensively elsewhere in this book. Second, as we shall see when discussing Walzer's theory, this argument makes the false assumption that we can identify clearly defined communities.
18. See, in this context, Buchanan's fine discussion of humanitarian intervention and, in particular, his critical discussion of the claim that states lack a duty to engage in humanitarian intervention because they have a duty to advance the interests of their own citizens. Buchanan effectively criticizes this view—what he terms 'the "discretionary association" view of the state' (1999a: 74, cf. further pp. 74–82)—and defends an alternative conception of the role of states according to which states should seek to promote and support just institutions (1999a: 82, cf. pp. 82–7).
19. I should stress that there are many other challenges to the case for humanitarian intervention outlined in Sect. II. Some, for example, challenge the idea of universal values like human rights (cf. Chs 2 and 3) and others challenge the mode of philosophical argument employed in Sect. II (Renger 1993: 187–90).
20. There are a number of excellent discussions of defences of non-intervention, e.g. Beitz (1988b) and McMahan (1986). My position is most in keeping with that developed by Wicclair (1979). The latter provides a useful classification of defences of non-intervention and, as we shall see in the text that follows, he makes persuasive critiques of each of them.
21. What are these communities? Walzer is not very clear on this matter, employing terms such as 'a people' (1977: 88) or a 'political community' (1977: 87–9, 93) or just 'communities' *simpliciter* (1977: 90). Moreover, he compounds this unclarity in his treatment of one of his case studies. In his discussion of the Hungarian attempt to gain autonomy from the Austro-Hungarian empire in the nineteenth century, Walzer treats Hungary as a nation entitled to independence under the heading of 'national liberation' (1977: 96). But, and this is the crucial point, he makes clear that Hungary was not in fact actually a nation but also comprised Croats and Slovaks (1977: 92, 96). He even recognizes that Hungarian nationalists were antagonistic toward Croats and Slovaks (1977: 92). In general, then, Walzer appears to equate communities with nations. (From the point of view of his actual argument the relevant community, however, need not necessarily be a nation. It might be an ethnic group, say, or a religious community).

22. As we saw in Ch. 6, Walzer invokes this consideration to defend the right of the state to wage war in self-defence as well as to defend the right of the state not to be intervened in. It is, of course, no surprise that he employs the same consideration to defend the two different conclusions (the right to self-defence and the right to independence) since both have in common a commitment to the value of the sovereignty of the state and this is what the analogy is intended to support.
23. The claim that intervention is objectionable because it conflicts with the ideal of communal self-government has been developed in other distinct ways: cf. Elfstrom (1983, esp. pp. 713, 715–8). Space precludes the examination of these arguments.
24. McMahan provides a more qualified and nuanced version of the ‘communal autonomy’ argument that attempts to avoid some of the problems of Walzer’s argument (cf. McMahan 1986: 34–5).
25. As Wheeler points out, Vincent’s views evolved and in later work he took a more human rights-sensitive view than Bull and than his own earlier work: (Wheeler 1992: 478–80). Cf. Vincent (1986, esp. pp. 111–28) and Vincent and Wilson (1993, esp. pp. 127–9).
26. We might term such people ‘humanitarian bystanders’ for they defend standing by and not intervening on humanitarian grounds.
27. For two good surveys of such arguments see Mason and Wheeler (1996: 100–6) and Wicclair (1979: 149–53).
28. I am grateful to Chris Brown for first drawing my attention to this point (and for referring me to Murray’s work). The point is also noted by Smith: cf. Smith (1989: 19; 1998: 71–2).
29. This point returns us to the discussion of objective and subjective characterizations of the national interest in Ch. 1, Sect. II.
30. It is important to add here that resistance to intervention and the costs it imposes has moral significance in a number of ways independently of whether it prevents an intervention from achieving its humanitarian ends. See the later discussions of proportionality and whether there is a duty (as opposed to a mere right) to intervene. 31. For a similar argument see Waltz (1979: 186–9).
32. It should be noted that Mill distinguishes between ‘civilized’ societies and ‘barbarians’. The argument outlined in the text applies only to ‘civilized’ societies. Mill maintains that it is legitimate to intervene in barbarian societies. Why this kind of differential treatment? He reasons that civilized peoples can treat barbarians differently to civilized societies because intervention will be for their own good and they lack a sense of reciprocity (1984 [1859]: 118–20).
33. For other analyses of the moral justifiability of intervention see McMahan (1986), Moellendorf (2002a: 102–27), Rengger (1993: 179–93), Smith (1998), Vincent (1986: 111–28), and Wicclair (1979).
34. Fixdal and Smith tend to identify humanitarian intervention with armed humanitarian intervention (1998, throughout but especially pp. 285, 291–2, 295–6, 302–4, 306).
35. These principles are the ones arrived at in Ch. 6, Sect. V, which in turn are a cosmopolitan reworking of the standard principles of *jus ad bellum* (as characterized by Johnson (1999: 28–9)). The order of these has been changed from that in Ch. 6. This order corresponds better to the arguments underpinning humanitarian intervention.
36. Cf. Beitz (1988b: 188).

37. One comment is, however, in order. Someone might point out that not all human rights are of equal moral significance. They might further argue that some rights that persons have qua human beings are not morally absolutely fundamental. In which case, they might argue, (1\*) should be recast to refer to ‘fundamental’ human rights. Otherwise we might be forced to conclude that intervention is required for rather ‘insignificant’ human rights. In reply: it is perhaps true that some human rights are not morally fundamental. However, (1\*) would not sanction intervention for such ‘non-fundamental’ human rights because of the other conditions, most notably ‘proportionality’. Interventions always incur considerable costs and it would therefore not be justified to intervene for minor rights violations. Furthermore, any legitimate authority is highly unlikely to justify intervention except for fundamental rights violations. I am grateful to Andrew Gross for discussion on this point.
38. For a similar principle see Slater and Nardin’s discussion (1986). They outline four conditions, one of which maintains that ‘indigenous military resistance to humanitarian intervention must be relatively small—relative, that is, to the scale of rights violations that the intervention is intended to end—in order to ensure that the human costs of the intervention are not excessive’ (1986: 93).
39. As Beitz writes ‘[i]ntervention should not do significant harm elsewhere’ (1988b: 189). A third type of cost—the cost to the intervening agent, and its members—should also be included in an account of proportionality. This cost is considered below for a separate reason: see the discussion of principle (6\*) below.
40. Compare this principle with Slater and Nardin’s claim that ‘armed intervention to protect human rights be undertaken only after other, less drastic, remedies have been tried and have failed’ (1986: 93).
41. A pertinent example of this point is the United Nations sanctions against Iraq, on which see Moellendorf (2002a: 126). Moellendorf too makes the point that sanctions may be more harmful than military action (2002a: 125) although his point is not focused on the principle of last resort but on whether we define sanctions as interventionary (2002a: 125–6). For a fuller empirical discussion see also Eric Herring’s analysis (2002).
42. The principle of last resort, by contrast, does not require such difficult judgements. This should not tempt us into abandoning the principle of least awful option for that of the last resort. This for several reasons. First, as has been argued above, the principle of last resort presupposes the principle of the least awful option. It cannot therefore take priority over it. Furthermore, it would be a non sequitur to move from the difficulty in assessing which options are more awful to the conclusion that we should assume that war is. Third, even if we accept that intervention should be a last resort the evaluation of which interventionary actions one should adopt requires an evaluation of the ‘awfulness’ of each of them when compared to the others. Judgements of awfulness are therefore inescapable.
43. For similar conditions see Beitz (1988b: 189) and Slater and Nardin (1986: 93).
44. The first four conditions are similar to those defended by Moellendorf in *Cosmopolitan Justice*. He writes that intervention is justified when (i) it is ‘directed toward advancing justice either in the basic structure of the state or in the international effects of its domestic policies’ (2002a: 118). To this he adds that (ii) ‘it must be reasonable to believe that the intervention is likely to succeed’ (2002a: 119); (iii) intervention must be adopted only as a last resort (2002a: 119–20, 122); and (iv) the ‘interventions must be proportional to the injustice occurring’ (2002a: 120).

- There are, however, differences. First, (1\*) differs from (i) because it is concerned with all injustices in another regime and not simply with injustices in its basic structure. Second, Moellendorff's principle of last resort states that 'the intervention is a last resort *after diplomatic means have failed*' (2002a: 122, my emphasis), (3\*), however, does not require that one actually try diplomatic means if one has good reason to think that they will fail and if trying is costly. Moellendorff oscillates on this: cf. (2002a: 119–20). Third, as we have seen in Ch. 6, Moellendorff rejects (5\*) (2002a: 121).
46. Smith strikes the right note, arguing that in general collective intervention is best but on occasion unilateral intervention is justifiable: Smith (1998: 77–8).
47. Not all interventions involve military force. Nonetheless, Moellendorff's argument, I assume, applies also to non-military interventions. Both steps of his argument—the denial of the value of legitimacy and the claim that acquiring legitimacy has a cost attached to it—apply as much to non-military interventions.
48. This point might explain why some, such as Tesón (1988: 119–21), insist that intervention must be consented to by the intended beneficiaries of the intervention. (Although there are other good reasons as to why this consent matters, such as that such consent renders the success of the intervention more likely and hence is needed for (4\*).)
49. For an additional reason see Tesón (1998: 59).
50. This is a highly compressed statement of some aspects of Walzer's position on non-combatants discussed in Ch. 6 (1977: 153–6).
51. Compare Moellendorff's treatment of sanctions (2002a: 126). He condemns sanctions like those described in the text but he does so by appealing to the principle of proportionality. The latter, however, is insufficient to capture all the morally relevant aspects of sanctions for it does not speak to the question of *which groups of persons* may be targeted and *which groups of people* may not be targeted. A principle of proportionality is concerned with the amount of suffering and cannot in itself distinguish between different groups of people. However, this is a problem because we do think it relevant if the effects of sanctions are borne by innocent men and women who are not responsible for any injustices. Interestingly, Moellendorff's argument refers to the wrong done to 'innocents', referring in particular to children (2002a: 126), but the intuition driving this is not a concern for proportionality: it is a concern for *who* is harmed and the thought is surely that it is wrong that the non-guilty are paying the price. Why else refer to the innocent (which Moellendorff does twice on 2002a: 126) and why else refer to children? To articulate this intuition one needs, then, the principle stated in the text.
52. For a brief but good discussion of this question see Chopra and Weiss (1992: 99–101). They challenge the claim that the legal right to intervene would necessarily result in undesirable consequences.

## Conclusion

J. A. Hobson (1920: 1–3)

It ought not to be the case that there is one standard of morality for individuals in their relations with one another, a different and a slighter standard for corporations, and a third and still slighter standard for nations. For, after all, what are corporations but groupings of individuals for ends which in the last resort are personal ends? And what are nations but wider, closer, and more lasting unions of persons for the attainment of the end they have in common, i.e., the commonwealth. Yet we are well aware that the accepted and operative standards of morality differ widely in the three spheres of conduct. If a soul is imputed at all to a corporation, it is a leather soul, not easily penetrable to the probings of pity or compunction, and emitting much less of the milk of human kindness than do the separate souls of its directors and stockholders in their ordinary human relations. . . . The standard of international morality, particularly in matters of commercial intercourse, is on a still lower level.

Martin Wright once wrote that there was no international theory (1966a). Whether that was ever so is open to question. But it is now indubitably true that there is a large, expanding, and sophisticated literature on the ethical issues that arise at the global level. My aims in this work have been to defend a cosmopolitan theory (both a specific cosmopolitan theory and also a cosmopolitan perspective more generally) and to analyse and evaluate competing political philosophies. In this conclusion I hope to pull the threads of the previous six chapters together and to offer some more general reflections on different ways of thinking about the ethical issues that arise at the global level. Given that this work has sought to defend a cosmopolitan political programme it will begin by highlighting some key features of the cosmopolitan vision that have emerged from the preceding chapters and then seek to locate where non-cosmopolitan political philosophies dissent from the cosmopolitan vision.

## I

We can begin this process by examining first the specific brand of cosmopolitanism that I have defended and then reflecting more generally on the prevailing family of contemporary cosmopolitan theories. To start with the former: this book has attempted to justify an egalitarian liberal brand of cosmopolitanism. It has defended the thesis that there are universal principles against cultural relativists. Its general strategy has been to show that many critiques of universalism