

## Interventions

and counter-interventions

The principle that states should never intervene in the domestic affairs of other states follows readily from the legalist paradigm and less readily and more ambiguously, from those conceptions of life and liberty that underlie the paradigm and make it plausible. But these same conceptions seem also to require that we sometimes disregard the principle; and what might be called the rules of disregard, rather than the principle itself, have been the focus of moral interest and argument. No state can admit to fighting an aggressive war and then defend its actions. But intervention is differently understood. The word is not defined as a criminal activity, and though the practice of intervening often threatens the territorial integrity and political independence of invaded states, it can sometimes be justified. It is more important to stress at the outset, however, that it always has to be justified. The burden of proof falls on any political leader who tries to shape the domestic arrangements or alter the conditions of life in a foreign country. And when the attempt is made with armed force, the burden is especially heavy—not only because of the coercions and ravages that military intervention inevitably brings, but also because it is thought that the citizens of a sovereign state have a right, insofar as they are to be coerced and ravaged at all, to suffer only at one another's hands.

what is the significance here of citizenship or national/cultural ties?

## Self-Determination and Self-Help

### The Argument of John Stuart Mill

These citizens are the members, it is presumed, of a single political community, entitled collectively to determine their own affairs. The precise nature of this right is nicely worked out by John Stuart Mill in a short article published in the same year as the treatise *On Liberty* (1859) and especially useful to us because the individual/community analogy was very much in Mill's mind as he wrote.<sup>1</sup> We are to treat states as self-determining communities, he argues, whether or not their internal political arrangements are free, whether or not the citizens choose their government and openly debate the policies carried out in their name. For self-determination and political freedom are not equivalent terms. The first is the more inclusive idea; it describes not only a particular institutional arrangement but also the process by which a community arrives at that arrangement—or does not. A state is self-determining even if its citizens struggle and fail to establish free institutions, but it has been deprived of self-determination if such institutions are established by an intrusive neighbor. The members of a political community must seek their own freedom, just as the individual must cultivate his own virtue. They cannot be set free, as he cannot be made virtuous, by any external force. Indeed, political freedom depends upon the existence of individual virtue, and this the armies of another state are most unlikely to produce—unless, perhaps, they inspire an active resistance and set in motion a self-determining politics. Self-determination is the school in which virtue is learned (or not) and liberty is won (or not). Mill recognizes that a people who have had the “misfortune” to be ruled by a tyrannical government are peculiarly disadvantaged: they have never had a chance to develop “the virtues needful for maintaining freedom.” But he insists nevertheless on the stern doctrine of self-help. “It is during an arduous struggle to become free by their own efforts that these virtues have the best chance of springing up.”

Though Mill's argument can be cast in utilitarian terms, the harshness of his conclusions suggests that this is not its most appropriate form. The Millian view of self-determination seems needed to make utilitarian calculation unnecessary, or at least subsidiary to an understanding of communal liberty. He doesn't believe that

E.g., what could possibly be the point, he quipped by an Eastern European's attempt to win the cold war—where liberty could not be won.

Given Mill's utilitarian dispositions I anticipate his retort, but I am nevertheless troubled by the...

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intervention/fails more often than not to serve the purposes of liberty; he believes that, given what liberty is, it necessarily fails. The (internal) freedom of a political community can be won only by the members of that community. The argument is similar to that implied in the well-known Marxist maxim, "The liberation of the working class can come only through the workers themselves." As that maxim, one would think, rules out any substitution of vanguard elitism for working class democracy, so Mill's argument rules out any substitution of foreign intervention for internal struggle.

Self-determination, then, is the right of a people "to become free by their own efforts" if they can, and nonintervention is the principle guaranteeing that their success will not be impeded or their failure prevented by the intrusions of an alien power. It has to be stressed that there is no right to be protected against the consequences of domestic failure, even against a bloody repression. Mill generally writes as if he believes that citizens get the government they deserve, or, at least, the government for which they are "fit." And "the only test... of a people's having become fit for popular institutions is that they, or a sufficient portion of them to prevail in the contest, are willing to brave labor and danger for their liberation." No one can, and no one should, do it for them. Mill takes a very cool view of political conflict, and if many rebellious citizens, proud and full of hope in their own efforts, have endorsed that view, many others have not. There is no shortage of revolutionaries who have sought, pleaded for, even demanded outside help. A recent American commentator, eager to be helpful, has argued that Mill's position involves "a kind of Darwinian definition [*The Origin of the Species* was also published in 1859] of self-determination as survival of the fittest within the national boundaries, even if fittest means most adept in the use of force." That last phrase is unfair, for it was precisely Mill's point that force could not prevail, unless it were reinforced from the outside, over a people ready "to brave labor and danger." For the rest, the charge is probably true, but it is difficult to see what conclusions follow from it. It is possible to intervene domestically in the "Darwinian" struggle because the intervention is continuous and sustained over time. But foreign intervention, if it is a brief affair, cannot shift the domestic balance of power in any decisive way toward the forces of freedom, while if it is prolonged or intermittently resumed, it will itself pose the greatest possible threat to the success of those forces.

peace with which Mill sees fit to forsake individual self-determination & political freedom for collective Interventions self-determination.

The case may be different when what is at issue is not intervention at all but conquest. Military defeat and governmental collapse may so shock a social system as to open the way for a radical renovation of its political arrangements. This seems to be what happened in Germany and Japan after World War II, and these examples are so important that I will have to consider later on how it is that rights of conquest and renovation might arise. But they clearly don't arise in every case of domestic tyranny. It is not true, then, that intervention is justified whenever revolution is; for revolutionary activity is an exercise in self-determination, while foreign interference denies to a people those political capacities that only such exercise can bring.

These are the truths expressed by the legal doctrine of sovereignty, which defines the liberty of states as their independence from foreign control and coercion. In fact, of course, not every independent state is free, but the recognition of sovereignty is the only way we have of establishing an arena within which freedom can be fought for and (sometimes) won. It is this arena and the activities that go on within it that we want to protect, and we protect them, much as we protect individual integrity, by marking out boundaries that cannot be crossed, rights that cannot be violated. As with individuals, so with sovereign states: there are things that we cannot do to them, even for their own ostensible good.

And yet the ban on boundary crossings is not absolute—in part because of the arbitrary and accidental character of state boundaries, in part because of the ambiguous relation of the political community or communities within those boundaries to the government that defends them. Despite Mill's very general account of self-determination, it isn't always clear when a community is in fact self-determining, when it qualifies, so to speak, for nonintervention. No doubt there are similar problems with individual persons, but these are, I think, less severe and, in any case, they are handled within the structures of domestic law.\* In international

\* The domestic analogy suggests that the most obvious way of not qualifying for nonintervention is to be incompetent (childish, imbecilic, and so on). Mill believed that there were incompetent peoples, barbarians, in whose interest it was to be conquered and held in subjection by foreigners. "Barbarians have no rights as a nation [i.e. as a political community]..." Hence utilitarian principles apply to them, and imperial bureaucrats legitimately work for their moral improvement. It is interesting to note a similar view among the Marxists, who also justified conquest and imperial rule at certain stages of historical development. (See Shlomo Avineri, ed., *Karl Marx on Colonialism and Modernization*, New York, 1969.) Whatever

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In international... society, the law provides no authoritative verdicts. Hence, the ban on boundary crossings is subject to unilateral suspension, specifically with reference to three sorts of cases where it does not seem to serve the purposes for which it was established:

—when a particular set of boundaries clearly contains two or more political communities, one of which is already engaged in a large-scale military struggle for independence; that is, when what is at issue is secession or "national liberation;"

—when the boundaries have already been crossed by the armies of a foreign power, even if the crossing has been called for by one of the parties in a civil war, that is, when what is at issue is counter-intervention; and

—when the violation of human rights within a set of boundaries is so terrible that it makes talk of community or self-determination or "arduous struggle" seem cynical and irrelevant, that is, in cases of enslavement or massacre. (genocide?)

The arguments that are made on behalf of intervention in each of these cases constitute the second, third, and fourth revisions of the legalist paradigm. They open the way for just wars that are not fought in self-defense or against aggression in the strict sense. But they need to be worked out with great care. Given the readiness of states to invade one another, revisionism is a risky business.

Mill discusses only the first two of these cases, secession and counter-intervention, though the last was not unknown even in 1859. It is worth pointing out that he does not regard them as exceptions to the nonintervention principle, but rather as negative demonstrations of its reasons. Where these reasons don't apply, the principle loses its force. It would be more exact, from Mill's standpoint, to formulate the relevant principle in this way: *always act so as to recognize and uphold communal autonomy*. Nonintervention is most often entailed by that recognition, but not always, and then we must prove our commitment to autonomy in some other way, perhaps even by sending troops across an international frontier. But the morally exact principle is also very dangerous, and Mill's account of the argument is not at this point an account of what is actually said in everyday moral discourse.

We need to establish a kind of *a priori* respect for state boundaries; they are, as I have argued before, the only boundaries communities ever have. And that is why intervention is always justified as if

what is the significance of this conclusion? who show we can't do it. I shall therefore assume that the self-help test applies equally to all peoples.

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it were an exception to a general rule, made necessary by the urgency or extremity of a particular case. The second, third, and fourth revisions have something of the form of stereotyped excuses. Interventions are so often undertaken for "reasons of state" that have nothing to do with self-determination that we have become skeptical of every claim to defend the autonomy of alien communities. Hence the special burden of proof with which I began, more onerous than any we impose on individuals or governments pleading self-defense: intervening states must demonstrate that their own case is radically different from what we take to be the general run of cases, where the liberty or prospective liberty of citizens is best served if foreigners offer them only moral support. And that is how I shall characterize Mill's argument (though he characterizes it differently) that Great Britain ought to have intervened in defense of the Hungarian Revolution of 1848 and 1849.

## Secession

### The Hungarian Revolution

For many years before 1848, Hungary had been a part of the Hapsburg Empire. Formally an independent kingdom, with a Diet of its own, it was effectively ruled by the German authorities in Vienna. The sudden collapse of those authorities during the March Days—symbolized by the fall of Metternich—opened the way for liberal nationalists in Budapest. They formed a government and demanded home rule within the Empire; they were not yet secessionists. Their demand was initially accepted, but controversy developed over the issues that have always plagued federalist schemes: the control of tax revenue, the command of the army. As soon as "order" was restored in Vienna, efforts began to reassert the centralist character of the regime, and these soon took the familiar form of military repression. An imperial army invaded Hungary, and the nationalists fought back. The Hungarians were now rebels or insurgents; they quickly established what international lawyers call their belligerent rights by defeating the Austrians and taking control of much of old Hungary. In the course of the war, the new government shifted leftwards; in April 1849, a republic was proclaimed under the presidency of Lajos Kossuth.

The revolution might be described, in contemporary terms, as a war of national liberation, except that the boundaries of old Hungary included a very large Slavic population, and the Hungarian revolutionaries seem to have been as hostile to Croat and Slovene nationalism as the Austrians were to their own claims for communal autonomy. But this is a difficulty that I am going to set aside, for it did not appear as such at the time; it did not enter into the moral reflections of liberal observers like Mill. The Hungarian Revolution was greeted with enthusiasm by such men, especially in France, Britain, and the United States, and its emissaries were eagerly received. Governmental response was different, in part because nonintervention was the general rule to which all three governments subscribed, in part because the first two were also committed to the European balance of power and therefore to the integrity of Austria. In London, Palmerston was formal and cold: "The British government has no knowledge of Hungary except as one of the component parts of the Austrian Empire."<sup>5</sup> The Hungarians sought only diplomatic recognition, not military intervention, but any British dealings with the new government would have been regarded by the Austrian regime as an interference in its internal affairs. Recognition, moreover, had commercial consequences that might have engaged the British more closely on the side of Hungary, for the revolutionaries hoped to purchase military supplies on the London market. Despite this, the establishment of formal ties, once the Hungarians had demonstrated that "a sufficient portion of them" were committed to independence and willing to fight for it, would not have been difficult to justify in Millian terms. There can be no doubt of the existence (though there was a reason to doubt the extent) of the Hungarian political community; it was one of the oldest nations in Europe, and its recognition as a sovereign state would not have violated the moral rights of the Austrian people. Military supply to insurgent armies is indeed a complex issue, and I will come back to it with reference to another case, but none of the complexities are apparent here. Soon enough, however, the Hungarians needed far more than guns and ammunition.

In the summer of 1849, the Austrian emperor asked for the help of Tsar Nicholas I, and Hungary was invaded by a Russian army. Writing ten years later, Mill argued that the British should have responded to this intervention with an intervention of their own.<sup>6</sup>

It might not have been right for England (even apart from the question of prudence) to have taken part with Hungary in its noble struggle against Austria; although the Austrian government in Hungary was in some sense a foreign yoke. But when, the Hungarians having shown themselves likely to prevail in this struggle, the Russian despot interposed, and joining his force to that of Austria, delivered back the Hungarians, bound hand and foot, to their exasperated oppressors, it would have been an honorable and virtuous act on the part of England to have declared that this should not be, and that if Russia gave assistance to the wrong side, England would aid the right.

The qualification "in some sense a foreign yoke" with regard to Austrian rule in Hungary is curious, for whatever its meaning, it must also qualify the nobility and rightness of the Hungarian struggle for independence. Since Mill does not intend the latter qualification, we need not take the former seriously. The clear tendency of his argument is to justify assistance to a secessionist movement at the same time as it justifies counter-intervention—indeed, to assimilate the one to the other. In both cases, the rule against interference is suspended because a foreign power, morally if not legally alien, is already interfering in the "domestic" affairs, that is, in the self-determinations of a political community.

Mill is right, however, to suggest that the issue is easier when the initial interference involves the crossing of a recognized frontier. The problem with a secessionist movement is that one cannot be sure that it in fact represents a distinct community until it has rallied its own people and made some headway in the "arduous struggle" for freedom. The mere appeal to the principle of self-determination isn't enough; evidence must be provided that a community actually exists whose members are committed to independence and ready and able to determine the conditions of their own existence.<sup>7</sup> Hence the need for political or military

\* There is a further issue here, having to do with the natural resources that are sometimes at stake in secessionist struggles. I have argued that "the land follows the people" (chapter 4). But the will and capacity of the people for self-determination may not establish a right to secede if the secession would remove not only land but also vitally needed fuel and mineral resources from some larger political community. The Katangan controversy of the early 1960s suggests the possible difficulties of such cases—and invites us to worry also about the motives of intervening states. But what was missing in Katanga was a genuine national movement capable, on its own, of "arduous struggle." (See Conor C. O'Brien, *To Katanga and Back*, New York, 1962.) Given the existence of such a movement, I would be inclined to support secession. It would then be necessary, however, to raise more general questions about distributive justice in international society.

struggle sustained over time. Mill's argument doesn't cover intricate and unrepresented peoples, or fledgling movements, or risings quickly suppressed. But imagine a small nation successfully mobilized to resist a colonial power but slowly being ground down in the unequal struggle: Mill would not insist, I think, that neighboring states stand by and watch its inevitable defeat. His argument justifies military action against imperial or colonial repression as well as against foreign intervention. Only domestic tyrants are safe, for it is not our purpose in international society (nor, Mill argues, is it possible) to establish liberal or democratic communities, but only independent ones. When it is required for the sake of independence, military action is "honorable and virtuous," though not always "prudent." I should add that the argument also applies to satellite regimes and great powers: designed for the first Russian intervention in Hungary (1849), it precisely fits the second (1956).

But the relation between virtue and prudence in such cases is not easy to make out. Mill's meaning is clear enough: to threaten war with Russia might have been dangerous to Britain and hence inconsistent "with the regard which every nation is bound to pay to its own safety." Now, whether or not it actually was dangerous was surely for the British to decide, and we would judge them harshly only if the risks they declined to run were very slight indeed. Even if counter-intervention is "honorable and virtuous," it is not morally required, precisely because of the dangers it involves. But one can make much more of prudence than this. Palmerston was concerned with the safety of Europe, not only of England, when he decided to stand by the Austrian empire. It is perfectly possible to concede the justice of the Millian position, and yet opt for nonintervention on what are currently called "world order" principles.<sup>8</sup> So justice and prudence are (with a certain worldly relish) set in opposition to one another in a way that Mill never imagined they could be. He thought, naively perhaps, that the world would be more orderly if none of its political communities were oppressed by foreign rule. He even hoped that Britain would one day be powerful enough, and have the necessary "spirit and courage," to insist "that not a gun [should] be fired in Europe by the soldiers of one Power against the revolted subjects of another," and to put itself "at the head of an alliance of free peoples..." Today, I suppose, the United States has succeeded to those old-fashioned liberal pretensions, though in 1956 its leaders, like Palmerston in 1849, thought it imprudent to enforce them.

It might also be said that the United States had (and has) no right to enforce them, given the self-serving ways in which its government defines freedom and intervention in other parts of the world. Mill's England was hardly in a better position. Had Palmerston contemplated a military move on behalf of the Hungarians, Count Schwarzenberg, Metternich's successor, was prepared to remind him of "unhappy Ireland." "Wherever revolt breaks out within the vast limits of the British Empire," Schwarzenberg wrote to the Austrian ambassador in London, "the English government always knows how to maintain the authority of the law... even at the price of torrents of blood. It is not for us," he went on, "to blame her." He sought only reciprocity, and that kind of reciprocity among great powers is undoubtedly the very essence of prudence. *(re: respect of state sovereignty)*

To set prudence and justice so radically at odds, however, is to misconstrue the argument for justice. A state contemplating intervention or counter-intervention will for prudential reasons weigh the dangers to itself, but it must also, *and for moral reasons*, weigh the dangers its action will impose on the people it is designed to benefit and on all other people who may be affected. An intervention is not just if it subjects third parties to terrible risks: the subjection cancels the justice. If Palmerston was right in believing that the defeat of Austria would shatter the peace of Europe, a British intervention ensuring that defeat would not have been "honorable and virtuous" (however noble the Hungarian struggle). And clearly, an American threat of atomic war in 1956 would have been morally as well as politically irresponsible. Thus far prudence can be, and has to be, accommodated within the argument for justice. But it should be said that this deference to third party rights is not at the same time a deference to the local political interests of the great powers. Nor does it involve the acceptance of a Schwarzenbergian reciprocity. Britain's recognition of Austria's imperial claims does not entitle it to a similar recognition. The prudential acceptance of a Russian sphere of influence in Eastern Europe does not entitle the United States to a free hand in its own sphere. Against national liberation and counter-intervention, there are no prescriptive rights.

*is this example appropriate?*

*this over looks, however, the fact that prior to the 1956 revolution the U.S. had provided Hungary the verbal guarantee that if its people chose to resist soviet forces, they could rely on American diplomatic & military support.*

ment unable, to "impersonate" Vietnamese nationalism? The character and scope of the American presence probably had a great deal to do with this. Nationalism is not easily represented by a regime as dependent as Saigon was on foreign support. It is also important that North Vietnamese moves did not similarly brand those they benefited as foreign agents. In nations divided as Vietnam was, infiltration across the dividing line is not necessarily regarded as outside interference by the men and women on the other side. The Korean War might look very different than it does if the Northerners had not marched in strength across the 38th parallel, but had made covert contact, instead, with a Southern rebellion. In contrast to Vietnam, however, there was no rebellion—and there was considerable support for the government—in South Korea.<sup>15</sup> These cold war dividing lines have the usual significance of an international border only insofar as they mark off, or come in time to mark off, two political communities within each of which individual citizens feel some local loyalty. Had South Vietnam taken shape in this way, American military activity, in the face of large-scale Northern connivance at terrorism and guerrilla war, might have qualified as counter-intervention. At least, the name would have been an arguable one. As it is, it is not.

It remains an issue whether the American counter-intervention, had it been such, could rightly have assumed the size and scope of the war we eventually fought. Some notion of symmetry is relevant here, though it cannot be fixed absolutely in arithmetic terms. When a state sets out to maintain or restore the integrity of a local struggle, its military activity should be roughly equivalent to that of the other intervening states. Counter-intervention is a balancing act. I have made this point before, but it is worth emphasizing, for it reflects a deep truth about the meaning of responsiveness: *the goal of counter-intervention is not to win the war.* That this is not an esoteric or obscure truth is suggested by President Kennedy's well-known description of the Vietnam War. "In the final analysis," Kennedy said, "it is their war. They are the ones who have to win it or lose it. We can help them, we can give them equipment, we can send our men out there as advisors, but they have to win it—the people of Vietnam against the Communists . . ."<sup>17</sup> Though this view was reiterated by later American leaders, it is not, unhappily, a definitive exposition of American policy. In fact, the United States failed in the most dramatic way to respect the character and dimensions of the Vietnamese civil war, and we failed because we could not win the war as long as it

retained that character and was fought within those dimensions. Searching for a level of conflict at which our technological superiority could be brought to bear, we steadily escalated the struggle, until finally it was an American war, fought for American purposes, in someone else's country.

### Humanitarian Intervention

A legitimate government is one that can fight its own internal wars. And external assistance in those wars is rightly called counter-intervention only when it balances, and does no more than balance, the prior intervention of another power, making it possible once again for the local forces to win or lose on their own. The outcome of civil wars should reflect not the relative strength of the intervening states, but the local alignment of forces. There is another sort of case, however, where we don't look for outcomes of that sort, where we don't want the local balance to prevail. If the dominant forces within a state are engaged in massive violations of human rights, the appeal to self-determination in the Millian sense of self-help is not very attractive. That appeal has to do with the freedom of the community taken as a whole; it has no force when what is at stake is the bare survival or the minimal liberty of (some substantial number of) its members. Against the enslavement or massacre of political opponents, national minorities, and religious sects, there may well be no help unless help comes from outside. And when a government turns savagely upon its own people, we must doubt the very existence of a political community to which the idea of self-determination might apply.

Examples are not hard to find; it is their plentitude that is embarrassing. The list of oppressive governments, the list of massacred peoples, is frighteningly long. Though an event like the Nazi holocaust is without precedent in human history, murder on a smaller scale is so common as to be almost ordinary. On the other hand—or perhaps for this very reason—clear examples of what is called "humanitarian intervention" are very rare.<sup>18</sup> Indeed, I have not found any, but only mixed cases where the humanitarian motive is one among several. States don't send their soldiers into other states, it seems, only in order to save lives. The lives of foreigners

don't weigh that heavily in the scales of domestic decision-making. So we shall have to consider the moral significance of mixed motives.\* It is not necessarily an argument against humanitarian intervention that it is, at best, partially humanitarian, but it is a reason to be skeptical and to look closely at the other parts.

#### *Cuba, 1898, and Bangladesh, 1971*

Both these cases might be taken up under the headings of national liberation and counter-intervention. But they each have a further significance because of the atrocities committed by the Spanish and the Pakistani governments. The brutal work of the Spaniards is easier to talk about, for it fell short of systematic massacre. Fighting against a Cuban insurgent army that lived off the land and apparently had large-scale peasant support, the Spaniards first worked out the policy of forced resettlement. They called it, without euphemism, *la reconcentración*. General Weyler's proclamation required that:<sup>19</sup>

All inhabitants of rural areas or areas outside the lines of fortified towns will be concentrated within the towns occupied by troops at the end of eight days. All individuals who disobey or who are found outside the prescribed areas will be considered as rebels and judged as such.

I will ask later on whether "concentration" in itself is a criminal policy. The immediate crime of the Spaniards was to enforce the policy with so little regard for the health of the people involved that thousands of them suffered and died. Their lives and deaths were widely publicized in the United States, not only in the yellow press, and undoubtedly figured in the minds of many Americans as the major justification for the war against Spain. Thus the Congressional resolution of April 20, 1898: "Whereas the abhorrent conditions which have existed for more than three years in the island of Cuba, so near our own borders, have shocked the moral sense of the people of the United States . . ."<sup>20</sup> But there were other reasons for going to war.

The chief of these were economic and strategic in character, \* The case is different, obviously, when the lives at stake are those of fellow nationals. Interventions designed to rescue citizens threatened with death in a foreign country have conventionally been called humanitarian, and there is no reason to deny them that name when life and death are really at issue. The Israeli raid on Entebbe airport in Uganda (July 4, 1976) seems likely to become a classic case. Here there is, or ought to be, no question of mixed motives: the only purpose is to rescue these people towards whom the intervening power has a special commitment.

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having to do, first, with American investment in Cuban sugar, a matter of interest to a section of the financial community; and second, with the sea approaches to the Panamanian Isthmus where the canal would one day be, a matter of interest to the intellectuals and politicians who championed the cause of American expansion. Cuba was a minor element in the plans of men like Mahan and Adams, Roosevelt and Lodge, who were more concerned with the Pacific Ocean than the Caribbean Sea. But the canal that would connect the two gave it a certain strategic value, and the war to win it was worthwhile insofar as it accustomed Americans to imperialist adventures (and led also to the conquest of the Philippines). By and large, the historical debate over the causes of the war has focused on the different forms of economic and political imperialism, the search for markets and investment opportunities, the pursuit of "national power for its own sake."<sup>21</sup> It's worth remembering, however, that the war was also supported by anti-imperialist politicians—or rather, that Cuban freedom was supported and then, in consequence of Spanish brutality, the humanitarian intervention of American military forces. The war we actually fought, however, and the intervention urged by populists and radical Democrats were two rather different things.

The Cuban insurgents made three requests of the United States: that we recognize their provisional government as the legitimate government of Cuba, that we provide their army with military supplies, and that American warships blockade the Cuban coast and cut off the supplies of the Spanish army. Given such help, it was said, the insurgent forces would grow, the Spaniards could not long hold out, and the Cubans would be left to reconstruct their country (with American help) and manage their own affairs.<sup>22</sup> This was also the program of American radicals. But President McKinley and his advisors did not believe the Cubans capable of managing their own affairs, or they feared a radical reconstruction. In any case, the U.S. intervened without recognizing the insurgents, invaded the island, and quickly defeated and replaced the Spanish forces. The victory undoubtedly had humane effects. Though the American military effort was remarkably inefficient, the war was short and added little to the miseries of the civilian population. Relief operations, also remarkably inefficient at first, began as soon as the battles were won. In his standard account of the war, Admiral Chadwick boasts of its relative bloodlessness: "War of itself," he writes, "cannot be the great evil; the evil is in the horrors, many of which are not necessarily concomitant . . . The war now begin-

ning between the United States and Spain was one in which these greater horrors were largely to be absent."<sup>23</sup> The horrors were indeed absent; far more so, at least, than in the long years of the Cuban Insurrection. But the invasion of Cuba, the three years of military occupation, the eventual granting of a drastically limited independence (under the provisions of the Platt Amendment) go a long way toward explaining the skepticism with which America's professions of humane concern have conventionally been regarded. The entire course of action, from 1898 to 1902, might be taken as an example of benevolent imperialism, given the "piratical times," but it is not an example of humanitarian intervention.<sup>24</sup>

The judgments we make in cases such as this don't hang on the fact that considerations other than humanity figured in the government's plans, or even on the fact that humanity was not the chief consideration. I don't know if it ever is, and measurement is especially difficult in a liberal democracy where the mixed motives of the government reflect the pluralism of the society. Nor is it a question of benevolent outcomes. As a result of the American victory, the *reconcentrados* were able to return to their homes. But they would have been able to do that had the U.S. entered the war on the side of the Spaniards and, together with them, decisively defeated the Cuban insurgents. "Concentration" was a war policy and would have ended with the war, whatever the war's end. The crucial question is a different one. Humanitarian intervention involves military action on behalf of oppressed people, and it requires that the intervening state enter, to some degree, into the purposes of those people. It need not set itself to achieve those purposes, but it also cannot stand in the way of their achievement. The people are oppressed, presumably, because they sought some end—religious toleration, national freedom, or whatever—unable to their oppressors. One cannot intervene on their behalf and against their ends. I don't want to argue that the purposes of the oppressed are necessarily just or that one need accept them in their entirety. But it does seem that a greater attention is due them than the U.S. was prepared to pay in 1898.

This regard for the purposes of the oppressed directly parallels the respect for local autonomy that is a necessary feature of counter-intervention. The two revisionist principles reflect a common commitment: that intervention be as much like nonintervention as possible. In the one case, the goal is balance; in the other, it is rescue. In neither case, and certainly not in secessions

and national liberation struggles, can the intervening state rightly claim any political prerogatives for itself. And whenever it makes such claims (as the U.S. did when it occupied Cuba and again when it imposed the Platt Amendment), we suspect that political power was its purpose from the start.

The Indian invasion of East Pakistan (Bangladesh) in 1971 is a better example of humanitarian intervention—not because of the singularity or purity of the government's motives, but because its various motives converged on a single course of action that was also the course of action called for by the Bengalis. This convergence explains why the Indians were in and out of the country so quickly, defeating the Pakistani army but not replacing it, and imposing no political controls on the emergent state of Bangladesh. No doubt, strategic as well as moral interests underlay this policy: Pakistan, India's old enemy, was significantly weakened, while India itself avoided becoming responsible for a desperately poor nation whose internal politics was likely to be unstable and volatile for a long time to come. But the intervention qualifies as humanitarian because it was a *rescue*, strictly and narrowly defined. So circumstances sometimes make saints of us all.

I shall not say very much about Pakistani oppression in Bengal.

The tale is a terrible one and by now fairly well documented.<sup>25</sup> Faced with a movement for autonomy in what was then its eastern province, the government of Pakistan, in March, 1971, literally turned an army loose on its own people—or rather, a Punjabi army loose on the Bengali people, for the unity of east and west was already a broken thing. The resulting massacre only completed the break and made it irreparable. The army was not entirely without direction; its officers carried "death lists" on which appeared the names of the political, cultural, and intellectual leaders of Bengal. There was also a systematic effort to slaughter the followers of these people: university students, political activists, and so on. Beyond these groups, the soldiers ranged freely, burning, raping, killing. Millions of Bengalis fled into India, and their arrival, destitute, hungry, and with incredible stories to tell, established the moral foundation of the later Indian attack. "It is idle to argue in such cases that the duty of the neighboring people is to look on quietly."<sup>26</sup> Months of diplomatic maneuvering followed, but during that time, the Indians were already assisting Bengali guerrillas and offering sanctuary not only to refugees but also to fighting men and women. The two-week war of December 1971

apparently began with a Pakistani air strike, but the Indian invasion required no such prior attack; it was justified on other grounds.

The strength of the Bengali guerrillas and their achievements between March and December are matters of some dispute; so is their role in the two-week war. Clearly, however, it was not the purpose of the Indian invasion to open the way for the Bengali struggle; nor does the strength or weakness of the guerrillas affect our view of the invasion. When a people are being massacred, we don't require that they pass the test of self-help before coming to their aid. It is their very incapacity that brings us in. The purpose of the Indian army, then, was to defeat the Pakistani forces and drive them out of Bangladesh, that is, to win the war. The purpose was different from that of a counter-intervention, and for an important moral reason. People who initiate massacres lose their right to participate in the normal (even in the normally violent) processes of domestic self-determination. Their military defeat is morally necessary.

Governments and armies engaged in massacres are readily identified as criminal governments and armies (they are guilty, under the Nuremberg code of "crimes against humanity"). Hence humanitarian intervention comes much closer than any other kind of intervention to what we commonly regard, in domestic society, as law enforcement and police work. At the same time, however, it requires the crossing of an international frontier, and such crossings are ruled out by the legalist paradigm—unless they are authorized, I suppose, by the society of nations. In the cases I have considered, the law is unilaterally enforced; the police are self-appointed. Now, unilateralism has always prevailed in the international arena, but we worry about it more when what is involved is a response to domestic violence rather than to foreign aggression. We worry that, under the cover of humanitarianism, states will come to coerce and dominate their neighbors; once again, it is not hard to find examples. Hence many lawyers prefer to stick to the paradigm. That doesn't require them, on their view, to deny the (occasional) need for intervention. They merely deny legal recognition to that need. Humanitarian intervention "belongs in the realm not of law but of moral choice, which nations, like individuals must sometimes make . . ."<sup>27</sup> But that is only a plausible formulation if one doesn't stop with it, as lawyers are likely to do. For moral choices are not simply *made*; they are also judged, and so there must be criteria for judgment. If these are not provided

by the law, or if legal provision runs out at some point, they are nevertheless contained in our common morality, which doesn't run out, and which still needs to be explicated after the lawyers have finished.

Morality, at least, is not a bar to unilateral action, so long as there is no immediate alternative available. There was none in the Bengali case. No doubt, the massacres were a matter of universal interest, but only India interested itself in them. The case was formally carried to the United Nations, but no action followed. Nor is it clear to me that action undertaken by the UN, or by a coalition of powers, would necessarily have had a moral quality superior to that of the Indian attack. What one looks for in numbers is detachment from particularist views and consensus on moral rules. And for that, there is at present no institutional appeal; one appeals to humanity as a whole. States don't lose their particularist character merely by acting together. If governments have mixed motives, so do coalitions of governments. Some goals, perhaps, are cancelled out by the political bargaining that constitutes the coalition, but others are super-added; and the resulting mix is as accidental with reference to the moral issue as are the political interests and ideologies of a single state.

Humanitarian intervention is justified when it is a response (with reasonable expectations of success) to acts "that shock the moral conscience of mankind." The old-fashioned language seems to me exactly right. It is not the conscience of political leaders that one refers to in such cases. They have other things to worry about and may well be required to repress their normal feelings of indignation and outrage. The reference is to the moral convictions of ordinary men and women, acquired in the course of their everyday activities. And given that one can make a persuasive argument in terms of those convictions, I don't think that there is any moral reason to adopt that posture of passivity that might be called waiting for the UN (waiting for the universal state, waiting for the messiah . . .).

Suppose . . . that a great power decided that the only way it could continue to control a satellite state was to wipe out the satellite's entire population and recolonize the area with "reliable" people. Suppose the satellite government agreed to this measure and established the necessary mass extermination apparatus . . . Would the rest of the members of the U.N. be compelled to stand by and watch this operation merely because [the] requisite decision of U.N. organs was blocked and the operation did not involve an "armed attack" on any [member state] . . . ?<sup>28</sup>

The question is rhetorical. [Any state capable of stopping the slaughter has a right, at least, to try to do so. The legalist paradigm indeed rules out such efforts, but that only suggests that the paradigm, unrevised, cannot account for the moral realities of military intervention.]

The second, third, and fourth revisions of the paradigm have this form: [states can be invaded and wars justly begun to assist secessionist movements (once they have demonstrated their representative character), to balance the prior interventions of other powers, and to rescue peoples threatened with massacre. In each of these cases we permit or, after the fact, we praise or don't condemn these violations of the formal rules of sovereignty, because they uphold the values of individual life and communal liberty of which sovereignty itself is merely an expression. The formula is, once again, permissive, but I have tried in my discussion of particular cases to indicate that the actual requirements of just interventions are constraining indeed. And the revisions must be understood to include the constraints. Since the constraints are often ignored, it is sometimes argued that it would be best to insist on an absolute rule of nonintervention (as it would be best to insist on an absolute rule of a nonanticipation). But the absolute rule will also be ignored, and we will then have no standards by which to judge what happens next. In fact, we do have standards, which I have tried to map out. They reflect deep and valuable, though in their applications difficult and problematic, commitments to human rights.

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# War's Ends, and the Importance of Winning

What may be called the modernist view of war is grimly summed up in a poem by Randall Jarrell:<sup>1</sup>

Profits and death grow marginal:  
Only the mourning and the mourned recall  
The wars we lose, the wars we win;  
And the world is—what it has been.

War kills; that is all it does; even its economic causes are not reflected in its outcomes; and the soldiers who die are, in the contemporary phrase, wasted. Jarrell speaks in the name of those wasted men, of comrades already dead and of others who know they will soon be killed. And theirs is an authoritative perspective: there have been so many of them. When soldiers die in small numbers, in encompassable battles, they can attribute some meaning to their deaths. Sacrifice and heroism are conceivable notions. But the slaughter of modern warfare overwhelms their capacity for moral understanding; cynicism is their last resort. It is not, however, our last resort, or the most important form of our perceptions of the war in which Jarrell fought. Indeed, most of his fellow survivors would still want to affirm that the world is different, and better, for the Allied victory and the defeat of the Nazi regime. And theirs, too, is an authoritative perspective: there are so many of them. In an age when human sensibility is finely tuned to all the nuances of