

Université de Montréal

The Incompatibility of Humanitarian Intervention with Cosmopolitanism

par
Ljiljana Petrovic

Département de philosophie
Faculté des arts et sciences

Thèse présentée à la Faculté des études supérieures en vue de l'obtention du grade de
docteur en philosophie (Ph.D.)

Septembre, 2007

Copyright, Ljiljana Petrovic, 2007



B
29
U54
2008
V. 008

Direction des bibliothèques

AVIS

L'auteur a autorisé l'Université de Montréal à reproduire et diffuser, en totalité ou en partie, par quelque moyen que ce soit et sur quelque support que ce soit, et exclusivement à des fins non lucratives d'enseignement et de recherche, des copies de ce mémoire ou de cette thèse.

L'auteur et les coauteurs le cas échéant conservent la propriété du droit d'auteur et des droits moraux qui protègent ce document. Ni la thèse ou le mémoire, ni des extraits substantiels de ce document, ne doivent être imprimés ou autrement reproduits sans l'autorisation de l'auteur.

Afin de se conformer à la Loi canadienne sur la protection des renseignements personnels, quelques formulaires secondaires, coordonnées ou signatures intégrées au texte ont pu être enlevés de ce document. Bien que cela ait pu affecter la pagination, il n'y a aucun contenu manquant.

NOTICE

The author of this thesis or dissertation has granted a nonexclusive license allowing Université de Montréal to reproduce and publish the document, in part or in whole, and in any format, solely for noncommercial educational and research purposes.

The author and co-authors if applicable retain copyright ownership and moral rights in this document. Neither the whole thesis or dissertation, nor substantial extracts from it, may be printed or otherwise reproduced without the author's permission.

In compliance with the Canadian Privacy Act some supporting forms, contact information or signatures may have been removed from the document. While this may affect the document page count, it does not represent any loss of content from the document.

Université de Montréal
Faculté des études supérieures

Cette thèse intitulée :

The Incompatibility of Humanitarian Intervention with Cosmopolitanism

présentée par :
Ljiljana Petrovic

a été évaluée par un jury composé des personnes suivantes :

[redacted]
président rapporteur

[redacted]
directeur de recherche

[redacted]
membre du jury

[redacted]
représentant du doyen de la FES

Abstract

Humanitarian intervention is generally defined as coercive military action by one state against a foreign state with the express purpose of halting or preventing massive human rights atrocities in an emergency situation. This idea is usually framed within the discourse of cosmopolitanism. The reason we often associate the notion of humanitarian intervention with that of cosmopolitanism is because of the assumption that a universal legal and moral order can and should include an international legal capacity for military force. But the paradigm of humanitarian intervention includes some important presuppositions, without which, the idea loses its force, both on an abstract philosophical level, and on a practical moral one. My work consists in an effort to unravel some of the deeply ingrained assumptions made within the humanitarian intervention paradigm, but with an aim to maintain, uphold and develop the notion of cosmopolitanism. The purpose of this thesis, then, is to illustrate that there is a fundamental incompatibility with the idea of humanitarian intervention and cosmopolitanism.

To show the incompatibility with humanitarian intervention and cosmopolitanism, I begin by challenging the main arguments used to legitimize humanitarian intervention. While this part of the work addresses some of the main claims for legitimacy, much effort is put into unraveling the myths behind the moral case for humanitarian intervention. Because the force of the arguments supporting humanitarian intervention are primarily moral, my work illustrates the weakness in that position by challenging the way that we look at foreign conflicts, and especially the way we interpret our role in foreign conflict. Exposing the kinds of assumptions we make when assessing regional conflicts in foreign places unsettles ideas about the legitimacy of humanitarian intervention. This is the first step in showing the incompatibility of humanitarian intervention with cosmopolitanism.

The second step is to challenge some of the important assumptions we make about cosmopolitanism. I argue that the idea of cosmopolitanism, if it is not to be hijacked for imperial purposes, must be able to withstand the demands of patriotism in what I have framed as a 'cosmopolitan patriotism'. The reason for this is that I see this route as the only one which can allay legitimate fears that cosmopolitan humanitarian intervention in practice can only result in global despotism and cultural annihilation. By making the demands of the cosmopolitan less stringent, and more open to the needs and realities of citizens of both local and the global communities, I account for a cosmopolitanism which is inclusive, plural, and responsible. I argue that while the current model of humanitarian intervention within a cosmopolitan frame encourages military action, it paradoxically encourages citizen passivity. This in effect, contradicts and undermines the goals of cosmopolitanism.

Framed in this way, I show that the underlying reason that humanitarian intervention is incompatible with cosmopolitanism is because ultimately it subverts the goals of the cosmopolitan, which is to build a safer world, protect the plurality of its diverse citizens, and engage in the common project of the advancement of humanity. While I maintain the core principles of the cosmopolitan project, to build a more secure and stable place for all citizens of the world, I argue that this project should not, and cannot replace international law and its core principles of sovereign equality, territorial integrity and domestic jurisdiction. We must frame cosmopolitanism in terms of a revised, updated legal international order which is based on a conceptual shift in the way we have framed not only regional conflicts, but our relationship to them. This conceptual shift upsets any comfort we may have found in humanitarian intervention as a method of protecting human life, but it is a necessary shift if we are to make any effective efforts in the contribution of global peace, security and stability.

10 Key Words:

Humanitarian intervention, cosmopolitanism, philosophy, political science, ethics, sovereignty, patriotism, legitimacy, legality, media

Résumé

Une intervention humanitaire est généralement définie comme étant une action militaire imposée par un état souverain envers un autre, avec l'objectif de stopper ou prévenir une catastrophe humaine, et ce, dans une situation considérée comme urgente. Cette définition est généralement acceptée comme étant une composante intégrale du concept du cosmopolitisme. L'association entre les deux concepts est courante, puisque l'on accepte communément que l'existence d'une loi et d'une morale universelle peuvent et doivent inclure l'utilisation d'une force militaire. Pourtant, les paradigmes d'une intervention humanitaire contiennent des présomptions qui, sans celles-ci, ne peuvent soutenir d'un point de vue philosophique, et même selon une approche morale, une telle action. Notre dissertation vise donc à extraire certaines présomptions rarement remises en question, dans le but de maintenir et d'approfondir la nation du cosmopolitisme. Notre visée est de démontrer l'incompatibilité qui existe entre les concepts de l'intervention humanitaire et le concept de cosmopolitisme.

Afin d'établir l'incompatibilité des concepts de l'intervention humanitaire et du cosmopolitisme, nous remettons en question les arguments qui, légitimement, permettent les interventions humanitaires. Notre effort est principalement dirigé vers la reconsidération des mythes et croyances qui soutiennent une morale d'intervention. Puisque les thèses qui sont en faveur d'une intervention humanitaire découlent principalement de préceptes moraux, nous devons revisiter les façons de percevoir les conflits internationaux et les rôles de chacun dans de telles situations. Une démonstration des présomptions existantes lors de conflits régionaux permet de revisiter la justification d'une intervention humanitaire.

Il est important aussi de revoir certaines présuppositions qui règnent sur le cosmopolitisme. La notion de 'cosmopolitisme patriotique' est un concept que nous avons développé afin d'aborder les craintes qui existent face à un cosmopolitisme interventionniste qui risque de mener vers un despotisme global et une dévastation culturelle. Nous démontrons qu'une approche moins contraignante, plus inclusive et plurielle du cosmopolitisme permettrait de mieux subvenir aux besoins et à la réalité des citoyens. Nous concédons que le présent modèle de l'intervention humanitaire non seulement incite les actions militaires, mais elle encourage aussi la passivité des citoyens; les conséquences contredisent le but même du cosmopolitisme.

Notre approche permet donc de stipuler que le concept d'intervention humanitaire est incompatible avec la notion de cosmopolitisme puisqu'il mine les desseins de ce dernier, soit la construction d'un monde meilleur, ouvert à la diversité des populations humaines. Bien que notre dissertation remette en question plusieurs éléments du cosmopolitisme, elle ne prétend en aucun cas remplacer les lois internationales. Nous encourageons plutôt une refonde des législations internationales vis-à-vis les conflits régionaux et la relation des différents états face à ceux-ci. Le défi est de permettre une vision nouvelle, inconfortable soit-elle, de l'intervention humanitaire, dans le but de contribuer à la paix mondiale, à un monde plus sécuritaire et plus stable.

10 mots clés :

intervention humanitaire, cosmopolitisme, philosophie, politique, éthique, souveraineté, patriotisme, légitimité, légalité, média

Table of Contents:

Acknowledgements	p.vii
Introduction: A Context for the Problem of Cosmopolitanism and Humanitarian Intervention	p.1
Chapter I: The Definition and Historical Context for Humanitarian Intervention	p.13
Chapter II: Humanitarian Intervention and the Problem of Motive, Intention and Inconsistency	p.22
II-i: Whose motives constitute the ‘we’?.....	p.23
II-ii: Motive Versus Intention.....	p.26
II-iii: Mixed Motives and the Outcomes Oriented Approach.....	p.38
II-iv: Rights versus Duties and the Inconceivability of Inconsistency	p.44
Chapter III: The Legitimacy of Humanitarian Intervention	p.53
III-i: Critiquing Legitimacy: The ‘just-warfare’ or ‘moral necessity’ argument: The Moral Case for Humanitarian Intervention	p.59
III-ii: The Problem of the Narrative Frame	p.63
III-iii: Determining the Dimension of Evil: Media and Knowledge	p.85
III-iv: The preservation of the practical and moral legitimacy of international law.....	p.97
III-v: The lesser evil principle—Emergency Rule	p.101
III-vi: The <i>de facto</i> integrity of the core of state sovereignty.....	p.111
III-vii: The deterrence principle	p.119
III-viii: The only response to Security Council paralysis.....	p.121
III-ix: The enforcement of high regional standards by use of humanitarian intervention without Security Council approval.....	p.123
III-x: Conclusion: The Viability of Humanitarian Intervention	p.125
Chapter IV-i: Cosmopolitanism: Competing Conceptions: The importance of cosmopolitanism for both interventionists and non-interventionists	p.129
IV-ii: Defining Cosmopolitanism.....	p.132
IV-iii: Diogenes: The Failed Cosmopolitan, or What Cosmopolitanism is Not.....	p.139
IV-iv: Defining Patriotism.....	p.147
IV-v: Good and Bad Patriots: Standards and Double Standards	p.156
IV-v: The Problem of False Pride	p.167
IV-vi: The Problem of Patriotic Partiality	p.168
IV-vii: The Frame for why Patriotism goes Wrong	p.176
IV-viii: Cosmopolitan Patriotism	p.180
IV-ix: The Cosmopolitan Non-Patriot: “White Girl Don’t!”	p.196
IV: The Abuses of Cosmopolitanism	p.201
V: Shattered Cosmopolitan Dreams: The Decriminalization of Aggression	p.206
V-i: The Incompatibility of Cosmopolitanism with Humanitarian Intervention.....	p.218
V-ii: Conclusion: Making a Conceptual Shift in our Global Understanding of Regional Conflicts	p.221
Bibliography	p.224

**Dedicated to the memory of Slavenko Dalfogo
1974-1992**

Acknowledgements

The completion of this thesis represents the culmination of many years effort during which several key people played a critical role. First and foremost, without the dedicated support of my husband, Branimir Bozic, and the tireless demands of my unconditionally loving children, Luka, Maksim and Jovan Bozic, I would have lacked the motivation, desire and inspiration to carry through this project to completion. They are primarily the reasons why I was able to bring such a goal to fruition, despite less than ideal conditions for doing so.

I am indebted to Daniel Weinstock for giving me both the freedom and direction I needed to develop my ideas in an already less than transparent field of research. The controversial nature of this subject has manifested itself in many friendly debates from which I have been able to develop and refine my arguments. Along the way, I have met, and been influenced by people without whom the quality of my research would have suffered. Most notably, I thank Tiphaine Dickson for her countless research references, for lively discussion which always resulted in new material and the development of ideas, and most importantly, for giving me the encouragement I needed at crucial points of the writing of this work. I thank Kerim Ousman for being there at the onset when the seeds of these ideas were being developed, for guiding those early moments of thought into something concrete. I thank Kai Nielsen and Jocelyn Couture for contributions they made to early discussions on the development of this project, and for the books and articles they recommended along the way. And finally I thank Marie-Joelle Zahar for her helpful commentaries along the way.

I would be at a loss without Jocelyn Doyon, who, until recently, held together the philosophy community at the Université de Montréal with her grace and wisdom and without whom none of us could hope to realize the end of our goals. She was always there with answers to questions, and solutions to problems, but most importantly, with a spirit that made some of the more difficult and tedious tasks of this long process bearable.

Indispensable to my efforts, was the *Centre de Recherche en Ethique de L'Université de Montréal*, not only for their generous financial contribution to this project, but for providing an intellectual atmosphere for discourse, which greatly contributed to the development and completion of my work. Through this organization, I was able to discuss and develop not only my project, but also projects of colleagues from different disciplines, which was in itself a valuable experience and from which we all benefited greatly. The generosity of CREUM, as well as their forum for intellectual life proved to be a most enriching experience during my studies, and I am deeply grateful for it.

Finally, I would like to thank all those friends and family, too numerous to be listed here, for their untiring efforts throughout this long process. Most notably, I thank my mother, Milanka Nikolic, and my mother-in-law, Jelena Bozic, for their support at home and with children; Piper Huggins for her continuous and steadfast reliability whenever I need a hand juggling one of several balls; and Lisa Jorgensen for her support and contribution in editing.

Introduction: A Context for the Problem of Cosmopolitanism and Humanitarian Intervention:

In 1945, state representatives from throughout the world came together to develop and sign the United Nations Charter which made a claim and promise that “we the people” are “determined”

--to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and...

AND FOR THESE ENDS

--to practice tolerance and live together in peace with one another as good neighbors, and
--to unite our strength to maintain international peace and security, and
--to ensure, by the acceptance of principles and the institution of methods, **that armed force shall not be used**, save in the common interest,...¹ (emphasis added).

Today, almost all nation states are signatories to this declaration, promising to maintain peace and security, and to suppress acts of aggression and other breaches of peace. If ever there was an expression of a ‘common morality’, universal and absolute and even necessary for our continued survival as a species, it is thus declared in these words. In post WWII, this document was devised expressing the abhorrence of what human beings of the world suffered and wished never to repeat or endure again. This document, in the form of the UN Charter is essentially an anti-war document, repeating what past attempts tried to do²—that is to condemn recourse to war. If there can be a single expression for a global will or desire shared throughout the world, timeless and truly universal, it surely must be the will to live in peace—that is to say, without war, without constant threat of death and destruction. This document is not just a set of articles, but an

¹ Charter of the United Nations—Preamble, <http://www.un.org/aboutun/charter/>

² For instance, the Kellogg-Briand Pact of 1928, also called the Pact of Paris, was a momentous attempt to eliminate war as an instrument of national policy. It was part of a series of peacekeeping efforts post-WWI.

expression of a collective will, and in that sense it is the essence of cosmopolitanism. There is a sense in which we have failed that goal. Beyond just a 'sense', there is a tremendous amount of evidence that illustrates how we have failed that goal and today's attempts to develop a 'cosmopolitan law' which includes the developing ideas for *humanitarian interventions*, as well as its younger sibling, the *Responsibility to Protect*, (or, R2P as it is abbreviated) are expressions of how to fulfill that will to live in peace and security where we have previously failed. My work consists of an effort to deconstruct some of the assumptions made about this new avenue toward global peace and security, but within a cosmopolitan frame, maintaining cosmopolitan aspirations. It is an attempt to show that while we have failed in our efforts to establish peace and security, we have failed not because there was something fundamentally amiss with the principles to maintain peace and security set out post WWII, but rather with our implementation of them. The present route we are taking with the development of the projects of humanitarian intervention and R2P is the route I see most innocuously as incapable of guaranteeing human security and more seriously as potentially destructive of both human lives and cosmopolitan values. Today, the idea of 'cosmopolitanism' is used synonymously with human rights, and together, they provide the normative frame for 'humanitarian intervention'. But what this interpretation of cosmopolitanism refers to makes vast assumptions which I aim to challenge, and I argue that 'cosmopolitanism' as it is being used today is not often truly representative of its essence and meaning. This is the

avenue from which I will begin to unearth the underlying, and not necessarily well-founded, assumptions about cosmopolitanism.

While ideas about (and a variety of manifestations of) humanitarian interventions have always existed, recent academic discourse has contextualized the newest conception of this idea within a 'cosmopolitan' frame. What motivates an analysis of this emerging normative frame is that interventions are being described as 'cosmopolitan'. Reference to cosmopolitan humanitarian interventions must be comprised of cosmopolitan law which exists in a cosmopolitan world, where cosmopolitan militaries will enforce their rules³. Central to any understanding of a cosmopolitan law enforcement, then, is not only a clear and explicit articulation of what this cosmopolitanism refers to, but also a consensus about it, or at least some common ground, because if concrete military action is going to be taken on the basis of an idea, we had better have a clear and concrete definition about that idea. At this point, any reference to a cosmopolitan normative frame, from which a cosmopolitan rule of law emerges makes vast and unfounded assumptions both about what cosmopolitanism is, and about how it should be enforced (something at this point referred to as *humanitarian intervention*, articulated more precisely in the ICISS⁴ document *R2P*). My conception of cosmopolitanism does not advance the project of humanitarian

³ These ideas are generally found in the work Daniele Archibugi, "Cosmopolitan Guidelines for Humanitarian Intervention", in *Alternatives*, 29 no.1 (2004); Loarraine Elliott and Graeme Cheesman, "Cosmopolitan ethics and militaries as 'forces for good'" in *Forces for Good: Cosmopolitan Militaries in the 21st Century* (Manchester: Manchester University Press, 2005); or, "Cosmopolitan theory, militaries, and the deployment of force", (Department of International Relations, RSPAS, Canberra: Australian National University, 2002); or, Mary Kaldor *New and Old Wars: Organized violence in a global era* (Cambridge: Polity Press, 1999).

⁴ "The Responsibility to Protect" is a report written by the International Commission on Intervention and State Sovereignty or ICISS. This can be retrieved at their website: iciss-ciise.gc.ca

intervention and I will show how humanitarian interventionists make some of the mistakes some contemporary cosmopolitans make. I will show how the project of humanitarian intervention undermines the goals of what I consider to be a more viable position on cosmopolitanism—one that achieves the spirit of its definition: plurality, inclusion, and equality. Further, I will show how our collective attempts at the legal realization of this cosmopolitan vision is best expressed in international law as it has been developed, especially post WWII, and not through what I would interpret as *ad hoc* or rogue law, currently developed outside the parameters of international law and the ethics of international law in order to legitimate and legalize its *de facto* immorality and illegality. The question is fundamentally, which model serves us better in terms of its ability to protect world citizens and ensure global peace: the post WWII, Westphalian model, or what is referred to as the new ‘cosmopolitan world order’, including the legalization and moral justification for the project of humanitarian intervention (or, HI)? Which model is most likely to betray us in terms of its ability to ensure peace? Which is more susceptible to abuse? I will argue that the post WWII, Westphalian model serves us better in terms of achieving global peace and security, and that, while both models are susceptible to abuse, conceptions of humanitarian intervention are more likely to be abused, their danger deeper and greater than the current model of the inviolability of state sovereignty and non-intervention.

Catherine Lu, who currently writes on humanitarian intervention, and who is motivated by a cosmopolitan framework, maintains a position typical of the

kind of moral discourse surrounding the debate. She argues that we cannot reject humanitarian intervention just because it is vulnerable to corruption: all general norms or principles are subject to corruption.⁵ Do we, by extension, she asks, abandon all possibilities of normative frames within which we build ethical rules and principles? It has been argued that while the concept of humanitarian intervention is susceptible to abuse, the kinds of atrocities inflicted with the protection of sovereign immunity are far graver. While I concede that the principle of state sovereignty and its corollary, the duty of non intervention can be (and indeed, are) seriously abused, the question I pose, and what motivates this work is an analysis about which model serves us better, or at least which model is the less dangerous of the two. The answer may depend on who is being asked, i.e., a perspective afforded by one's experience in the world, which is determined to a great degree on where a person is situated in the world. A Middle-Eastern intellectual may be more critical of the project of humanitarian intervention where a New York academic might be more comfortable with the idea. The fact that the answer depends on the situation of the person being asked reveals something about the cosmopolitan assumptions made by interventionists. Those assumptions have to do not with having common ideas about justice and law, but rather about the specificities of those ideas, and more seriously, how to implement them.

I will bring into the analysis the fact that the while the term 'sovereignty' gets tossed around throughout this discourse in opposition with 'intervention' (humanitarian), it is a bit of a misnomer in the sense that there is no real and strict

⁵ Catherine Lu. *Just and Unjust Interventions in World Politics: Public and Private* (New York: Palgrave MacMillan, 2007) 7.

'sovereignty', primarily and especially for weaker states: the international community yields tremendous influence on regional conflicts prior to, during and after those conflicts have ended. This will be a particularly important part of my analysis and a point of contention in my work because the narrative of humanitarian intervention is often limited to an analysis which begins and ends with regional conflicts while failing to address the importance of the role of the international community. In revealing the greater picture, I will challenge the frame upon which humanitarian intervention discourse relies and rests.

The rule governing international relations until recently has been the principle of non-intervention. According to Adam Roberts⁶, it has not failed us as an ordering principle of international relations and it has some merit both practically and morally which should not be dismissed lightly: it provides clear rules for limiting the use of force and for reducing the risk of war between states; and it can halt territorial or imperial aspirations. Accordingly, the principle has appeal at both the realist and the liberal level, although for different reasons. Inherent in the concept is the idea of respecting foreign societies and respecting different ways of ordering them, such as their religious, economic and political systems. Although much debate and discussion has ensued about weakening the structure or principle of non-intervention, it still has not quite entered the realm of legality. I will offer a detailed analysis of the claims for legitimacy of humanitarian intervention in the next section in which I unearth the meaning and assumptions within the concept. While strict adherence to the principle of non-

⁶ Adam Roberts, "The Road to Hell: A Critique of Humanitarian Intervention", in *Harvard International Review* 16, no.1 (Fall, 1993): 10.

intervention has failed on many occasions for a number of reasons, only one of which appeals to humanitarianism, there is something of a reticence in the field of international relations theory to abandon this principle altogether. That reticence must be considered and weighed in the philosophical discussion about it.

International covenants, like the *United Nations Charter* consistently prohibit the use of force by one state or a group of states in foreign territory. The legal norm of non-intervention has been reaffirmed repeatedly in declarations such the 1965 Declaration on Intervention⁷ and the 1970 Friendly Relations Declaration.⁸ Yet the glaring weakness of the principle of non-intervention is painfully obvious: when appeals to the moral conscience of the world strike at the heart of our humanity, to what do we appeal, if not swift military force? This is by no means an easy question to address, and yet it is implicit in any critique of humanitarian intervention. Any critique of humanitarian intervention must account for the growing consent in political, philosophical and international relations theory for the right to intervene when massive human rights abuses are carried out by the very governments that are supposed to protect their citizens. To that end, I will offer a framework for a conceptual shift in our understanding of humanitarian

⁷ Resolution 2131: 21 Dec., 1965 “Reaffirming the principle of non-intervention,[...]Recognizing that full observance of the principle of the non-intervention of States in the internal and external affairs of other States is essential to the fulfillment of the purposes and principles of the United Nations[...]Considering that armed intervention is synonymous with aggression[...]Considering further that direct intervention, subversion and all forms of indirect intervention are contrary to these principles and consequently, constitute a violation of the Charter of the United Nations, Mindful that violation of the principle of non-intervention poses a threat to the independence, freedom[...],particularly those which have freed themselves from colonialism, and can pose a serious threat to the maintenance of peace...**No State has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State.** Consequently, armed intervention and all other forms of interference[...]are condemned”, (emphasis added).

⁸ Resolution 2625 (XXV) Declaration on Principles of International Law concerning Friendly Relations and Co-Operation among States in accordance with the Charter of the United Nations: October 24, 1970.

intervention which will help us expand our comprehension of the normative frame such that it will challenge our drive to advocate humanitarian intervention, and further, it will direct us in our collective aspiration to work toward global peace. But first, by deconstructing the layers upon which HI theory exists, and by revealing its assumptions, I hope to show that indeed it is this particular model which is an inferior one to the principle of non-intervention, and that what we should do as a global community is work to repair what failed us in the post WWII effort, that is, the principles of sovereign equality and non-intervention, develop and further them to accommodate the challenges of the 21st century, rather than surrender them in the face of mounting pressure.

I will show that there are several problems with humanitarian intervention, not the least of which is the application of it. By identifying these problems, as well as exposing the assumptions inherent in the term ‘humanitarian intervention’, I will show how humanitarian interventions are incompatible with cosmopolitan ideals. In order to contextualize this claim, I begin with a definition and historical context of humanitarian intervention, after which I map out some of the justifications for legitimacy, and I offer a critical account of each of them. Then I will offer an analysis of what it means to refer to a cosmopolitan frame to which I then I apply the theory of humanitarian intervention. What seems, at first glance, contradictory about my claim is that on the one hand I uphold a principle, cosmopolitanism, which the practice of humanitarian intervention seeks to achieve, at least in theory, but then I reject the development of humanitarian intervention as a mechanism for achieving that goal. After revealing the

assumptions behind, and the contradictions within, the idea of humanitarian intervention, and after elaborating on the possibilities of meaning behind cosmopolitanism, it will not at all seem contradictory to reject humanitarian intervention while upholding cosmopolitan aspirations.

Where post WWII law, developed with the explicit intention of safeguarding “succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind”⁹ details with precision what is legally and morally permitted, reference to ‘cosmopolitan law’ suffers from a lack of necessary precision, because amongst other things, cosmopolitanism is still a moral idea, the substantive quality of which is being debated. William Smith struggles with the ambiguity of applying a cosmopolitan military solution when there still exists uncertainty about the meaning of the term ‘cosmopolitan’. As he puts it “a synthesis of positions is unlikely and, more importantly, undesirable; rather different critical approaches can reveal different problems and inconsistencies in the way ‘the ethical’ is being framed”.¹⁰ The terms we refer to are ideas, conceptions being developed and furthered, but the law they advance requires military force which is a concrete action, always resulting in death and destruction, as is the nature of war.¹¹ While this discussion continues in academic circles, its concrete repercussions can be devastating, as we see in Kosovo, Afghanistan and Iraq. The morally urgent question demands that we determine if the world is a safer, better place since we have developed this idea of so-called

⁹ Charter of the United Nations, Preamble.

¹⁰ William Smith, “Anticipating a Cosmopolitan future”, in *International Politics* (44) 2007: 77.

¹¹ For a fuller analysis of the unpredictability of war and its devastating consequences, see Carl von Clausewitz, *On War*, trans. Michael Howard and Peter Paret (New Jersey: Princeton University Press, 1976), 577-610.

‘cosmopolitanism law’ enforced by military action. Current trends require us to reexamine the way we see sovereignty in terms of its ability to protect the citizens of this world from further war, and that reexamination aims to weaken the inviolability of state sovereignty with the intention of creating a safer, better world: a cosmopolitan world. But before we abandon the Westphalian idea as well as UN Charter declarations upholding the inviolability of state sovereignty and the Paris Pact condemning recourse to war, let us be extremely critical and precise about what we mean when we talk about humanitarian interventions within a cosmopolitan frame. In the interests of doing good—a moral urge derived from cosmopolitan-minded citizens of the world who genuinely believe in the potential of humanitarian intervention and R2P to reduce the amount of human suffering in the world—we may be advancing a principle and law which is vulnerable to the gravest violations of human rights, perverting our ultimate goals for human freedom, safety and security.

In order to challenge humanitarian intervention from a cosmopolitan frame, will construct my arguments in the following way: First I will challenge the inherent structural biases and cosmopolitan assumptions within the definition of humanitarian intervention. This leads me to expose many of the assumptions we make about cosmopolitanism itself, and I argue that often what we actually mean when we invoke that term is the universalization of a Western conception and standard, to which we fundamentally believe should be adhered to by all. This, I argue, is not cosmopolitanism, but something which resonates more with colonialism, including the perspectives, assumptions and biases of the stronger,

few, rather than the cosmopolitan whole. I criticize the implementation of policies derived from this vision for its tendency toward Western assumptions about its own superiority, and one of those policies is ‘humanitarian intervention’.

My argument is that many current cosmopolitans mistakenly pit their vision against patriotic ones, which they see as narrow, irrational and exclusive. I stress the point that patriotic (commonly referred to in its negative connotation, ‘nationalism’) is usually attributed to other, non-Western states, while ‘cosmopolitanism’ tends to be expressed by Westerners to mean Western values that should be adopted by all. I argue that far from narrow, irrational and exclusive, patriots make the best cosmopolitans and that cosmopolitanism, unchecked by a set of standards to which the patriot is subject, can retard the route toward human growth, development and flourishing. Ultimately, the cosmopolitan subverts her own goals by denying her patriotic roots because of the fact that serious neglect in the attention, care and commitment to the local is a necessary part of informing the global.

The problem with our competing conceptions of cosmopolitanism relate to and are deeply intertwined with the problem of humanitarian intervention, and this is at the heart of my argument. In advancing humanitarian intervention, the cosmopolitan subverts her own goals. I argue that instead we have to reexamine the narrative frame within which we understand not only ourselves, as cosmopolitans, but that we must also reexamine what interventionism really means. Finally, what I put forward is that humanitarian intervention within a cosmopolitan frame only makes sense within a narrative context where Western

values are simultaneously advanced unchallenged as the most appropriate, progressive and universal. To add to the problem, these unchallenged values being advanced are applied inconsistently. This means that we only apply our Western conception of human rights at particular times for specific reasons, neither of which have anything to do with the substantive quality of human rights at all. Instead, I challenge the Western reader to engage in a conceptual shift in our understanding of our role in the ensuing death and destruction which we normally attribute to dictators of rogue states. My argument consists of a firm belief that only in the context of us and them—that is, a Manichean conception of good and evil, does the frame for humanitarian intervention within a cosmopolitan frame work. My argument will finally show that the essence of cosmopolitanism must include, at the very least in theory, the possibility for human flourishing for all members of humanity in the plurality of ways that different people envision that, and not just one particular vision articulated and implemented by the powerful few.

Chapter I:
The Definition and Historical Context for Humanitarian Intervention:

Humanitarian intervention within a cosmopolitan frame is developed under some assumptions about not only what humanitarian intervention is, but about what cosmopolitanism is as well. Those assumptions are related in important ways. Because humanitarian intervention is interpreted slightly differently according to the context, and because those slight variations could be significant in the analysis of this investigation, I will offer a precise definition of how it is generally used by academics within this discourse. From that definition, I will offer a thorough reading of what the idea of humanitarian intervention entails, reveal some of the assumptions inherent in the idea, and critique it both on a practical and theoretical level. What will follow is an analysis of both what cosmopolitanism is not, as well as what general principles are common to all definitions of cosmopolitanism from which we can derive a general understanding of it, especially in the context of humanitarian intervention theory. That discussion will frame the context for how to treat the relationship between humanitarian intervention and cosmopolitanism. After showing why humanitarian intervention as a theory subverts the goals of cosmopolitanism, I will offer an analysis of how a conceptual shift in our understanding of international relations could help direct us toward the achievement of global peace and security.

To begin with, humanitarian intervention is defined by the Danish Institute of International Affairs in the following way:

...coercive action by states involving the use of armed force in another state without the consent of its government, with or without authorization from the United Nations Security Council, for the purpose of preventing or putting to a halt gross and massive violations of human rights or international humanitarian law.¹²

John Vincent frames it even more broadly when he defines humanitarian intervention as

...that activity undertaken by a state, a group within a state, a group of states or an international organization which interferes coercively in the domestic affairs of another state....It is not necessarily lawful or unlawful, but it does break a conventional pattern of international relations.¹³

Both refer to the quality of the action being 'coercive', although Vincent did not frame it in terms of a humanitarian crisis. Although some scholars, like Ramsbothan and Woodhouse argue that within all the possibilities and meanings of humanitarian intervention, military action is only one of them¹⁴, most experts in this field identify two main characteristics which define humanitarian interventions: the fact of a humanitarian crisis and the necessity for military force. Scholars like Wheeler, Walzer, Pogge, Finnemore and Lepard who insist upon developing this notion as an international legal *norm* limit its use to 'supreme humanitarian emergencies'.¹⁵ In that sense it is the "humanitarian exception" to

¹² *Humanitarian Intervention: Legal and Political Aspects* (Copenhagen: Danish Institute of International Affairs, 1999) 11.

¹³ R.J. Vincent, *Non-Intervention and international order* (NJ: Princeton University Press, 1974) 13. The legality of a humanitarian intervention normally refers to whether it has been sanctioned by the United Nations. Military actions can be legal or illegal, legitimate or illegitimate, often in combination depending on the justification used. While there is no legal provision made for the use of military force to protect human rights, Chapter XII of the UN Charter allows for military action to ensure peace and international security. As such, scholars have argued that maintaining peace and international security must be enforced by protecting human rights. There is no universal consensus on this argument. I will develop the idea of the status of legality and legitimacy in Chapter III.

¹⁴ Oliver Ramsbothan, and Tom Woodhouse, *Humanitarian Intervention in Contemporary Conflict: A Reconceptualization* (London: Polity Press, 1996) xii-xiii.

¹⁵ Nicholas Wheeler uses this reference throughout *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000); See also how Michael Walzer

the legal norm of non-intervention.¹⁶ Although it seems that something like a ‘supreme humanitarian emergency’ would be clear and obvious to everyone, for some reason it is not always clear, and that, among other things, will cause us some problems.

Among its conceptual obscurities are both the way ‘intervention’ and the way ‘humanitarian’ are not only interpreted, but invoked. The troubling question is to construe how the term “humanitarian” is to be understood in the context of military action. Quite simply,

What on earth does the word “humanitarian” mean, and does it accurately describe anything beyond the original supposed motive of an action? How does such a motive translate into actual policies to transform a situation? Does it make sense to call an intervention in a country “humanitarian” when the troops involved may have to fight and kill those who, for whatever reasons, seek to obstruct them? Or when the troops involved fail to provide what the inhabitants most desperately need—especially in terms of security?¹⁷

Among its assumptions is that military force can be used for humanitarian purposes in four ways: in its original motives; its stated purposes; its methods of operation; and its actual results.¹⁸ My critique of humanitarian intervention will include an analysis of the problem of ‘original motive’ and ‘stated purpose’ (as distinguished from ‘intent’). Included in my analysis will be consideration for

treats this idea in *Just and Unjust Wars: A Moral Argument with Historical Illusions*, 2nd Edition (New York: Basic Books, 1992); and also Thomas Pogge, “Moralizing Humanitarian Intervention: Why Jurying Fails and How Law Can Work” in *Humanitarian Intervention*, NOMOS 47, eds., Terry Nardin and Melissa Williams (New York: New York University Press, 2005), 157-177; Martha Finnemore and Kathryn Sikkink, “International Norm Dynamics and Political Change,” *International Organization* 52, no 4 (Autumn, 1998). 887-917; and also see Brian Lepard, *Rethinking Humanitarian Intervention* (Pennsylvania: The Pennsylvania State University Press, 2002).

¹⁶ Alex Bellamy, “Motives, outcomes, intent and the legitimacy of humanitarian intervention” in the *Journal of Military Ethics* 3, no. 3 (November, 2004): 216.

¹⁷ Roberts, Adam. “The Road to Hell: A Critique of Humanitarian Intervention”, *Harvard International Review* 16, no. 1 (Fall,1993): 13.

¹⁸ *Ibid.*, 10.

'methods of operation' and 'actual results' which deal with the empirical ramifications of humanitarian military actions. All this will be developed beginning with an analysis of the umbrella idea of just-war theory, within which humanitarian intervention finds its historical roots.

Humanitarian intervention is not, by any means, a new idea. Hugo Grotius,¹⁹ Emer de Vattel,²⁰ Samuel Pufendorf²¹ all participated in the articulation of the conditions under which requests for military intervention could be made of foreign states from oppressed subjects of the state in times of humanitarian crisis. Grotius worked toward a normative frame in which the standards for just war could be regulated. During the 19th century, a policy was developed in Europe specifically dealing with the policies of the Ottoman Empire. It was at this time that a comprehensive doctrine of humanitarian intervention evolved which provided a moral justification for the interventions of European powers on the territory of the Ottoman Empire, and this moral justification led to a legal basis upon which these interventions were not just legitimate (in terms of moral justificatory force) but legal as well. Until the First World War the majority of legal experts condoned the use of humanitarian intervention as a legitimate justification for war. In relative terms, it is only recently that the twin principles of state sovereignty and non-intervention have been developed, and that was a result of the Kellogg-Briand Pact (or the Paris Pact) of 1928, condemning war as

¹⁹ For a review of humanitarian intervention in its historical context, refer to the works of Hugo Grotius, *On the Law of War and Peace (De jure belli ac pacis)* trans. A.C. Campbell (Kitchener: Batoche Books, 2001).

²⁰ Also see Peter Pavel Remec, *The Position of the individual in international law according to Grotius and Vattel* (The Hague: M. Nijhoff, 1960) 250.

²¹ Also see Samuel von Pufendorf, *The Political Writings of Samuel Pufendorf*, trans. Michael J. Seidler (Oxford: Oxford University Press, 1994).

a recourse for resolving disputes, upheld again in the United Nations Charter, and then yet again in the 1965 and 1970 UN Declarations cited above.

The Treaty of Westphalia dates the concept of state sovereignty a bit further along in history with its ratification in 1648 ending both the Thirty Years' War and the Eighty Years' War. Foundational to our understanding of the debate between human rights and state sovereignty, we must examine the historical and philosophical consequences of Westphalia in a world that challenges its principles in terms of not only its relevancy but also its morality. The debate is characterized as one between the ordering principle of Westphalia and the post-Westphalia conception prioritizing human rights before state sovereignty.

Richard Falk identifies the plethora of meanings for 'Westphalia' contextualizing the idea and its impact by identifying four components integral to it: Westphalia is characterized as an event, an idea, a process, and a normative score sheet.²² The event of Westphalia refers to the peace settlement, which not only ended the Thirty Years war, but also created a structural frame for world order and for the establishment of peace. As an idea, Westphalia refers to the character of full equality and participatory membership of all states based on territorial integrity. In terms of process, Westphalia refers to the changing character of states in the past 350 years since the treaty was negotiated, in order to consider the impact of colonialism and decolonization, the advent of weapons of mass destruction, the establishment of international institutions, and the rise of globalization, including market forces. Finally, the normative score sheet refers to the success and failure

²² Richard Falk, "Revisiting Westphalia, Discovering Post Westphalia" in *The Journal of Ethics: An International Philosophical Review* 6, no. 4 (2002): 312.

of such a system to ensure peace, or shield governments from being accountable for human rights abuses.²³

David Chandler, a critic of humanitarian intervention, sees Westphalia as, not the beginning of state sovereignty guaranteeing equality among states, but sovereignty granted to only the most powerful states, leaving the weaker ones with no protection against imperial powers. His criticism of humanitarian intervention stems from what he sees as not as the triumph of international justice over the traditional claims of sovereignty, but rather the threat of sovereign equality that is at risk. He explains in more detail:

It is, in other words, not sovereignty itself but *sovereign equality*—the *recognition of the legal parity of nation-states, regardless of their wealth or power—which is being targeted* the by new interventionists. Yet such equality has been the constitutive principle of the entire framework of existing international law and of all attempts, fragile as they may be, to establish the rule of ‘right’ over ‘might’ in regulating interstate affairs.²⁴ (emphasis added).

Chandler points out that while the Peace of Westphalia of 1648 recognized secular rights as distinct from the religious claims of the Papacy, affording to states no other power beyond that of the sovereign, this formal recognition of the principle of territorial sovereignty extended only to the major powers. Because sovereignty was limited to the great powers, with no regulating international law, sovereign states were not bound by any agreements except for the voluntary ones made between them. This, in effect, set the conditions for colonialism. While Westphalia guaranteed the sovereignty of major powers, it failed to protect smaller states. With the growth and maturation of international law, especially

²³ Ibid., 312.

²⁴ David Chandler, “International Justice” *The New Left Review* 6, (Nov-Dec, 2000): 55.

post WWII, the idea of sovereignty extended to all states, ensuring equality between them. Chandler makes the point that the new interventionists are not challenging sovereignty per se, but rather sovereign *equality* with the doctrine of humanitarian intervention because the policy will in effect only be applicable to weaker states. This, in effect, challenges the principle of equality not only in practice, but in theory as well. This fact of inequality is fundamental to our understanding of the international legal and political frame within which humanitarian intervention seeks to find its place. Our full appreciation of this inequality may do one of two things (or maybe both): first, it will reveal something crucial to our understanding of how we view global international relations in terms of our actual commitment to plurality and equality; or it will mirror our genuine assumptions about superiority vis à vis the rest of the world. It may turn out that interventionists genuinely believe that some states are better off running and policing the rest of the world. If this is the case, then interventionists must face the challenge of framing their goals within cosmopolitan aspirations, for cosmopolitanism in this sense really means imperialism, loyal to its Roman origins, but problematic in terms of its universal appeal to the equal moral worth of all human beings.

To put the project of humanitarian intervention in opposition with the principle of non-intervention in its recent historical context, two things must be kept in mind: the first thing is that the United States made every effort after the Second World War to deem any military action on foreign soil an act of aggression, and punishable by law. Their role in the Nuremberg Trials focused

primarily on 'aggression as a war crime' and they were quite explicit in not only defining it, but making it the supreme international crime, under which all other war crimes fall. Furthermore, they were instrumental in making this supreme international crime punishable by law, bringing forward the project of international justice for war criminals. Jonathon Bass notes that while we tend to think of the Nuremberg Trials as motivated by our utmost horror at the atrocities committed during the Holocaust, the focus, especially on the part of the leading force for international justice, the United States, was not the Holocaust itself, and the atrocities that occurred during it, but rather the international crime of aggression.²⁵ That is to say that both the American's involvement in the war, and the ensuing effort to bring forth justice was primarily motivated by the criminalization of aggression (or, the violation of the principle of non-intervention). In effect, the American contribution to the Nuremberg Trials helped establish and solidify what was customary law: that is, that the supreme crime is the crime against peace, and that was defined as the "planning, preparation, initiation and waging of a war of aggression, or a war in violation of international treaties".²⁶ The second thing to remember is that it was this principle of military intervention, indeed of 'humanitarian' intervention, which Hitler used to justify his aggressions. Because of this, the principle of non-

²⁵ Jonathan Bass, *Stay the Hand of Vengeance* (New Jersey: Princeton University Press, 2000), 148.

²⁶ Dominic MacGoldrick, Eric Donnelly, and Peter J. Rowe, eds., *The Permanent International Criminal Court: Legal and Policy Issues* (Oxford and Portland, Oregon: Hart Publishing, 2004) 126. This quote is part of an amendment made in Article VII(a) of the Charter of the International Military Tribunal to classify aggression not as a crime of war, but rather a *crime against the peace*, which eventually became known as the 'supreme international crime'.

intervention, and the legal and moral condemnation of force on foreign soil was implemented as foundational for a peaceful legal order.

This sets the foundation for the definition and historical context for humanitarian military intervention. Having defined humanitarian intervention primarily in terms of its motivation brings us to the first of its problems: the problem of motive. Much of the current literature on the debate about humanitarian intervention has addressed the problem of motivation. To make the challenge harder, I separate the issues into the following categories: the issue of whose motivation we refer to when we talk about 'motivation', the issue of motivation versus intention, the issue of judging the outcome as opposed to the motive, and the issue of rights versus duty. I do this in order to clarify the problem, to reveal where the challenge has been met, and to illustrate where the discourse has not adequately addressed the problem.

Chapter II: Humanitarian Intervention and the Problem of Motive, Intention and Inconsistency:

In this chapter, I will isolate and address the problem of motive as one of the key challenges to humanitarian intervention. The first and foremost complexity of the problem with humanitarian intervention stems directly from its definition as a coercive military action for the purpose of ending massive human rights abuses. The problem of motive poses serious problems to the concept of humanitarian intervention because explicit in its definition is its express purpose, which speaks to its motives. But to unravel the complexities of what that means, there are several interwoven issues that need to be separated and defined precisely. The second problem of humanitarian intervention will be to deal with how it derives its legitimacy. However, before launching into the problem of legitimacy, I will need to address not only what the problem of motive is but more importantly how to understand the different issues implicit in it. I will separate and deal with each of the issues in the following way:

1. I will identify whose motives we are referring to when we analyze the problem of motive with a view to show that the “we” often expressed conflates too many divergent interests.
2. I will distinguish motive from intent, beginning with traditional just-war theory. In the same section, I will include an analysis of mixed motives and the problem of inconsistency. Here I will explore how a number of authors defend mixed motives, drawing on the motive/intention distinction, and from it I will show how a defense for the inconsistency of humanitarian interventions is defended in the literature.

3. I will illustrate how some authors deal with the problem of mixed motives using the outcomes-oriented approach.
4. Finally, I will give an account of the problem of the right to intervene versus the duty to intervene, and I will show how this poses a problem for the problem of inconsistency.

Dealing with these issues is a precursor to the larger issues of legitimacy.

After addressing some preliminary problems set up by the problem of motive, I can delve into the larger issue of legitimacy which will set the context for an analysis of how the idea of cosmopolitanism plays into the problem of intervention.

II-i: Whose motives constitute the 'we'?:

The first issue refers to the distinction between the advocates of humanitarian interventions (like academics in the field of political philosophy) and those who implement them (like top level politicians). Further, there are a number of different players at the international scale above and beyond state leaders. In our contemporary understanding of liberal democracies we tend to see our governments as representing the will of the people, at least in theory. But that is too simple, and it leaves out too many fine particularities. In one sense, the difference between the people and the governments of the people may seem irrelevant; however the distinction is important if only for practical or epistemological reasons. First, we have access to our own motivations in ways that are distinctly different when it comes to assessing our politician's motives, and this is not a trivial point in the debate about humanitarian intervention. In other words, we do not have access to the motivations of those who are making concrete decisions about how, when, and why to solve (or try to solve) a regional conflict with the use of force. Second, when we assess regional conflicts as individual members of a Western liberal democracy, we are not weighing other, greater, geo-political, economical, and strategic ramifications of those conflicts. Humanitarian atrocities speak to us at a guttural level, our response is intuitively emotional, hence genuine compassion tends to motivate citizens of the world (cosmopolitans) who urge their governments to act in a military capacity. But often we speak in terms of what "we" should do and for what reasons, as though that will is immediately and effortlessly, transported to the agents representing us.

In making this distinction, I insist on upholding the integrity of the motivations of advocates of humanitarian intervention, and I never doubt their genuine concern for humanity, but I caution those advocates to question those in a position to implement these policies. What follows, therefore, is an analysis of those who are able to implement those policies, not the genuine intentions of the people whose moral urge is to save humanity. But even that is too crude, too simplistic a division between 'us' and 'them' and I do not think that it fairly portrays the gradation away from or toward genuinely altruistic motivations. Finally, there is the fact of differing levels of interested parties when it comes to regional conflicts and the weight their interests carry against their motivations. We must distinguish who it is we refer to when we speak of "our" motivations for humanitarian interventions. Further, it is necessary to define, or at least have a mechanism to distinguish between not only politician's motivations, but the different levels of politicians, as well as non-governmental interests, like corporate ones. And finally, we need to understand how these interests get weighed and valued when assessing the problem of motive.

II-ii: Motive Versus Intention:

The second issue, that of motive versus intention, refers to the distinction made by some authors between the motive of an action and the purpose of an action. Humanitarian intervention is defined as coercive military action “for the purpose of preventing or putting to a halt gross and massive violations of human rights or international humanitarian law”.²⁷ The definition of the doctrine is entirely dependent upon its purpose. It derives its legitimacy from the purpose of its action. If this purpose did not exist, the action in itself would be aggression, and by customary law, as well as the specific stipulations of the UN Charter, not only strictly illegal, but unjustifiable, and therefore illegitimate. So if the only thing separating a military action from the illegality and immorality of aggression is the purpose for which the action has been launched (humanitarian), precise and detailed attention must be given to it. Specifically, the problem of motive refers to the fact that if interventionists cannot show what their government’s real purpose or motive is, they cannot make claims for legitimacy of the action. This gives rise to the problem of motive.

The route to dealing with this problem is to map out just-war theory. This approach has historical roots in St. Augustine’s writings as early as the 5th century. St Augustine introduced a criterion to justify the waging of war on the basis of just cause and intention. According to Christian moral theory, the justness of an action could be judged by evaluating the driving intention. The ‘just war tradition’ lays out the foundation to what can be used, and indeed is used, as a model for humanitarian intervention. This tradition treats war as a

²⁷ *Humanitarian Intervention*, DUPI, 11.

necessary evil, with strict requirements as to what are considered just reasons for going into war, or, *jus ad bellum*. These requirements are that war can be declared only under the following conditions:

1. It is a last resort.
2. It is launched with the right intention.
3. It is for a just cause.
4. It has a reasonable hope of success.
5. It is used with means proportioned to its envisioned ends.
6. It is ordered by the right authorities.

The defense against aggression has great moral force when framed in terms of defending oneself against violent attack any way possible. But humanitarian intervention posed a challenge to the traditional *jus ad bellum*, which quickly found its way into the frame of necessary evil by appealing to the moral force of the analogous state which intervenes in a private home to protect a child from an abusive family. Humanitarian intervention, then, finds its home in *jus ad bellum* by grounding a defense in the rescue of people who are not in a position to help themselves. The 'rescue' mission is on behalf of, for the purpose of, helping 'the other', and therefore, can find a home in just war theory, where there is just cause, it is motivated by right intention, and it is a last resort.

Motive, then, is the only justification for the morality (the legitimacy of the action) and by extension the legality of the action, making it, therefore, a crucial piece of information. However, it is a crucial piece of information we, as citizens supporting or criticizing our governments for their action, do not have access to. 'Motive' is essentially a private thing. The implication is that we require governments to make decisions on the basis of something essentially private, to which we have no access, and we require them to make those decisions

on the basis of something manifestly moral as opposed to something legal. This becomes a tricky issue in terms of interpretation. Or, as Gentili put it so well, “Whether or not it is necessary for the justice of a war that the leader have a good motive [...] is a matter for theologians”.²⁸ It is not so much that governments cannot take morality into consideration when they act, but rather that once we enter the debate about the right thing to do, we open up a quagmire of interpretation and analysis from which no easy, or even perhaps correct answer will emerge. And yet, this is the criteria upon which we define the terms of foreign military intervention.

Grotius made an important distinction, however, between intention and just cause. Richard Bellamy also addresses this problem by separating motive from intention—something he says philosophers have up until now mistakenly collapsed.²⁹ They can be different in the sense that one has self-interested motives, but publicly declares particular intentions which serve as public goals. Bellamy treats the problem as such, and I will include his contribution to the distinction as well. I will frame the problem in terms of ‘mixed motives’, and that will be addressed shortly. By separating motive from intention, Bellamy addresses two problems for interventionists: in the first case, he bypasses the problem of the inaccessibility of motive. Motives, he says, are subjective and can be easily disguised. This is distinguished from public intentions which he claims we can evaluate with at least more precision than motives. Bellamy explains that “although evaluating intentions is a far from exact science, it is possible to

²⁸ Alberico Gentili, *De Jure Belli Libri Tres*, (Oxford: Clarendon Press, 1995) I, IV, paragraph 48.

²⁹ Alex Bellamy, “Motives, outcomes, intent and the legitimacy of humanitarian intervention” *Journal of Military Ethics* 3, no. 3 (November, 2004): 222.

achieve at least a proximate view by analyzing justifications, alternative explanations, and the strategies employed”.³⁰ This allows for the possibility of ‘mixed motives’: while governments may have their own self-interested motives for singling out a particular region for intervention, as long as the publicly declared intention passes public scrutiny, it does not really matter what motivates the action. By separating the essentially private motive from the explicitly public intention, Bellamy allows for the inaccessibility of motive in that the motive becomes irrelevant. By elevating the status of intention as primarily important and by putting it in the realm of public scrutiny, Bellamy resolves the problem of motive. Like Gentili, he agrees that assessing the motives of statesmen is a subject for theologians, or presumably those who have access to divine knowledge. The rest of us can measure and weigh the public intention against the action taken and assess the truth or falsity of the statesman’s claim for legitimacy using discernable and concrete criteria. In offering this as a solution, I will show how Bellamy also deals with the problem of inconsistency. I will therefore include an analysis of how Bellamy deals with inconsistency within the realm of the problem of motive.

The second of the two problems Bellamy sets out to resolve with his motive/intention distinction is then, the problem of inconsistency. Governments have been criticized for intervening in some places where human rights abuses are prevalent, but not in others, where the situation might be worse. One of the explanations for the inconsistency of governments to intervene militarily in the human rights abuses of some places and not others is that having mixed motives is

³⁰ Ibid., 224.

not only acceptable, it might even be considered morally required. Citizens who fail to adhere to the idea of a cosmopolitan impartiality when it comes to putting the lives of their soldiers at risk might demand, justifiably so, that they want their interests served as well as serving the interests of humanity before they participate in a military intervention. And indeed it would make a stronger case for an intervening government for why they should be conducting a military operation in a foreign land which is not attacking them if they could provide a list of good self-interested reasons, as well as altruistic intentions in the process. In that sense, public declarations about self-interested motives may enter the sphere of discourse. 'Mixed motives' is therefore not only a fact, but a generally unproblematic one for most people. Still, this only applies to the publicly declared intentions. There remain the private motives, to which we have no access. However the same rules apply as with mixed motives: as long as the undeclared motive does not interfere with the shared and public intention, we can allow for them. In this way we can separate the (private) motive and the (public) intention. The motive remains essentially private, and the intention becomes the public declaration—the public promise, as it were. The problem of inconsistency is addressed by the fact that just because governments have a right to intervene and save people from distress, they still are not required to. There is no correlating duty to intervene. They can choose, according to their own needs, in which cases they will and will not intervene to spare a population from human rights abuses. It seems heartless, (perhaps because in a very real sense it is heartless), but it remains a fact that just because a state might feel morally obliged

to intervene, no such legal or moral duty³¹ exists where they must intervene.

Later I will show how and why this is a problem.

Anthony Ellis is another author who believes that it is a misconception to require that a state has no self-interest when intervening in another state for ‘humanitarian’ reasons, and that up until now, it has wrongly been put forth that a state must not have any self-interest when intervening for ‘humanitarian’ reasons.³² He does not see a problem with being both self-interested and helpful at the same time. Ellis argues that we judge the action and not the agent acting. He makes a distinction between intention and motivation by way of an analogy: if a person intervenes to help a child from being bullied, that action is right and should be encouraged, even if the motivation for helping the child was to impress a girlfriend. This has some appeal on a micro level, but if we look at states acting on an international level, then the stakes become much higher. Motivation is much more serious than impressing a girlfriend. Geopolitical, economic, and military interests are not only powerful and compelling forces, but they may *determine* the intention, thereby inventing the intention. For example, if the stakes are high enough, a bad situation can be played up, exaggerated, or even created in order to justify otherwise illegal military action, or, ‘aggression’. The risk is that the importance of the motive outweighs the intention. Ellis is right

³¹ While the ICISS document, “The Responsibility to Protect” suggests that there may be times when military intervention is a moral duty, it is not, and for practical purposes cannot be a legal obligation or duty. The question of when military intervention is a moral duty is then subject to interpretation.

³² Ellis is referring to arguments put forth by Anthony Clark Arend and Robert J. Beck in *International Law and the Use of Force: Beyond the UN Charter Paradigm* (London: Routledge, 1993), 94, and Sean D Murphy also argues that a humanitarian intervention must be *primarily* motivated by humanitarian concern in *Humanitarian Intervention: The United Nations in an Evolving World Order* (Philadelphia, PA: University of Pennsylvania Press, 1996), 15.

when he claims that “there is little hope that in the foreseeable future states will intervene wholly or even primarily out of humanitarian motives”.³³ If we create this action-agent distinction, rendering motive as trivial as impressing a girlfriend, we risk the grave injustice of not only inconsistency and hypocrisy, but also the greater danger of brutality in the name of humanity.

We could best resolve the conceptual problem if we can determine whether an act can be both self-interested and altruistic at the same time. If ‘altruistic’ is defined as *exclusively* other-directed interests and intentions, then they are not simultaneously possible. More precisely, however, we must determine whether an act can be both good for the actor and for the recipient of the action. On a micro level, this is not only conceptually possible, but practically preferable. One is most successful and efficient when one is able to both help oneself and others with the same action. A deep analysis of motivation is almost banal. The question is whether it is possible to transfer this micro idea on a macro level. Chris Brown claims that we indeed can. He confronts the realist critics by suggesting that they create a false problem when they claim that “once reference is made to national interests “morality” cannot be accommodated.”³⁴ What makes the relationship so conceptually different that we cannot apply the same principle to international relations? It is not simply the gravity of the motivation that differentiates individual moral persons from international moral persons. One problem has to do with what was pointed out earlier—that is, it has to do with

³³ Anthony Ellis, “War, Revolution, and Humanitarian Intervention,” in *Humanitarian Intervention*, ed. Aleksandar Jokic (New York: Broadview Press, 2003), 18.

³⁴ Brown, Chris, “Selective humanitarianism: in defense of inconsistency” in *Ethics and Foreign Intervention*, eds., Deen K. Chatterjee and Don E. Scheid (Cambridge: Cambridge University Press, 2003), 39.

whose motivations we are considering. We have to establish whose interests are at play when important decisions like the military intervention in a sovereign state are being made. It is necessary to make a distinction between the politician's motives, the will of the people, and non-governmental interests like corporate ones. The more we put "motivation" under the microscope, the further away and vaguer the notion of "humanitarian intention" becomes.

But, as Ellis suggests, does it matter if the motivation is wrong, just as long as the act itself is right? My response is that there is a conceptual problem with the word "humanitarian" pinned to "intervention" because that syntactical order defines the both the motivation and intention of the action in the sense that the former must influence the latter, and if it does then that makes the motivation primary, the intention secondary. In other words, I reject Bellamy's strict separation of motive and intention because of the influential relationship of the former onto the latter. If the 'intention' is humanitarian at heart, then it must be primary. If we refer to the definitions provided for humanitarian intervention we see that all include in their premise that the action is *intended* for humanitarian reasons. The (self-interested) motivation can then only be secondary, like a positive side effect. In terms of the weight of motivation, compare the triviality of a person wanting to impress someone, and decisions that will have military, economic, political, and environmental ramifications. Ellis' analogy loses credibility when framed in light of global politics. If the motivation carries within it powerful and global interests, it can never seriously be treated as an after-thought, or as secondary. And if it takes precedence to the action deemed

humanitarian, then it is no longer primarily humanitarian, but rather secondarily humanitarian (or thirdly, or fourthly, or perhaps not at all humanitarian). It would be more appropriate then, to say that a military intervention is taking place, with consequences, which may or may not be humanitarian. (The outcomes-oriented approach will try to deal with the problem using this as a frame, and it will introduce new challenges). However, we cannot call it “humanitarian” if the ‘human’ element of the analysis serves as an after-thought. Then it is called war. The tools we need to frame a conceptual understanding of this kind of military intervention are to distinguish between what, if anything, constitutes legitimate or justified violence.

Mark Stein offers another perspective. He argues that wars are launched one way or another, and those wars are justified publicly, even when the justifications are false. He argues that in light of this fact, it is better for a self-interested intervention to be called “humanitarian” than what it is usually called—namely, “self-defense”. While he admits there is a danger of abuse in that states will launch wars they call humanitarian that they would have launched regardless of humanitarian concerns, he does not see this as a problem. It is unfortunate when states launch ‘bad wars’, but this reality continues to be a fact whether under the auspices of ‘humanitarian’ goals or not. Stein suggests, like Bellamy, that by calling interventions ‘humanitarian’, the intervening state has pledged to help the citizens of that state, and however hypocritical this may sound, they are not only bound by that pledge, but this public declaration may moderate their behavior in the intervened state. Interventions for reasons of ‘self-defense’

(however contrived that defense may be) are not bound by any such obligations. He believes that a declaration of humanitarian intention will be enforced upon the state by other states in that it is a public promise for which the intervening state can be held accountable.³⁵ Stein makes this claim, and it seems reasonable, but there is no evidence to suggest that it is true. While compelling, there is little or no actual responsibility to fulfill that promise and further, nowhere to turn to when states fail to keep their public promise. For example, the utter devastation in the former Yugoslavia during the 78-day military campaign testifies to the lack of accountability of that public promise. According to Human Rights Watch reports, humanitarian violations could have been avoided or reduced if the United States had not used depleted uranium and cluster bombs, and if they had avoided bombing bridges by day, civilian convoys, villages, hospitals, and most famously, the radio station employed by civilians. Amnesty International declared that the flying of NATO's 38 000 sorties 15 000 feet above ground to protect its aircrafts and pilots, made adherence to international law "virtually impossible".³⁶ It does not appear that the U.S. declaration for a humanitarian war compelled them to "moderate" their behavior as Stein suggests. There is a practical problem with waiting until the military action is over to assess it. According to Stein's argument, because a public declaration has been made, there will be accountability, but the question remains as to who will hold intervening states accountable for their actions. In an ideal world, something like the ICC could be

³⁵ Mark Stein, "Unauthorized Humanitarian Intervention" *Social Philosophy and Policy Foundation* 21, no. 1 (Jan. 2004): 34.

³⁶ Marjorie Cohn, "The Myth of Humanitarian Intervention in Kosovo" in *Lessons of Kosovo: The Dangers of Humanitarian Intervention*, ed., Aleksandar Jokic (Toronto: Broadview Press, 2003) 121.

a mechanism through which such accountability will be held, but given that the U.S., the state most likely to be the intervening force, has not ratified the Rome Statute of the ICC, there is little likelihood that they would ever be held accountable for their actions. The ICTY is another example of where an international legal body refused to consider charges of war crimes according to its own rules, and the reason they gave was because they were 'satisfied' with NATO reports regarding their conduct during the war. Or as Jamie Shea, NATO spokesperson has claimed, NATO are the friends of the ICTY.³⁷ Again, this leaves little hope for impartial international justice and accountability for the investigation of war crimes. The public needs to be assured that there are better mechanisms for public accountability.

Until this point, I have shown how Bellamy (in the tradition of Grotius and Gentili) Ellis, Stein, and Brown have all tried to deal with both mixed motives and inconsistency. While they have each taken steps in an effort to resolve these problems, I have tried to show how the answers do not resolve the problems in their entirety, but rather they deal with parts of the problem. Another approach, advocated by Prado, and most forcefully argued by Wheeler, has been to do away with the motive/intention problem/distinction altogether and simply look at the results of the intervention. This is referred to as the 'outcomes oriented' approach, and I will address it next. It too will reveal some deep problems with accountability. I will argue that the outcomes-oriented approach does nothing to

³⁷ Raju G.C. Thomas, ed., *Yugoslavia Unraveled: Sovereignty, Self-Determination, and Intervention* (Lanham, Boulder, New York, Oxford: Lexington Books: 2003), 265.

advance the cause for humanitarian intervention because of some of the
irresolvable challenges with accountability.

II-iii: Mixed Motives and the Outcomes Oriented Approach:

Elizabeth Prado makes an even bolder claim when she asserts that not only is it unnecessary for the motives of a state to be altruistic (that is, humanitarian, or, other-directed) it is in fact *preferable* to be motivated by national self-interest (that is, non humanitarian motives). She claims that non-humanitarian motives play an important role in the selection of the means and strategies for intervention, and that self-interested interventions are more successful than altruistic interventions for this very reason. Her case example is East Timor where in 1999 an Australian led intervention successfully ended 25 years of brutal human rights abuses, making possible the independence of East Timor on May 20, 2002. Her claim is that non-humanitarian motives are stronger than humanitarian ones (if they exist at all) and that because these non-humanitarian motives are stronger, they determine the risk, cost and commitment a state is willing to take, thereby determining the outcome. (This will be considered and criticized further with Wheeler's outcome-oriented approach). However, the Australian intervention differs from most other examples of 'humanitarian intervention' not only by its success, but by some critical conditions without which Australia would not have acted. Those conditions are (a) that there be a Security Council Mandate, (b) that the deployment be a short-term one, (c) that the force should have a strong regional component, (d) and (what I view as the condition which distinguishes it from other interventions) that the operation must have the consent of Indonesia.³⁸

The fact that Australia had the consent of Indonesia puts this case in an entirely

³⁸ Elizabeth Prado, "Humanitarian Intervention: Successful outcomes without humanitarian motives? Indonesia, Australia and intervention in East Timor" (PhD diss., Department of Government, University of Essex, *Political Studies Association*, 2004), 7.

different category, and perhaps does not qualify it as 'humanitarian intervention'. Most definitions of 'humanitarian intervention' specify coercive action, as opposed to cooperative action.

What Prado's argument successfully shows is that when a state has self-interest, it is more likely that its mission will be successful because the state is willing to commit itself financially and otherwise to the project. It may be that in the case of East Timor there were humanitarian ramifications, but nothing in her argument shows that there needed to be any positive humanitarian results *necessarily*. By her own depiction of the situation, Australia had enjoyed good relations with the Indonesian government at the expense of hundreds of thousands of the East Timorese. When it became strategically important for them to act in favour of the East Timorese, they did so. This case cannot serve as a model for the validity or necessity of humanitarian interventions in international relations. This example shows how in one case there were positive outcomes to self-interested intervention that was internationally sanctioned, regionally enacted and domestically supported both by the states intervening and the state being intervened. While Prado supports humanitarian intervention that is in fact self-interested intervention with positive humanitarian benefits, she ends her paper with an observation about the ensuing negotiations between Australia and East Timor for sharing maritime resources: "...humanitarianism ends where self-interest starts".³⁹ Her closing remarks invalidate her initial claim that an intervention can be (or rather preferably be) self-interested if it is to have a positive humanitarian outcome.

³⁹ Ibid, 21.

In his book *Saving Strangers*⁴⁰, Nicholas Wheeler makes the demands for humanitarian intervention much less stringent. Similar to Prado's example, he argues there is no need for a humanitarian motivation as long as there is a humanitarian outcome, bypassing all the problems related to epistemological uncertainty, the weighing, accounting for, or finally declaring of motive. Following the just-war tradition, Wheeler sets up the conditions for which a humanitarian intervention is required namely, "supreme international emergency", the exhaustion of all peaceful methods of resolution; the rule of proportionality; and a strong expectation that the intervention will lead to a positive humanitarian outcome.⁴¹ The motivation is really irrelevant, and to show this, Wheeler analyses the few cases of intervention that did occur during the Cold War period, during which period international disapproval for intervention dominated the political scene: India's intervention in East Pakistan; Tanzania's intervention in Uganda; and Vietnam's intervention in Cambodia. With the exception of Vietnam, which partly used humanitarian justifications for their invasion, none of these military actions invoked the use of 'humanitarian intervention, yet Wheeler argues, all of them had humanitarian outcomes. Therefore, he concludes, we should look primarily at humanitarian outcomes, and not to intentions when we judge the military action.

Like Stein, he believes that words matter: the public declaration (intent) espousing human rights principles act like a promise. That promise contains within it a public guarantee against brutal aggression and for humanitarian relief.

⁴⁰ Wheeler, 21-52.

⁴¹ Ibid., 33-37.

It requires that governments act within a normative frame for the purpose of advancing the goals of human rights. But this is to simplify the political, economic and social context of, as well as the cause of the humanitarian crisis. If the problem is framed only in terms of human rights, it creates the problem of isolating the conflict primarily in terms of only a human rights crisis, and not a crisis within a greater political context. The failure to appreciate the conflict in its entirety will directly impact the success or failure of the project, and also the sustainability of the peace instilled by force. Violent resurgence is likely if a greater analysis of the problem was not made prior to the conflict, and that requires implicating the international players in the scene. If we were to bypass motive or intent altogether, and look toward a positive-outcome approach, it seems we would have little to go in terms of predicting its success or failure. This is to say nothing of the problem of defining what a positive humanitarian outcome is, or what one calls a failed one. This critique of the whole project of humanitarian intervention suggests that failed humanitarian intervention is *de facto* 'aggression'. That has fundamentally important ramifications for international law. The problem is that when motive and intent are no longer necessary to defend, and no humanitarian outcome is apparent, the intervening state might in fact be an aggressor, but if so, we need a viable mechanism for that act of aggression to be punishable in international law. This is what Kant calls the hardest problem of who will be the ruler of the rulers. The question is about whether we can expect a fair and impartial international court to scrutinize the military actions of intervening forces after an intervention is complete. The

evidence suggests that a belief in the impartiality toward intervening powers at the international level is hopelessly naive. One of the justifications given by David Scheffer (US lawyer and ambassador at large for war crimes) for the refusal of the United States to ratify the Rome Statue is this:

The illogical consequence... will be to limit severely those lawful, but highly controversial and inherently risky, interventions that the advocates of human rights and world peace so desperately seek from the United States and other military powers. There will be significant new legal and political risks in such interventions, which up to this point have been mostly shielded from politically motivated charges.⁴²

In one sense, Scheffer is very right: he claims that we cannot expect the United States to launch into 'highly controversial' interventions if it is going to be subject to international law, but on the other hand, he says, the world demands of the United States do just that. This is a serious problem for interventionists to handle. On the one hand they want to maintain the integrity of international law and order, but on the other, they need to make exceptions when they deem them appropriate. However, while Scheffer claims that the interventions would be 'legal', it is really only the intervening states who would decide when those exceptions would be legal. Hence, there is no mechanism for the accountability for the intervening states. This makes the outcomes-oriented approach fundamentally flawed.

Further, and most importantly, the further away from humanitarian the motives, are, the less likely intervening states will be equipped to deal with the very hard problem of post-war transition, in terms of enabling the state to recover

⁴² David Scheffer, *The United States and the International Criminal Court: National Security and International Law*, eds, Sarah B. Sewall and Carl Kaysen (Maryland: Rowman and Littlefield Publishers, 2000) 12, 19.

from the devastation of war and to stand on its own in the international community. Unless the intervening state plans to act as an occupying force, the job of state rebuilding is a costly and complicated one. It seems to me that there would have to be a strong humanitarian motive to want to be involved in that endeavor. Finally, what remains an important point of contention in Wheeler's argument is the problem of how to deal with interventions which did not yield a humanitarian outcome. The legal question pertains to whether interventions that are shown to have no humanitarian results are failed interventions or acts of aggression, and then the further question would be what the status of those two things are in international law. International law must have a clear response to this otherwise we have no mechanism for making aggressors accountable for failed interventions or for acts of aggression. As it stands, international law cannot even accommodate the very act of a declared 'humanitarian intervention', much less failed interventions. Furthermore, the status of 'aggression' is still being debated: that problem is not dealt with because 'humanitarian' interventions can be interpreted to sound too much like aggression when we try to define them.

Having touched upon some of the fundamental problems with the motive/intention distinction, the problem of mixed motives and inconsistency, and finally the possibility of an outcomes-oriented approach, I will turn to the greater underlying problem of inconsistency which is framed in terms of rights and duties. With this, I will conclude the chapter on the problem of motive, intention and inconsistency. I will then continue with the problems with claims to legitimacy.

II-iv: Rights versus Duties and the Inconceivability of Inconsistency:

While Kant poses a challenge to the use of force within a conceptual frame, and while international law may pose a challenge on legal grounds, is there a moral defense for humanitarian intervention which is neither conceptual nor legal at heart? In other words, are there good *moral* reasons why one must intervene on humanitarian grounds, despite its conceptual or legal difficulties and inconsistencies?

Let us begin by framing the question in terms of what the moral force is behind humanitarian intervention. This is to ask what demands it makes, and what claims those demands have on us. I want to address what makes the idea of humanitarian intervention so morally compelling that one wants to err on the side of military action rather than on the side of inaction. Rwanda immediately comes to mind. The moral force lies in the desire to stop evil wherever and whenever we come across it, despite legal, conceptual or territorial boundaries. Once the moral force behind the claim is established, we must address this: is humanitarian intervention a right then, or a duty? Coady makes that distinction when he claims that there may be a right without a duty, meaning that it would be morally permissible to intervene but not obligatory. He makes the distinction by noticing that while discussions about intervention have to do primarily with permissibility (legality) of an action, at some point they must also include the duty to act, otherwise the argument of consistency could never be applied. That argument of consistency refers to the charge that if there were real humanitarian concerns, then we cannot ignore remote, geo-politically unimportant parts of the planet, while

focusing on other more strategically relevant places. If we believe in the moral force behind the claim to humanitarian intervention, it is no longer morally possible, even conceptually coherent to continue to accept the response of 'mixed motives' to justify the intervention in one place, but not in another. The moral force of the argument does not accommodate mixed motives in the way governments need us to accept.

Jovan Babic makes an interesting and compelling claim when he states that a right to intervene must mean a duty to intervene.⁴³ His argument is as follows: the 'right' to intervene is not the same as its 'justification'. Every state has a justification for wanting to intervene in another. A justification is simply the reasons why one has interest in an intervention. Not to have a justification for intervening in a state would be the same as not having a reason to intervene, and that is inconceivable. What distinguishes a 'right' to intervene from having a justification to intervene has to do with the moral justifiability of an intervention. However there is a danger of collapsing the moral with the legal. There are good moral reasons to ensure that law is not conflated with morality:

These reasons provide that whatever law amounts to, it ought to be "our law", i.e., it ought to give expression to a free democratic will of some people who are self-governing (and not subjugated under foreign rule without its consent). An "excess of morality," particularly if this "excess" finds its expression in law, leads to the road toward fundamentalism and totalitarianism because the "replacement" of law by morality is a process that may lead to the elimination of law.⁴⁴

Further, Babic distinguishes two kinds of rights: the kind that one has and may forsake freely, and the kind that is bound by duty. In the former case, one may

⁴³ Jovan Babic, "Foreign Armed Intervention: Between Justified Aid and Illegal Violence" in *Humanitarian Intervention: Moral and Philosophical Issues* (New York: Broadview Press, 2003) 50.

⁴⁴ *Ibid.*, 50.

have a right to sign this contract, or to apply for that position, but one chooses not to sign or apply. The latter deals with the “right” to intervention:

This right, if it is one, would not be one that could freely be forsaken, for it would not be a *prima facie* right, but a right based on a sort of exception: the prior *prima facie* prohibition of precisely the sort of action that is here claimed as a “right”, i.e., the principled prohibition of intervention.⁴⁵

Put differently, if one has a right to do something otherwise prohibited, then one has not only a right, by means of the justification for the exception, but a concurrent duty to exercise that right. This is exemplified in the case of a child being assaulted by someone. We not only have the right to restrain the aggressor, violently if need be, but we have the duty to do so. The exception to the case, (that is, the justification for the exception) provides the concurrent duty. If we have a right to humanitarian intervention, we have also a duty based on the antecedent general *prima facie* duty of nonintervention. Therefore the kind of right entitled to an intervening state is not the regular kind of right (which can be exercised or not) but rather that in a concrete case, there is compelling reason to act in an otherwise unjustified way. Since discourse on ‘humanitarian intervention’ has been so difficult to defend in terms of whether a state could justify having a ‘right’ to enter coercively in a foreign state, the new doctrine replacing some of the problems with the old puts the emphasis not on ‘rights to’ but ‘responsibility of’, and that can be found in the newer, revised version of ‘humanitarian intervention’ doctrines, *the responsibility to protect*. This solves the problem of justifying military intervention on the one hand, but it creates a whole slew of other problems, because now there is no defense for inconsistency.

⁴⁵ Ibid., 50.

And yet, while we can make recommendations that states act in times of humanitarian crisis, we cannot demand of states that they *must act* to protect foreign citizens.

If the right to intervention exists in cases where appalling human rights abuses are systematic, and that right is accompanied by the duty to intervene, then the 1990's were fraught with neglected duties: Rwanda, Sierra Leone, Kurdistan, Burma, Palestine, Afghanistan, Kashmir, Sudan, Burundi and Angola. If duties accompany rights, and if we are consistent in our duties, we must act wherever and whenever we come across human rights violations.

Chris Brown defends inconsistency in a number of ways. The most conventional responses are that we cannot right every wrong, and that even if we could, far from creating the conditions for peace and stability threats to global unrest and chaos would be imminent. Taken one at a time, is it an adequate charge to say that if we cannot act in every place we cannot act in any place? Would that not be the same as saying if we cannot arrest every criminal, we should not arrest any? The analogy does not hold because the law (exemplified on a micro-level) is applied universally (to all citizens of a state) and the application of the law sometimes fails as is the case when a criminal successfully evades the law. A failure in the system means that we tried and failed. Rwanda, Tibet, Kurdistan are not moral failures of the United Nations, as Kofi Anan has repeatedly claimed (specifically about Rwanda). They were never (humanitarian) concerns. There were other concerns, but not humanitarian ones. Failure implies that something was attempted, and that something failed. Failure is what happens

when the police officer chases the criminal and the criminal out-runs him. On a global scale, not only were the police never chasing the bad guys, they were sometimes running with them. As I will show, international organizations are not only guilty of not acting in times of crisis, but sometimes, they are implicated in the conflict. This shakes the foundation of our frame for humanitarian intervention in that we tend to understand conflicts only in terms of clear, distinct divisions between us and them. The lack of concern for humanity is perhaps what is meant by a 'moral failure', but the gravity of the injustice stems not only from the absence of anything near humanitarian concern, but also from political and economic decisions which fail to prioritize human rights, and definitively not from the absence of military action. This idea will be further explored in "The Narrative Frame" where I make the claim, and map out the ways in which the international community is guilty not of inaction in Rwanda, but of the wrong kind of action.

The second response that if we could act on every human rights violation in the world, global disorder and unrest would result is a valid one. But it points to the method of resolving dispute rather than the idea that human rights violations must be addressed consistently. As Iris Young points out, humanitarian intervention should not only mean military intervention, primarily because the military operation usually causes more destruction than it prevents.⁴⁶ There are other, more effective ways of encouraging cooperation in a global context. I say 'effective' because the report card for stability and success of military operations

⁴⁶ Iris Marion Young, "Violence Against Power: Critical Thoughts on Military Intervention" in *Ethics and Foreign Intervention*, 252.

is poor. Young draws on Arendt to form an important distinction between power and violence,⁴⁷ often mistakenly collapsed by politicians. The inability to act on humanitarian crises consistently because of the chaos it would create does not attest to lack of a moral requirement for the prevention or cessation of human rights violations, but rather to the means by which that prevention is being enacted.

Brown develops further his defense of inconsistency in humanitarian interventions by arguing that consistency is not “as prevalent in moral reasoning as might be expected.”⁴⁸ He rejects rule-based moral theories like those advocated by Kantians and utilitarians. Instead, he makes an argument for the use of an Aristotelean approach which is an agent-centred morality emphasizing the cultivation of one’s facilities for making moral judgments. The problem is that the ‘agent’ Brown is referring to is the government of a state. In this sense, we must treat the government as a moral agent in an Aristotelean manner. I am not sure that ‘people as moral agents’ and ‘states as moral agents’ is analogous. It is not in the *raison d’etre* for governments to be cultivating their facility for making moral judgments. Their job is much more crude, the fine edges of moral thought blunted by vulgar concerns like power, territory, economy. Governments are not instruments for refinement. Their job, assigned to them by their electorates, is to organize the affairs of the state domestically and abroad in their own national interests. (And if they could get that right we should be well satisfied). Now it may be argued that the electorate calls on their government to concern themselves

⁴⁷ Ibid, 253-266.

⁴⁸ Brown, 41.

with the condition of citizens in other countries, and to act on behalf of people who cannot act for themselves. This is not only conceivable, but a fact reflected in the demands made by the people. The fact of inconsistency however points in a government's inability (either for lack of will or lack of ability) to act on behalf of foreign nationals. Brown defends the inconsistency with the following two analogies. One refers to the inconsistency of making some harmful substances illegal (cannabis, heroin, and cocaine) while others are legal (tobacco, and alcohol). He argues that all of the mentioned substances are harmful, and yet only a few, arbitrarily chosen are actually illegal. The other example he refers to is the purchase of self-created newspapers for the profit of homeless people. He argues that we make arbitrary decisions about from whom to buy the newspapers when and why, when there are fourteen homeless people on any given trip from A to B. I think both examples are weak and do not illustrate clearly the gravity of dealing with human rights abuses globally.

In the first example, the harmful substances listed are not necessarily parallel and Brown does not even really attempt to show that they are. But, if one could argue successfully that cannabis is no more harmful than cigarettes or (excessive) alcohol (and many people do argue this) it does not follow that the decision to keep it an illegal substance is inconsistent. Instead, one could show that there are political motivations keeping marijuana illegal (a strong, voting 'religious right' may withhold support from any government that would legalize it). Others have argued that there are economic interests in keeping marijuana illegal. In any case, those decisions may be as politically motivated, and self-

interested as are the decisions to intervene in one state as opposed to another. The inconsistency is not arbitrary, but rather deliberate. This is important in assessing human rights abuses.

The second example is a poor one because a person who decides to help the homeless by buying a newspaper from them may find the sheer number of people in need overwhelming, and in this sense arbitrarily chooses one over another. When a state chooses to intervene in one case rather than another, the decision is not arbitrary in the same way one arbitrarily gives money to one person instead of another. It is calculated. One does not calculate the benefits to oneself when purchasing a paper from this homeless person instead of that one because it will not be in any way more or less beneficial for one to do so. The decision to help is a universal one, but how to apply that help may be selective, or even arbitrary because of the constraints put on the person helping. States are also constrained, but they are constrained in different ways. Those ways are important because they include national interest.

To answer the original question, 'what is the moral force behind humanitarian military intervention?', it is a human desire to stop evil wherever and whenever we come across it, at least to the best of our ability. Interventionists believe that military interventions are one viable way of doing just that. Some argue from the point of view that military interventions should be primarily humanitarian in motive and others argue that as long as the job is done, it does not really matter what the motive was. No one has argued that

humanitarian interventions have never occurred without any national interest, whether that interest was primary or secondary.

What is immediate to my mind is the lack of transparency that we cannot help recognize and be bothered by. Rarely, if ever, are governments transparent about what their other self-motivated interests are. If we don't understand, or we don't have access to the ulterior motives, we are unable to evaluate the action as one that is justifiable or not because our only criterion is based solely upon the public declaration or intent. In this case, we have no criteria upon which we can judge the military intervention if in some vague way we all know that there must be some other interest in intervention, but at the same time, we cannot determine the content of that interest. Tony Blair famously said about the Kosovo intervention, that this is a war "not for territory, but for values". The fact is we cannot evaluate something that claims its legitimacy from one thing, but is acting on another, perhaps more powerful impulse when we do not know what that impulse is. At best, we can speculate about what that interest can be, but that is hardly sufficient to evaluate the moral legitimacy of the intervention.

The problem of motive tries to unravel some of the problems inherent in the concept of humanitarian intervention with a view to determining its legitimacy. The crux of the matter is whether the idea of humanitarian intervention can be justified, and if it can be, then it must be legitimate. Fundamentally, then, is the question of legitimacy. The next chapter will focus specifically on many of the problems implicit in the claims to legitimacy of humanitarian intervention, with a view to challenge those claims.

Chapter III: The Legitimacy of Humanitarian Intervention:

The definition of humanitarian intervention demands that several tightly woven together issues and assumptions be unraveled. The first one I want to address is the legitimacy of the action as opposed to its legality. A distinction is made between legal and legitimate military action justified in the name of humanitarianism. The 1999 Kosovo intervention, for example, is strictly speaking illegal, yet many authors argue for its legitimacy. The notion of legitimacy refers to whether the action can be morally or politically justified, or whether it can be justified on the basis of general legal principles. After I delineate a thorough critique of the legitimacy of humanitarian intervention, I will challenge our understanding of the kind of cosmopolitanism which accommodates the project of humanitarian intervention. In so doing, I will offer a fresh perspective of cosmopolitanism which cannot advance such a view.

Today, as we rewrite international law, and as we change the way we think about sovereignty, there is a danger that acts of aggression are becoming institutionally decriminalized.⁴⁹ However, the emerging consensus seems to be that when military intervention is legitimate (if not, at this point, legal) then it is justified in terms of a *humanitarian* crisis and therefore gets its name: humanitarian, claiming its legitimacy directly from its intention. The general shift in international law aims to replace the model of state sovereignty and territorial

⁴⁹ For a thorough critique of the destruction of former Yugoslavia as an example of the decriminalization of aggression see "Yugoslavia Dismantled and International Law" by Tiphaine Dickson and Aleksandar Jokic in *International Journal for the Semiotics of Law* 19, no. 4, (December 2006): 339-346(8).

integrity with a 'higher' law—that is, a cosmopolitan one. Michael Walzer contextualizes this shift in law and this challenge to traditional state sovereignty (ensuring both equality amongst states as well as the principle of non intervention) by claiming that while these rights belong to states, they derive their legitimacy from the rights of individuals. Walzer quotes John Westlake in a paper published in 1914, saying that “The duties and rights of states are nothing more than the duties and rights of the men who compose them”.⁵⁰ This understanding forms the basis of legitimacy for what will later be promoted as humanitarian military interventions within a cosmopolitan world order, or rule of law.

The debate about the legitimacy of humanitarian intervention is roughly characterized as one between pluralists thinkers, like Robert Jackson,⁵¹ or solidarists, like Teson⁵² and Linklater.⁵³ On the one hand, pluralists argue that because there is no, and there cannot be, any international agreement about what would constitute humanitarian interventions, the best ordering principle of international relations must be the principle of non-intervention. Solidarists, on the other hand, believe that there already exist global ethical and legal values which permit humanitarian interventions in extreme cases. Where pluralists argue that sovereignty is the only protection weak states have against strong ones,

⁵⁰ Walzer, 53.

⁵¹ For a perspective which adheres neither to the amorality of realists, nor necessarily to the universalism of cosmopolitanism, see Robert Jackson, *The Global Covenant: Human Conduct in a World of States* (Oxford University Press: Oxford) 2000. Instead, Jackson develops the notion of a 'global covenant' characterized by antipaternalism, normative pluralism, and the principle of non intervention and state sovereignty.

⁵² For a thorough defense of the use of military force for humanitarian emergencies, see Fernando Teson, *Humanitarian Intervention: An Inquiry into Law and Morality, 2nd Edition* (Transnational Publishers: Irvington, New York, 1997).

⁵³ For a perspective “unapologetically universalistic” see Andrew Linklater, *The Transformation of Political Community* (Cambridge University Press: Cambridge, 1998). The central purpose of this book is to show “to reaffirm the cosmopolitan critique of the sovereign states system and to defend the widening of the moral boundaries of political communities”, (2).

solidarists believe that there is agreement in the international community about what a humanitarian emergency consists of, and upon that basis we can build a case for intervention, even without the Security Council approval that would give the action legitimacy. While pluralists believe that intervention is both illegal and illegitimate because it goes against the foundational norms of international society, solidarists believe in an international society wherein states agree upon a basic set of rules in developing and enforcing international law.

One criterion used to determine the legitimacy of an action can be, for example, the respectability and legitimacy of countries involved in an action. Jurgen Habermas points to the illegitimacy of the 2003 Iraq action because of the inclusion of non-democratic, rights-violating regimes within the 2003 US-led coalition, whereas he believed the Western unification on the Kosovo crisis added legitimacy to that action, despite some of the problems that the intervention highlighted.⁵⁴ Legitimacy can be derived, in part, from evaluating the record of the countries involved in the action. Habermas criticizes the US-led invasion of Iraq for dividing the West (liberal-democratic societies), for practicing aggressive unilateralism, and for ignoring the strong opposition of its allies.⁵⁵ Other criteria include an assessment of how the procedure was carried out, whether protocol or

⁵⁴ Jurgen Habermas, "Bestiality and Humanity: A War on the Borders between Legality and Morality," trans., S. Meyer and W. Scheurerman, *Constellations* 6, no. 3 (1999): 268. While Habermas supported to NATO intervention in Kosovo, claiming that what was at stake was the upholding of basic human rights against the possibility of ethnic cleansing, he was simultaneously critical of it: chief among his concerns were the lack of genuine negotiation prior to the intervention, lack of humanitarian concern by using high altitude bombing during the campaign, the destabilizing effects on surrounding regions, and most seriously, the lack of UN Security Council authority. Nonetheless, he believed that given the majority of support for the movement to support human rights in an imperfect world justified the intervention.

⁵⁵ Jurgen Habermas, "Interpreting the Fall of a Moment," trans., M. Pensky, *Constellations* 10, no. 3 (2003): 364-370.

conditions surrounding formal agreements were respected; whether the military action was supported by a considerable number of recognized international organizations; and finally whether the action was deemed necessary and proportionate. Much of the current discussion around humanitarian intervention does not address its legality, per se, rather, it address the legitimacy of these actions and the conclusions reached will profoundly affect future legal changes. This adds to the urgency of legal, political and philosophical scholars to understand and assess the legitimacy of humanitarian intervention as it becomes the political force behind changes in international law. Still, legitimacy refers to degree in the sense that there is no final authority on its evaluation. Conclusions drawn are challenged as are those challenges. In general we can refer to what is widely or commonly accepted as legitimate, whereas legality is more precise. It too, involves interpretation, but is able to refer to definitive principles and to draw conclusions on that basis. What arguments for the 'legitimacy' of humanitarian intervention do is try to push its way into the legal circle by providing moral, political or philosophical justifications for its adoption, to which the international community responds by accepting or rejecting its claims (in general) and more specifically by the *International Court of Justice*. Their acceptance or rejection forms the basis for the evolution of customary law.

The justifications for legitimacy of humanitarian interventions can thus be summarized into seven types.⁵⁶ After delineating each of them, I will respond to their claims for legitimacy. They are: (1) 'Just Warfare', or moral necessity; (2)

⁵⁶ As delineated by the Danish Institute of International Affairs, but elaborated on by my own interpretation of current literature on the legitimacy of humanitarian intervention (Copenhagen, DUPI, 1999) 99-101.

the necessity of extreme cases to preserve practical and moral legitimacy of international law; (3) the lesser evil principle—Emergency Rule; (4) the *de facto* integrity of the core of state sovereignty; (5) the deterrence principle; (6) the only response to Security Council paralysis; (7) the enforcement of high regional standards. Each justification will be explained and subsequently critiqued. I will approach the seven claims to legitimacy, as delineated by the Danish Institute of International Affairs, in the following way:

1. I will illustrate the moral case for humanitarian intervention according to the first, and I what I think is the most important claim to legitimacy, the ‘just-warfare’, or ‘moral necessity’ claim. I deal with this claim in two separate parts:
 - (a) I will challenge the claims to just-warfare or moral necessity by examining what I call the problem of the narrative frame;
 - (b) I will further challenge the claims to just-warfare or moral necessity by examining what I call determining the dimension of evil, or media and knowledge;
2. Then, having dealt with what I see as the frame or foundation of the problem of legitimacy, I go through the remaining smaller claims to legitimacy, which deal with particular issues rather than the foundational claims, defining and challenging each as I go along: they are
 - (a) the preservation of the practical and moral legitimacy of international law;
 - (b) the lesser-evil principle—emergency rule;
 - (c) the de-facto integrity of the core of state sovereignty;

- (d) the deterrence principle;
- (e) the only response to Security Council paralysis;
- (f) the enforcement of high regional standards.

**III-i: Critiquing Legitimacy: The ‘just-warfare’ or ‘moral necessity’
argument:
The Moral Case for Humanitarian Intervention:**

While I will address all of the claims to legitimacy, I must dedicate the bulk of my response to the claim for ‘just war’. It is the foundational belief upon which well-intentioned cosmopolitans advance the principle of intervention. For that reason, this claim is the most serious and requires the most attention. ‘Just warfare’ or ‘moral necessity’ is at the crux of justifications for humanitarian intervention, the one most commonly used and discussed among concerned citizens, and scrutinized by academics. It appeals to Vitoria, Grotius, Gentili, Vattel, and other early modern European moralists who contributed to the foundations of international law and who argue for *bellum justum* on humanitarian grounds. Today we hear these sentiments evoked from the likes of Tony Blair to Kofi Annan. Many academics arguing for intervention are compelled and motivated by a genuine concern for, as well as a deep commitment to members of humanity who suffer greatly at the hands of brutal dictators. The justification for humanitarian intervention on humanitarian grounds is most forcefully advanced by human rights activists like human rights lawyer Geoffrey Robertson as we see in this quote:

The past has been a matter of pleading with tyrants, writing letters and sending missions to *beg* them not to act cruelly. That will not be necessary if there is a possibility that they can be deterred, by threats of humanitarian or UN intervention or with nemesis in the form of the International Criminal Court.⁵⁷

Robertson is explicit in his rejection of the ‘legal’ question in lieu of legitimacy. The new standard to which we should apply international legal

⁵⁷ Geoffrey Robertson, *Crimes Against Humanity: The Struggle for Global Justice* (New York: New Press, 2000), 453.

justifications for humanitarian intervention will not be to law, but rather to “the dimension of evil”.⁵⁸ The moral force is about valuing human life above all other considerations. It is the force behind the shift from the duty of non-intervention to the responsibility to protect. It appeals to our innermost sense of humanity and it is thus contextualized in ‘cosmopolitan’ terms. It is precisely these human values to which Tony Blair appealed when he called the 1999 Kosovo intervention “a fight, not for territory, but for values”⁵⁹. Despite how cynically we look upon politicians, people are compelled by these words, and our sense of humanity is startled, awoken. If we look to academic scholars to add validity to this claim, we need not go further than Fernando Teson, an advocate of humanitarian intervention without a political agenda. He argues, as does Walzer, that rights of states are derived from *human* rights, that indeed, state rights *are* human rights, and therefore when human rights are abused on a massive scale, war is morally justified—that is, *military intervention on humanitarian grounds* is morally justified. This moral urge is illustrated by UN Secretary of State Kofi Annan when he says that “if we have situations where there are gross violations and systematic violations of human rights, we cannot stand back and do nothing”.⁶⁰ What is illuminating is the way that this claim is made, because within such a frame, one cannot imagine any other response, except a swift military one. The claim made by Kofi Annan, and any other number of advocates of humanitarian intervention, require of its audience is a definitive approval for

⁵⁸ Ibid., 444.

⁵⁹ Tony Blair, “Doctrine of the International Community,” Speech to the Economic Club, Chicago Hilton (April 22, 1999) www.fco.gov.uk/news/speechtext.asp?2316.

⁶⁰ Kofi Annan, news interview cited from www.pbs.org/newshour/bb/international/july-dec99/annan_10-18.html

military action, thereby giving our governments not only a justification (legitimization) of military intervention, but a moral demand to act. Indeed, the interventions of the last fifteen years have been portrayed as having been reluctantly acquiesced to by reticent governments, who, upon the moral demands of the international community have finally complied to act. This brings me to my first critique of ‘just-warfare’ and the ‘moral necessity’ of military action. It is a critique of the ‘narrative frame’—that is to say, the way in which we understand the context within which the problem is expressed. In this critique, I will argue, alongside scholars like Anne Orford, that the problem with humanitarian intervention begins primarily with the context within which it is defined. This is to say that the picture given to us by the likes of Tony Blair, Kofi Anan, Fernando Teson, Geoffery Roberts and especially Samantha Power compel us without any moral doubt, to encourage military intervention swiftly, forcefully, resolutely. But the picture painted by these politicians, and scholars neglect some crucial parts of the picture. This is why I call the problem, borrowing from Orford, the problem of the ‘narrative frame’. In this section, I will expose what I think is the greater picture, and in so doing, I will challenge the foundations upon which that frame rests, making the problem for interventionists harder, the solution to regional violence more complex, and thereby exposing the problem with the precision it needs. This precision makes the problem harder for interventionists because the picture it presents does not accommodate bold and morally righteous military action. It demands more care, less force and the weight of responsibility to shift slightly towards the West so that more, not less,

are responsible for regional violence. This critique hopes to expose all, not just the few, who are implicated in the violence, and when that happens, it is not as easy to pretend to be the heroic saviors of the distant, foreign other. It exposes us as the “strange liberators”⁶¹ as Gregory Elich aptly names us, that we are, and what it should do above and beyond all, is to require cosmopolitans to reexamine both the global frame within which regional violence occurs, and also our solutions to those problems.

⁶¹ The title of this book “Strange Liberators” is borrowed from a speech Martin Luther King made called “Beyond Vietnam: A Time to Break the Silence” at Riverside Church in New York City on April 4, 1967. For a devastating account of how U.S. actions run contrary to their words, see Gregory Elich, *Strange Liberators: Militarism, Mayhem, and the Pursuit of Profit* (Coral Springs, Florida: Llumina Press, 2006).

III-ii: The Problem of the Narrative Frame:

To address the ‘just warfare’ or, ‘moral necessity’ argument I must begin with the depiction of humanitarian intervention. It is crucial to begin with the context of the problem, including what presuppositions lie within that context. More importantly, I will look at where in the timeline the problem is presented. I will refer to it as ‘the frame’ or the ‘narrative’ and I will expose why it is problematic. Especially moving is Anne Orford’s depiction of how she struggles with the problem of humanitarian intervention in a deeply human and compassionate way. Here she is describing her moral angst and confusion as someone critical of military intervention, but moved by the horrors projected from her television screen:

It showed images of little boys, who, the story told us, were in fact members of rebel groups, forced by the rebels to conduct raids and atrocities, and drugged to enable them to do so. The images we saw were of rebel soldiers dressed in fatigues. In one scene one armed soldier stood on the leg of a naked child of about ten in a truck, while the child screamed in terror. Other soldiers stood around. The child was clearly terrified. It was a horrific scene. In another image, a skinny little boy sat on the ground in front of a building, crying. He was being interrogated by soldiers. I turned off the TV and went to look at my sleeping baby boy. I thought back to the discussion with my friend and decided that I have no right and no power to make any argument at all about these matters. There is no alternative.⁶²

After the initial horror of the scenes settled, Orford began to think again about conditions that made those images possible, and the effect on her. She refers to John Berger in his essay ‘Photographs of Agony’ in which Berger explains what effect photographs of agony are supposed to have on us. We are struck by images

⁶² Anne Orford, *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (New York, Cambridge International Press, 2003) 30.

rendering us powerless, and that powerlessness translates into a desperate urge to do something—anything. It may mean sending money to a relief organization, or in the case of war, urging our governments to send military forces to stop the horrific conditions, images of which we have been subjected to through the media. But Berger urges us to think about the conditions which made the photographs possible: the condition is the relationship between our powerlessness and our lack of ability to participate democratically in the decisions our governments make. I will develop my argument on the basis on that understanding.

Advocates of intervention, including journalists and academics, portray conflict zones in relatively simplistic terms. Tensions in a region emerge, the world ‘stands by’ because they do not care, or because the conflict is too complicated, or because it is not in their interest to intervene, or because there is a paralysis in the Security Council. Then, as the violence escalates and reporters come back with graphic images of cruelty, the moral conscience of the citizens of the world pressure our Western, powerful (but reticent) governments to finally ‘act’. The liberators are the democratic leaders of the world, powerful, good and just (or at least when genuinely acting on our behalf). Our Western governments are depicted as the reticent actors in humanitarian catastrophes, (Bosnia) or they are portrayed as altogether absent from the scenes of humanitarian disaster (Rwanda). They are either criticized for either not prioritizing human rights or for not prioritizing human rights enough. When military action is taken, it is assumed that the force of the moral conscience of the world was so profound, it compelled

governments to act. Or, as Catherine Lu put it in response to why we intervened in Kosovo and not in Rwanda, we (Canadians and other Westerners) went through a soul-searching experience, and we were morally transformed by the humanitarian failure in Rwanda.⁶³ In all humanitarian narratives, two assumptions frame the context. First, the humanitarian crisis is portrayed as ‘other’—not just foreign, but distinctly separate from, and having nothing to do with, potentially intervening states. Secondly, the passivity of the intervening state is either implicitly or explicitly understood. That passivity is shaken when the moral conscience of the world compels their governments into military action. Having set that narrative with those two basic assumptions, I will expose some of the realities behind those assumptions in order to unsettle them.

Illustrating humanitarian crisis at its worst encourages the assumption that humanitarian catastrophes happen as the world ‘stands by’, instead of revealing the responsibility of those very powers who are in a position to intervene (without military force) before the crisis emerged. At the heart of the humanitarian intervention narrative is that the principles of state sovereignty and non intervention have failed us. We passively stood by while atrocities of genocide occurred during the Cold War period. The narrative maintains that powerful nations, like the United States, were impotent to take action because of Cold War politics.

This frame neglects important empirical facts which may influence the way we understand the theory, frame and narrative of humanitarian intervention.

⁶³ Catherine Lu, “Why Kosovo and not Darfur?” Panel discussion humanitarian intervention, held at McGill University in the Moot Court on Feb. 5th, 2007.

Framed as ‘passive’ and ‘standing by’ is a deceitful portrayal of real politics before humanitarian crises occur. If we understand the powerful (intervening) forces as a party to, and complicit in, acts of genocide, then the frame for humanitarian intervention is distorted: our moral response less clear. The assumptions we make in this humanitarian intervention narrative is that causes of conflict stem from within the states, and are usually attributed to ethnic, religious or tribal tensions, exploited by ruthless political leaders and culminating in genocidal violence.⁶⁴ While ‘the international community’ are perceived as the advocates of peace, security and democracy, we really only mean the most powerful western nations when we refer to them. Samantha Power, among others advocates not only the right of the most powerful to act unilaterally when failed states go astray, but she argues that we have a moral obligation to do so.⁶⁵ Power, with a long list of others, is among those who portray the West as being absent from places where genocidal murder is rampant until and unless it intervenes as the heroic saviors. Adam Roberts reminds us that the urge to act using military force in an area of conflict requires us to simplify the conflict and its solution in order that we can grasp it, but also to feel that we can contribute in some meaningful way to its resolution. He says this urge

[...]reflects the natural desire to do something in the face of disaster, and a tendency to forget that in all these cases the disaster has been man-made and requires changes in institutions, even sometimes in the structure of states and their boundaries. The absence of any precise idea as to what kind

⁶⁴ Fernando Teson, in his seminal work, *Humanitarian Intervention: A Legal and Moral Inquiry*, frames the context like this, and then develops his argument for the necessity of humanitarian intervention on the basis of these cases. Anne Orford offers the challenge that in *Reading Humanitarian Intervention...*”

⁶⁵ Samantha Power, *A Problem from Hell: America and the Age of Genocide* (New York: Basic Books, 2002), 512-516.

of state or political structures might resolve the crisis results in the fudge-outcome of endless repetition of the world “humanitarian,” with which no one wants to quarrel.⁶⁶

I will use two empirical cases to demonstrate the ways in which the West (liberal-democratic societies) are portrayed as passively standing by as horrors occur: in one case, we become the heroic saviors and in the other, we fail humanity. In both cases we understand ourselves as politically neutral and innocent of the causes of conflict. I will challenge the reader to ask what it means to interventionists if the foreign policy of intervening states prior to, and during the conflict, makes them accessories to war crimes and culprits in genocide. Seen in this light, I will argue that this profoundly changes our status in terms of our responsibility to protect as understood by advocates of military intervention. This is not to say that we have no responsibility, but it is to make the even bolder claim that we have been playing an active role in the explosion of those conflicts all along, rendering our role of the heroic liberators incoherent and untenable. By taking a step back in the narrative frame, and in enlarging our world view within that frame, we will be challenged to find more tenable ways, legal and safer, to deal with regional conflicts. I will use Yugoslavia and Rwanda as just two examples to demonstrate this problem. What we conclude about the justifiability of the Kosovo action has important ramifications because that intervention paves the way for the legitimacy of further humanitarian interventions. As Bellamy notes, “Since Kosovo there has been growing evidence of a shift towards the

⁶⁶ Roberts, 13.

acknowledgment of a limited right of unauthorized humanitarian intervention in cases of massive human suffering.”⁶⁷

The Kosovo intervention, while controversial, was regarded as necessary and just by at least some important thinkers, like Jurgen Habermas, Fernando Teson, and Sean Murphy, human rights activists like Geoffrey Robertson and Kenneth Roth; the majority of journalists, and even celebrities such as Bono, as well as popular writers like Susan Sontag. Perhaps more critical of the action were questions about its implementation and procedure, among other things. But in general, the backdrop of the conflict was that in Bosnia a campaign of ethnic cleansing set the stage for what would happen next if action was not taken in Kosovo.

To understand why such a consensus emerged, we need to examine the narrative frame within which that particular story emerged. By looking at the narrative we can come to a more thorough understanding of how consensus is manufactured on a global scale. An analysis of the role of the media will follow in the next section, but for now, I will focus on the context of the consensus for military action. What happened in the Balkans that would inspire a call for military force by some of the same people who would have been the first to protest against Vietnam? What was different and compelling about this situation? By offering a portrayal of how liberal-democracies understood the conflict, it becomes apparent why support for military force was prevalent. After illustrating our general understanding, I will reveal some important assumptions about how

⁶⁷ Alex Bellamy, “Motives, outcomes, intent and the legitimacy of humanitarian intervention” *Journal of Military Ethics* 3, no. 3 (November, 2004): 218.

we construed that conflict. This will serve as our template for understanding not only for the Balkans, but for the way we view conflicts in general. I will extract some patterns of us/them, good/bad into which we fall, uncritically, when we assess regional conflicts from afar. Diana Johnstone, in her critical examination of the Balkan crisis, begins by offering how the conflict was generally depicted. The rest of her book challenges the accuracy of each of these claims. My purpose is to show how general principles are derived from particular narratives upon which many of the assumptions interventionists make are drawn. All narratives which call for humanitarian intervention follow the same general pattern. This is a depiction of one example relevant not only in terms of its historical proximity to our discourse, but more importantly, to its legal ramifications from which the paradigm of international law has since shifted.

Yugoslavia, Johnstone begins, is described as a “prison of peoples where the Serbs oppressed all the others”.⁶⁸ This provides the context for a regional conflict, ethnic in origin, something distinctly foreign, without the interference of other (Western-democracies, or international organizations). It immediately sets up the conflict by naming the oppressors and their victims from a particular Western world view. This is the first part of the humanitarian narrative which will be challenged. Further, Johnstone goes on to describe the events, as portrayed in the West as such:

It was destroyed by the rise of an evil leader, Slobodan Milosevic, who set out to create a “Greater Serbia” by eliminating other peoples in a process called “ethnic cleansing”. Those other peoples sought to

⁶⁸ Diana Johnstone, *Fools' Crusade: Yugoslavia, NATO and Western Delusions* (New York: Monthly Review Press, 2002), 4. For a thorough and alternative reading of the Balkan crisis, see Susan Woodward's, *Balkan Tragedy: Chaos and Dissolution After the Cold War* (Washington, D.C.: The Brookings Institute, 1995).

escape, by creating their own independent states. The Yugoslav army, actually Serbian, invaded them. In Bosnia, the invading Serbs tried to drive out the Muslims, who wanted to perpetuate an exemplary multi-ethnic society. The Serb ethnic cleansing killed 200,000 unarmed Muslims while the international community looked on and even prevented Muslims from arming in self-defense. At Srebrenica, the United Nations allowed the Serbs to commit genocide.⁶⁹

This sets up the good/evil, Manichean dichotomy, easier to comprehend, at the expense of the complexity of regional conflict. In the narrative, it is necessary to have an 'evil leader'. Reference to Hitler helps in the sense that post WWII we have a place in our moral imaginations with which to fill a picture of ultimate evil. Most importantly, the context of the narrative is framed within a good/evil, action/inaction paradigm. The reader will notice that "the international community looked on". This assumption will be challenged. Further, and most importantly for this analysis,

Only U.S. bombing forced Milosevic to come to the negotiating table at Dayton. The resulting agreement brought peace and democracy to multi-ethnic Bosnia. However, the international community had failed to save the Albanian majority in Kosovo from apartheid.⁷⁰

The leaders of Western, democratic societies, and later we will see the international community implicit in that meaning, are negotiating for the good of the international community, and for the good of rogue states; they preserve and prioritize human rights; and their efforts can bring peace and stability when they act. Inaction can only result in human rights abuses. This sets the context for what will happen next, the 78-day humanitarian bombing campaign, the legitimacy of which will profoundly affect international law and norms. Johnstone depicts how we understood that justification, and this is crucial because

⁶⁹ Johnstone, 5.

⁷⁰ Ibid, 5.

many of the people who would have protested the Vietnam War found themselves on side with the 1999 Kosovo intervention. Understanding the justification is crucial to this critique:

In 1998 Madeleine Albright warned that NATO must intervene to keep Milosevic from "doing in Kosovo what he could no longer get away with in Bosnia". In January 1999 Serbian security forces massacred defenseless civilians in the Kosovo village of Racak, awakening the NATO governments to the need to act to stop genocide. After the turning point of Racak, the Serbs were summoned to peace negotiations in Rambouillet, in France. Milosevic stubbornly refused to negotiate.

This shows us that the international community is on the side of good, and the rogue forces in the regional conflict stand in opposition to what is good, free and democratic. There is a tension between the international community, who stand all together in line with human rights, against evil and tyranny. The conclusion is clear:

NATO had no choice but to start bombing Yugoslavia. Masses of Albanians were deliberately driven out according to a preconceived plan called "Operation Horseshoe". Finally, Milosevic gave in, and NATO liberated the Kosovars from their oppressors. Conclusion: from now, humanitarian intervention constitutes a principal mission for NATO, as the military arm of an international community henceforth committed to the protection of human rights.⁷¹

To summarize the point of the narrative, two prominent assumptions emerge: first, the conflict occurred within the region's own borders with no outside interference; and secondly, the conflict can be dealt with within the dichotomy of action or inaction where action refers to military force and inaction refers to the equivalent of 'doing nothing' or 'standing by'.

Inherent in the first idea, and one which I will challenge, is the idea that domestic policies are distinct and separate from international policies. Further, it

⁷¹ Ibid, 5.

assumes that the domestic policies of conflict regions, in this case Yugoslavia, are threats to peace, democracy and human rights, while the international actors support and prioritize those values.⁷² These fundamental assumptions help underline the context for the project of humanitarian intervention. Yugoslavia is a particularly relevant case study because it paves the road for (especially unilateral) military intervention for humanitarian purposes. Absent from the discourse is an analysis of how the program of economic liberalization and restructuring of the state implemented by international institutions like the World Bank and the IMF during the pre-war period contributed to conditions of the ethnic tensions which formed the basis for explosive civil war.⁷³ The analysis put forward by people like David Chandler, Anne Orford, Michel Chossudovsky, Susan Woodward, James Petras and Steve Vieux suggest that the policies implemented were established to better enable servicing foreign debt, despite the fact that those policies were “fraught with political implications”⁷⁴ What this means is that these policies included changes resulting in recentralizing political and economic authority from republican governments and banks to federal ones. This in turn created the conditions for the kind of social instability that led to heated nationalism and grumblings about civil war.⁷⁵ Further political ramifications of IMF policy included the ‘May Measures’ of 1988 which required the destruction of the social system of worker participation in firm decision making, removing safeguards from large scale unemployment and the slashing of

⁷² Orford, 86.

⁷³ Orford, 89.

⁷⁴ Woodward, *Balkan Tragedy*, 50; James Petras and Steve Vieux, “Bosnia and the Revival of US Hegemony”, *New Left Review*, vol a (1996): 11’.

⁷⁵ Orford, 90.

public spending⁷⁶. Chossudovsky, a critical observer of IMF policy summarizes the major incidents leading to the destruction of a nation in his article,

Dismantling Yugoslavia; Colonizing Bosnia:

The IMF package unquestionably precipitated the collapse of much of Yugoslavia's well-developed heavy industry. Other socially-owned enterprises survived only by not paying workers. More than half a million workers still on company payrolls did not get regular paychecks in late 1990. They were the lucky ones. Some 600,000 Yugoslavs had already lost their jobs by September 1990, and that was only the beginning. According to the World Bank, another 2,435 industrial enterprises, including some of the country's largest, were slated for liquidation. Their 1.3 million workers, half the remaining industrial workforce were "redundant."⁷⁷

With wages falling, social programs collapsing, unemployment running rampant, the then Yugoslav President Borislav Jovic warned that "Citizens have lost faith in the state and its institutions [...] The further deepening of the economic crisis and the growth of social tensions has had a vital impact on the deterioration of the political-security situation".⁷⁸ Orford critically observes that "[B]oth directly and indirectly, the IMF reshaped Yugoslav politics throughout the 1980's and early 1990's".⁷⁹ While the nationalist climate had become clear, the IMF continued to reshape the economic and political structures, aggravating an already potentially explosive situation. These measures, which go beyond the economic conditions exclusively of the society, imposed by the international financial institutions, call into question their position of neutrality and their role as champions of human rights and democracy.

⁷⁶ Orford, 91; Detailed analysis from Woodward, 96.

⁷⁷ Chossudovsky, "Dismantling Yugoslavia; Recolonizing Bosnia," *Covert Action*, no. 56 (Spring, 1996): 4.

⁷⁸ *Ibid.*

⁷⁹ Orford, 90.

Among the concerns about the champions of democracy and human rights, those advocates who would later come to the rescue, are the diplomatic interventions before the onslaught of war. Interventionists tend to see the role of major powers as absent or at least minimal prior to the outbreak of war. James Bissett, the Canadian Ambassador to Yugoslavia in 1990 challenges this assumption. He attributes much of the blame of the Balkan crisis to the West through its deliberate and calculated interference. The failure of the Lisbon Accord represents but one of the many diplomatic frustrations which Bissett believes provided the spark necessary to inflame the crisis into depths of war. The deal drawn up in Lisbon would have given the Bosnian Muslims, Serbs, and Croats more or less what they got at Dayton after four years of war, and a death toll hovering around 100,000. All three leaders had signed the deal, but after a meeting with then Ambassador Warren Zimmerman, the Bosnian Muslim leader, Alija Izetbegovic withdrew his signature.⁸⁰ War broke out one week later. Bissett sees this move as a key factor in the onslaught of the war. Ironically, Izetbegovic got less in Dayton than what he had bargained for in Lisbon. Diplomatic interventions show that powerful Western leaders have the ability to impact a state's internal affairs in profound ways. That is not to say that the ethnic bloodshed, war crimes and other atrocities were the responsibility of other governments—accountability remains with those responsible for their actions, but it is to say that the idea that powerful Western states are actors, participating and affecting the course of internal affairs in ways that are rarely recognized both in

⁸⁰ Warren Zimmerman, interview by David Binder, "US policy makers on Bosnia admit errors in opposing partition in 1992", *The New York Times*, 29 August, 1993.

our analysis of humanitarian intervention and in our general understanding of ethnic conflicts. We tend to understand the problem in polar terms: action (military force) or inaction (standing by). Neither portrays the complexity of the onslaught and continuation of war accurately.

On a different continent, with far more dramatic results I will compare how we understand the Rwandan genocide, in terms of the narrative frame insofar as we understand it, and how we construe our (Western) role in that conflict. Any discussion about policy making and the development of humanitarian intervention must include an analysis of the utter devastation which occurred in Rwanda. Our moral imaginations now include not just the gas chambers of WWII, but the extent to which weapons like machetes can inflict such unspeakable human tragedy. Any investigation of how to treat the doctrine of humanitarian intervention must include a thorough analysis of how the international community acted in that context. Such an investigation would not be complete without drawing some conclusions about our role in that crisis.

Again I will begin with a portrayal that captures the essence of how the war was reported and understood. The media characterizes the Rwandan genocide as having started with the plane crash of Hutu presidents, President Habyarimana of Rwanda and President Ntaryamira of Burundi on 6 April of 1994. The result of that plane crash was the genocide of 800,000 Tutsis by the Hutus. Generally, the media depicted the RPF as the liberators of the oppressed Tutsis. The RPF was seen as conducting a war of liberation by a Tutsi led guerilla army. The West is seen as guilty of inaction and apathy in the face of

evil. Samantha Power answers the question “What did the United States know?” this way: “...the precise nature and extent of the slaughter was obscured by the civil war, the withdrawal of U.S. diplomatic sources, some confused press reporting, and the lies of the perpetrator government”.⁸¹ Her analysis includes a formidable critique of U.S. inaction during the crisis, from which she concludes that the United States has not only a right to intervene (unilaterally if necessary), but a moral obligation to do so.⁸² Former UN Secretary General Boutros Boutros-Ghali made numerous claims that the Rwanda genocide was to a great extent, the fault of American foreign policy pointing to the adoption of U.S. PDD 25 (Presidential Directive Document) in which the United States declares not only that it will not send its own troops to the conflict, it will actively persuade, using diplomatic pressure, other states not to intervene either.⁸³ In this way Boutros-Ghali criticized the US for not just returning to a policy of non-intervention, but for imposing that policy on other UN members. Common to all of these critiques is that the international community is guilty and responsible for the genocide in Rwanda due to its inaction, which is to say, for not using military force when it was apparent that the conditions for genocide were apparent and the onslaught of death was imminent. And this is indeed part of the picture. But it neglects some other parts of the story, the telling of which challenges the normative frame of humanitarian intervention.

⁸¹ Power, 354.

⁸² Power, 510.

⁸³ Boutros Boutros-Ghali, *Interview with Frontline* conducted Jan. 21, 2004. <http://www.pbs.org/wgbh/pages/frontline/shows/ghosts/interviews/ghali.html>

To try to unravel some of the complexity which provoked the outbreak of that war, let us start with the onslaught of the conflict. First, the invading army into Rwanda, portrayed as a liberating force, was uniformed as Ugandan forces, although they were for the most part, ethnic Tutsis. Their act of mutiny was not punished or criticized either by the Ugandan government, or the international community, although the mutiny came from high ranks. For instance, Paul Kagame was the head of military intelligence in the Ugandan Armed Forces. He had also been trained at the CGSC (U.S. Army command and Staff College) in Leavenworth, Kansas, after which he led the RPF.⁸⁴ In general, this invasion went unnoticed in the international press. After crossing the border that invading army changed uniforms from the Ugandan Army uniform to what it presented as “The Rwandan Patriotic Front” or, the RPF. The RPF got their military supply from the UPDF (the United People’s Defense Forces inside Uganda) and Uganda was militarized by the United States. According to a report submitted by *Africa Direct*, to the UN Tribunal on Rwanda,

From 1989 onwards, America supported joint RPF-Ugandan attacks upon Rwanda...There were at least 56 ‘situation’ reports in State Department files in 1991...As American and British relations with Uganda and the RPF strengthened, so hostilities between Uganda and Rwanda escalated...By August 1990 the RPF had begun preparing an invasion with the full knowledge and approval of British intelligence.⁸⁵

An unsettling account of the Rwandan genocide comes from Peter Uvin, who meticulously delineates how, and to what degree, aid groups, representing the

⁸⁴ Michel Chossudovsky, “The Geopolitics Behind the Rwandan Genocide: Paul Kagame Accused of War Crimes” *Global Research* (November 23, 2006) Retrieved from <http://www.globalresearch.ca/index.php?context=va&aid=3958>

⁸⁵ Africa Direct, Submission to the UN Tribunal on Rwanda, www.unius.co.uk/africa-direct/tribunal.html

international community ignored much of the political and social activities which produced the conditions for impending genocide. For example, he explains how the institutionalization of racism began with white colonizers who developed a system of ethnic classification, involving methods such as measuring nose and skull sizes, and how, most importantly, this system was kept intact by postcolonial governments and continued to exist until the 1994 genocide, “greatly facilitating its execution”.⁸⁶ Uvin recounts that “Alison des Forges [...]laments [...]that all foreign aid agencies accepted the continuation of the ethnics Ids and did not pressure the government to abandon them—not even in 1992, when it became clear that they were being employed to target Tutsi for harassment and extermination”.⁸⁷ He further sets out to show how the international development system plays a role in contributing to the conditions for the massacres by identifying a concept of “[...]‘structural violence’ thus drawing attention to the fact that such structures and processes are violent because they needlessly and brutally limit people’s physical and psychological capacities”.⁸⁸ These examples show that making the local/global distinction with its corollary evil/good dichotomy not as evident as the advocates of humanitarian intervention make it appear. Uvin maps out how, and to what degree, the international community were part of a system which ended in, not just genocide, but genocide that was “the product of order, authoritarianisms...and one of the most meticulously

⁸⁶ Peter Uvin, *Aiding Violence: The Development Enterprise in Rwanda* (West Hartford, CT: Kumarian Press, 1998), 35.

⁸⁷ *Ibid.*, 37.

⁸⁸ *Ibid.*, 110.

administered states in history”.⁸⁹ When we talk about Rwanda, we do so in mainly local terms, defining it as being distinctly at odds with not only the international community, but with the values of the international community, and we do so as though there were not a robust international community present in Rwanda prior to the genocide. Little attention is paid to the relationship between the large-scale presence of development workers and the processes that led to genocide and the development enterprise.⁹⁰ The allegation put forward by many of the authors who followed the Rwandan crisis and who included in their analysis an economic interpretation of the crisis is that i) Rwanda was one of the most aided countries in the world; ii) that bilateral as well as multilateral donors such as the IMF, the World Bank and the ADB continued to make large amounts of program aid available, and that; iii) there were a significant number of aid workers and foreign diplomats living in Rwanda during the 1990’s. Despite this, little came out of this community about the well-documented rise in government sponsored human rights violations. Uvin records that during this period, aid from nearly all countries increased, and that many countries continued to provide military support to the Rwandan government: “[...]there was no way that the government could implement any policy, coherent or not, without the assistance of the foreign aid community”.⁹¹ We know from reports submitted to the UN Tribunal for Rwanda that the United States funded both the RPF and the Ugandan

⁸⁹ Philip Gourevitch, *We Wish To Inform You that Tomorrow We Will Be Killed with our Families* (London: Picador, 1999), 95.

⁹⁰ Orford makes this claim in *Reading Humanitarian Intervention*, with reference to Peter Uvin’s *Aiding Violence*, as well as Tood Howland’s “Mirage, Magic, or Mixed Bag? The United Nations High Commissioner for Human Rights’ Field Operation in Rwanda” (1991) *Human Rights Quarterly* 21, no. 1 (1991): 5.

⁹¹ Uvin, 226 from Orford, 104.

Army, which supported that side. It was this level of aid that “helped maintain the strong state necessary to organize and administer the genocide”.⁹²

Chossudovsky writes that “In a cruel irony, both sides in the civil war were financed by the same donor institutions with the World Bank acting as Watchdog”.⁹³ It is argued that the close relationship between aid agencies and governments constituted some degree of power or influence over the elites who held governmental positions. The idea is that when the international community made an effort to chastise the Rwandan government, the government responded accordingly. There are two examples cited by Uvin: one dates back to 1991 when the international community put pressure on the government to release the 8000-10,000 arrested ethnic Tutsis. The government conceded to this demand, for the most part. The second example that illustrates the strength of international diplomatic action is the international reaction to the NGO human rights report published in 1993. After the World Bank refused to give Rwanda the latter part of a loan, and after Belgium and Switzerland recalled their ambassadors, the Rwandan government agreed to investigate the allegations made in the report, and indeed fewer massacres took place over the following months.⁹⁴ This gives us some faith in the ability of the international community to exert considerable influence on the actions of local governments, although it also shows us where and how the international community has failed us—more precisely, failed the people of Rwanda.

⁹² Orford, 104.

⁹³ Michel Chossudovsky, “The US was behind the Rwandan Genocide: Rwanda: Installing a US Protectorate in Central Africa” *Global Research*, May 8, 2003. Retrieved at globalresearch.ca/articles/CHO305A.html

⁹⁴ Uvin, 96.

Chossudovsky makes the claim that the civil war in Rwanda was “an integral part of US foreign policy, carefully staged in accordance with precise strategic and economic objectives”.⁹⁵ Pierre Galand and Michel Chossudovsky conducted a study from which they drew the conclusion that the civil war erupted as a result, in great part, of a U.S. agenda to establish their sphere of influence geographically where historically it has been dominated by France and Belgium. It is crucial to our understanding of how we are involved in the conflict to scrutinize how the acquisition of military arms is made possible under such conditions. In a mission report to the United Nations Development Program and Government of Rwanda, Chossudovsky and Galand report that

The Habyarimana regime had at its disposal an arsenal of military equipment, including 83mm missile launchers, French made Blindicide, Belgian and German made light weaponry, and automatic weapons such as kalachnikovs made in Egypt, China and South Africa [as well as...armored AML-60 and M3 armored vehicles. While part of these purchases had been financed by direct military aid from France, the influx of development loans from the World Bank's soft lending affiliate, the International Development Association (IDA), the African Development Fund (AFD), the European Development Fund (EDF) as well as from Germany, the United States, Belgium and Canada had been diverted into funding the military and Interhamwe militia.⁹⁶

Locating the urgency of the question of humanitarian intervention asks ‘What should we do now?’ as a response to images of horror which strike us at the heart of our humanity. But to develop international legal policy at that moment or because of that moment neglects the context in which those shots were taken, as it absolves the international community of our role in the horror. The camera does not take shots before the crisis: images frozen in time which ‘shock the

⁹⁵ Ibid.

⁹⁶ Ibid.

conscience of mankind' are a result of events the conditions of which we are in part, at least responsible. Where do we, as the interventionists, the liberators, imagine ourselves, when we pull back the camera to see the wider shot? How does this affect the role we play in bringing forth peace, security, democracy and human rights? And how do we account for the role we play well before war breaks out? Orford answers these questions by making the claim that

...focusing on international law and international institutions that facilitate economic restructuring suggests that the opposition between collective humanitarian intervention and inactivity is a false one. The international community had already intervened on a large scale in Yugoslavia and Rwanda before the security crises erupted, through the activities of international economic institutions and development agencies. The international community can be located inside, not outside, this space of violence...*The international community is already profoundly engaged in shaping the structure of political, social, economic and cultural life in many states through the activities of international economic institutions.*⁹⁷ (emphasis added).

This is in part a response to the moral necessity of military intervention. It demands action of us at moments during which we are not able to analyze the greater picture, and the moral, political and philosophical justification for that action lends legitimacy to it. Legitimacy in turn gets used as the framework upon which we build the legal case and henceforth, the development of customary international law. This analysis is an attempt to include the backdrop of civil crisis, before we institutionalize legal reform that would accommodate the implementation of humanitarian intervention.

Hard line interventionists like Samantha Power may insist that just because the same forces who would do the saving are the ones who were part of the problem, it does not follow that they should not be part of the solution. A

⁹⁷ Orford, 110.

stronger claim is that the moral demands made of those whose pre-war actions may be in part a cause of the onslaught of death and destruction are even more compelling because of, not in spite of, their earlier interference. The challenge exists for interventionists and non-interventionists alike: for non-interventionists, the response is a weak one—policy building must be preventative action. But that does not answer the pressing urge for what is to be done *now*. Those who support military force as a solution must include an analysis of the greater role the intervening forces play in a given conflict. Such analysis would confront the good-guys/bad-guys distinction, as well as expose the action/inaction dichotomy. Distributing the responsibility more evenly could thus further deter Western powers from the kind of interference which encourages the conditions for war in the first place. To include such an analysis when determining when and how governments should act in a military capacity challenges the unfounded belief that Western liberal-democracies are the champions of freedom and human rights values, and are the liberators of the oppressed and victimized. This is a valuable position to hold as a mechanism for keeping our governments from abusing their power as military soldiers for peace. It exposes our vulnerability to corruption and it has the potential for addressing the accusation that the West acts as hypocritical, paternalistic liberators.

By exposing the narrative frame to include our role in foreign conflicts, I hope to shake the foundations upon which our assumptions about being heroic liberators is founded. It is an important assumption to expose because as they narrative frame opens up to include a fuller picture of all the actors involved in

foreign conflicts, we begin to see that the logic of humanitarian intervention begins to fail us. Only in a particular context which isolates and demonizes particular groups does the logic of humanitarian intervention work. Sharing the blame in conflict, seeing the diversity in interpretation of the conflict can only weaken the idea that humanitarian intervention is an effective and appropriate action, and that violating international law to accommodate such an idea will ultimately serve the ends of humanity.

Part of how we understand the narrative frame stems directly from how conflict is portrayed to us via the media. The next section will therefore be dedicated to understanding that process by which we come to make certain assumptions about what is happening in foreign conflicts, in lands we otherwise could not locate on a map, and under the control of leaders whose character we only know through media portrayal. This section will expose, in short, how we determine the “dimension of evil”. Central to my explication of this problem is how Walzer uses the ‘burning house’ analogy. With it, I expect to peel another layer of unfounded assumptions from the package solution of humanitarian intervention.

III-iii: Determining the Dimension of Evil: Media and Knowledge:

As we saw earlier, Robertson appeals not to the legality of an intervention in his assessment of military action, but rather to the ‘dimension of evil’ which is determined by our understanding of the crisis through the media. I want to examine this idea here in an analysis of the media, and what role they play in our collective urge to invoke military force in foreign territory because of humanitarian catastrophes. Central to this idea is that we, the passive recipients of news coverage in the Western world, have a genuine, and deep moral urge to act (even if that means the use of military force) when we see the massive suffering of people. In fact, ‘seeing’ is the fundamental premise here. Michael Walzer talks about this specifically when he says that there is nothing new about human disasters caused by human beings; what is new is that “the camera crews arrive faster than rigor mortis”⁹⁸. And then, he argues, we should act. Act without the permission of our neighbors, if need be, but if no one is acting, act⁹⁹. He likens it to a neighbor’s house burning, when there is no fire department around. Do you call a town meeting and give veto power to the three richest families around, or do you go in and save the neighbors? This analogy is an important one, not only because it is central to Walzer’s argument, but because it is the way interventionists tend to think about, and present the case for, military intervention. For this reason, the analogy warrants considerable scrutiny, both on its own and in particular with relation to media and knowledge. Walzer’s burning

⁹⁸ Walzer, Michael, “The Argument about Humanitarian Intervention” in *Ethics of Humanitarian Intervention* ed., Meggle, Georg (Ontos/Verlag: Frankfurt, Lancaster, 2004), 21.

⁹⁹ *Ibid.*, 26.

house is not analogous to humanitarian intervention in a number of important ways. On the one hand we have our neighbor's house on fire, and on the other, we have a humanitarian catastrophe being aired on the news. The first reaction is empirically immediate (Do you smell something burning?); the second is deceptively so. Walzer's analogy, explanation, and justification for unilateral humanitarian intervention coheres with our moral intuitions about the subject, which is why arguing against the project of humanitarian intervention seems inconsistent with the moral demands of our conscience. But on the other hand, Walzer's analogy, and indeed the way interventionists tend to think of and defend their view is incomparable to the burning house.

In the first case, our presence, our ability to respond, our physical proximity to the emergency demands a response. If we are cowardly, we can ignore that demand, or if we are brave, we can act. In any case, we are moral agents, *engaged* in the moment of crisis. We are *there*, present, available and called *immediately* to action. Humanitarian intervention theory often begins with the premise that we, in an age of information, modern technology and speed are also *there*, in foreign lands. Because we are now present and because of our knowledge of the catastrophe, we must make ourselves available, though military action conducted by our governments in our name. Putting side by side the two cases (a) neighbor's house burning, and (b) civil war in foreign country, the response called for is action, and this is how the analogy is made, but here is where it fails.

The first most obvious difference is *I did not see the war*. What tends to follow for most citizens who do not necessarily specialize in world history, international relations and global economics is that we probably do not understand what the war is about. The fact that we did not see the war testifies not to the epistemological uncertainty of its existence, but rather to the fact that we do not see the foreign conflict in the same way that we see our neighbor's house. The degree to which we have empirical certainty about our burning neighbor's house is essentially different from our knowledge about a humanitarian catastrophe. The ways in which they differ, and how those differences are relevant to our analysis will profoundly challenge the conclusions we draw about the justifiability, by extension, the legitimacy of humanitarian intervention.

Further, what we know or do not know about the burning house is important in understanding the degree to which the analogy fails. My comprehension about the neighbor's house does not warrant knowledge about who my neighbor is, whether he started the fire, what will happen to his house if I pull him out, who will rebuild his house. None of that is central to the main problem of the burning house. All of this is important in foreign conflict.

Again, this is not to make the radical epistemological challenge about what we can know with regard to world events; rather it is to challenge the assumption that news coverage is reliable *in the same way* that our first hand empirical observation about an emergency is reliable. It is to call into question that the thing in between us and the catastrophe, that is, the media which sees,

interprets and relays for us. The media is supposed to take a neutral position from which we can make substantive evaluations and draw conclusions about in the same way we can when our neighbor's house is burning. We know about the fire. But the question is not about whether we know there is a war: we *also* know there is a war—rather, the question is what do we know about the war? Wars make demands on journalists to serve the ends of the interested (potentially intervening) parties so the journalist is torn between two conflicting demands: that they serve the interest of the potentially intervening state, or they serve the interests of the viewer who wants to know the whole unedited version of the event.

This presupposes that states have interests in the stories being covered. Often we are under the assumption that we have no interest in the stories being presented: we are impartial (and horrified) bystanders. Bosnia, in particular, has always been presented in a light wherein the United States had no interest there, and finally, belatedly, intervened only for humanitarian reasons, and only because of intense pressure put on them by the media, who acted as the conscience of the world. This version has been challenged to a great degree by many journalists, academics and especially United Nations generals serving there at the time.¹⁰⁰ Similarly, there is a misconception that there is no interest in Africa, where upon closer examination, we can reveal many reasons why powerful states want to exert influence there. At this point, I have already challenged the notion that the international community is not impartial and that it plays no role in conflicts

¹⁰⁰ Among some of them, Peter Brock, David Chandler, Diana Johnstone, Ed Herman, Susan Woodward, Ambassador James Bissett, and General Lewis Mackenzie.

except as heroic saviors and this should influence the way we see the media act in their coverage of foreign conflicts.

We can rely on the fact that if there are images of riots and streets burning in Paris in newspapers and on television and on the internet, there are indeed riots and streets burning in Paris. If there are images of children suffering in the Sudan, there are indeed children suffering in the Sudan. I am not putting forth the claim that we live in a Matrix. We have some reliable knowledge that these events are occurring and that they are very real, very immediate dangers. However, our knowledge about these kinds of events is different from our knowledge about our neighbor's house in significant ways. In the second instance, someone is doing the seeing for me, shooting the images, and giving me the context the way that he or she rightly or wrongly sees it (if those categories 'rightly' or 'wrongly' even apply). Someone else is seeing the thing and showing me what they see. That may seem like an obvious and trivial fact, especially if we have confidence in our journalists, but this interpretative element is significant for our analysis because there are crucial questions about the details of that war which are going to influence our judgment not only about the war itself, but what should be done to help. The questions left to the interpretation of the media are questions such as: What are the causes of the conflict? Who is aiding in its perpetuation? Who is arming the soldiers? How many people are being killed? Which people are being killed? With the neighbor's house, it doesn't matter how the fire started, or who started it. It doesn't matter what your motivation is for going in to save your neighbor. None of that carries any weight in the moment of

action, although those are things we can discuss after the conflict is over. But how the reporter reports the news is going to influence how we think of it, and what we support our governments in doing.

One might think that haggling over the details about the war are not terribly important. I imagine that the urge to stop humanitarian catastrophes is so great that we have little patience for all of the details. What advocates of humanitarian intervention are interested in is action to save the vulnerable. Historians, philosophers, politicians and journalists alike can sit down and argue it out, but who will stop atrocities from occurring and in the end, does it really matter who began the fight, as long as we can jump in and do something when things have gone terribly wrong? This is the challenge for the non-interventionist. The non-interventionist can only emphasize that without understanding the details about conflicts, our responses can aggravate bad situations, erode possibilities for establishing a lasting peace in the region, and heighten tensions globally as a result of the intervention. These concerns warrant the careful response of the interventionist who will act with military force and err on the side of action as opposed to inaction.

Among others, one of the evaluative judgments we must make in watching the news coverage is what to demand of our governments. If we are allowing governments to act on the basis of some moral ground, at the core there resides an interpretive or epistemological problem with the moral decision making of the government. If there are abuses happening in a particular region, there must be a context for that abuse. We must determine what kind of violations are taking

place, who the victims and the perpetrators of the crimes are, how to best alleviate the suffering of the people, and so forth. As soon as there are competing versions of events we have the problem of not only whose version is right, but of who decides whose version is right. Kosovo presents an empirical exemplification of the conceptual problem. Like our neighbor's house burning, we know there is civil unrest in Kosovo. But unlike our actual response to our neighbor's house, how do we 'jump in'? Who are the culprits, what are the origins of the conflict, how do we halt human rights abuses? Prior to 1992, every article in the New York Times suggested that ethnic Albanians were massively violating the human rights of ethnic Serbs, that a massive campaign of ethnic cleansing was occurring as Serbs were being systematically expelled, and the KLA (Kosovo Liberation Army) was listed with the CIA as a terrorist organization. After the United States took a political position on the break up of former Yugoslavia, the media took an immediate turn, representing the situation in Kosovo very differently. Before the launch of the 78-day bombing campaign in Serbia and Kosovo, U.S. Secretary of Defense reported on CBS television that 100,000 military-aged "may have been murdered".¹⁰¹ After the bombing, that figure was never substantiated, nor was it even repeated. No international organization had come up with these figures, but for some reason, the citizens of countries involved in the intervention were led to believe that such was the case. Findings from the Kosovo Verification Mission submitted to the ICTY indicate the total deaths of killed on all sides range in the area of 2000. Another figure produced by the American Bar Association,

¹⁰¹ William Cohen, interview with CBS *Face the Nation*, May 16, 1999 (Burrelle's Information Services, 1999).

sponsored by the State Department, was at 11,000.¹⁰² A Spanish forensic team thought even this figure grossly exaggerated.¹⁰³ And finally there is the example of the CBC story about a five-year old girl who was murdered.¹⁰⁴ This story was retracted when, many months later, the reporter came back to find that the story had been invented to gain sympathy for the cause. This is to make the claim that our knowledge about our neighbor's house burning and our knowledge of conflict in foreign regions is different in significant ways. It seems to me that if we recommend military action be taken, we had better have a clear understanding of what is happening and how to go about fixing it.

To suggest that the media can fulfill this role is to misrepresent some of the conflicting roles that the media serve. One of their important functions, among others, is to entertain, the result of which often leads to oversimplification of the context, and from which we are often delivered a misrepresentation of facts. More significantly, I think, is an analysis of whether the misrepresentations are made in good faith, or whether they are deliberate. Media critics¹⁰⁵ as well as some journalists¹⁰⁶ make compelling arguments for why we should be somewhat skeptical about the media's ability to be neutral. I have already shown how international organizations, led by powerful liberal democracies are often

¹⁰² Michael Mandel, *How America Gets Away with Murder: Illegal Wars, Collateral Damage and Crimes Against Humanity* (London: Pluto Press, 2004), 62.

¹⁰³ Ibid.

¹⁰⁴ CBC Television, "The Truth about Rajmonda", September 8, 1999 quoted in Mandel. Also, find at www.cbc.ca/national/pgminfo/kosovo3/-rajmonda.html

¹⁰⁵ Ed Herman, Robert McChesney, and Mark Crispin Miller, to name a few.

¹⁰⁶ Most famously, Phillip Knightley: For an analysis of how governments and militaries control their media, see *War: The First Casualty*, 3rd ed. (MD: John Hopkins University Press: 2004) and "Fighting Dirty", *Guardian Weekly*, 30 March, 5 April, 2000. Also see Peter Brock, *Media Cleansing: Dirty Reporting: Journalism and Tragedy in Yugoslavia* (Los Angeles:GM Books, 2006).

entangled in complicated ways with regions where conflict abounds. What this calls into question is the reliability I have with regard, not to the fact that there is a conflict, but rather how to understand that conflict. If we are to make recommendations that influence the way international law develops, we require a level of reliability which at this point we do not have.

In light of this media critique, I think it is necessary to look at what purposes the images photo journalists from war zones serve. Berger's analysis of photo images of horror locates us at the passive end of a frozen moment in time; it is a moment captured, but we, the recipient of the photo are disengaged, rendering us feeling morally inadequate, impotent to act. That moment is now finished, passed, and there is nothing we can do about it. We, the viewer are locked in the moment, paralyzed by it, powerless to act, to change the moment. Orford recalls the story about babies getting caught in barbed wire in East Timor as they would get flung over into UN compounds to escape the treacherous war. But her response is that

Anyone who was there in person would not have the horror of passively watching that scene, but would be able to try and help the children, covering the barbed wire with clothes, climbing up to make sure the children did not get stuck, lifting them over. Our sense of passivity is a product of the way in which television images are produced, as is our desire that violence be used in response. Perhaps the greater our frustration with our passivity, the greater our need to see action taken in our name.¹⁰⁷

The point of the photojournalist must be to evoke some sort of emotional response from us, and that emotional response must be to demand that our governments act on our behalf. What we have to evaluate is not only the conditions that made

¹⁰⁷ Orford, 32.

those pictures possible, but our emotional response to those images so that in acting we do so intelligently, methodically, with compassion and responsibility—not blindly, with distress and panic. The images we see evoke the latter response.

We also see another phenomenon occurring with war coverage. People often complain not that we do not get enough coverage, but that we get too much. It interferes with other forms of entertainment. I think that it is precisely because of the effect war photos have on us that people respond in this way. It is precisely this paralysis Berger identifies so well that we reject the images at some fundamental level. In fact, for all the high speed technology and equipment we have, we get an awful lot of the same thing. What we need is not a lot of horror, but a lot more knowledge. As Sky war correspondent Jake Lynch said about the Kosovo campaign: “We were given lots of material but no information”.¹⁰⁸ Compare what Phillip Knightley sees as a war correspondent with what Walzer sees as the revolution that has shaped our moral imperatives: this observation is made by Knightley,

The revolution in communications technology; the satellite phone—the star of the war; instant TV links from the front to the studio and between correspondents in the field; electronic transmission of still photographs; and—the latest arrival at the front—the internet; all were available to provide the public with an unprecedented overview of the war. *The ordinary, the literate citizen would be able to know more about the conflict than any war in history...Instead we drowned in wave after wave of words and images that added up to nothing.*¹⁰⁹ (emphasis added).

And this one by Walzer,

It may be possible to kill people on a very large scale more efficiently than ever before, but it is much harder to kill them in secret. In the contemporary world there is very little that

¹⁰⁸ Knightly, “Fighting Dirty”.

¹⁰⁹ Ibid.

happens far away, out of sight or behind the scenes; the camera crews arrive faster than rigor mortis. We are instant spectators of every atrocity; we sit in our living rooms and see the murdered children, the desperate refugees. Perhaps horrific crimes are still committed in dark places, but not many; contemporary horrors are well-lit.¹¹⁰

Rather than discourse, revealing competing points of view which might actually help us understand, and thus engage in the solution, we get the kind of images that leave us feeling so morally bankrupt that we pass the problem on to others: namely, the governments or international institutions who represent us. In this way, we can absolve ourselves from the guilt we feel, having been subjected to images of cruelty. But this is not to meaningfully participate in our liberal democracies; it is to abandon our right to extend influence and apply pressure on our governments to act and to be responsible for their actions; it is to defer our rightful authority onto others. That is the effect of photo journalism.

The two foundational issues I have dealt with have to do with what I see as the essential problems for the legitimacy of humanitarian intervention. The idea for the justification of humanitarian intervention can only work within a particular narrative frame and that frame can only be understood in terms of an objective, neutrally situated media. If the narrative frame as we understand it, and the vessel through which that frame arrives are both challenged, the already tenuous idea of humanitarian intervention becomes even more unstable, and its justification harder to produce. More seriously, I argue that both these challenges to humanitarian intervention render the idea hopelessly untenable. If the world were as simple as comic book heroes and villains, we could accommodate a

¹¹⁰ Michael Walzer, "The Argument about Humanitarian Intervention" in *The Ethics of Humanitarian Intervention* ed., Georg Meggle (Frankfurt: Ontos/Verlag, 2004), 21.

vigilante justice otherwise only acceptable in the fantasy world of childhood imagination, but as advocates of international law and justice acting in the interests of humanity, there is no room for such an idea.

Having dealt with the foundational problem with the legitimacy for humanitarian intervention, I turn now to more particular claims for legitimacy, from which some activists for intervention derive justification, and I will challenge each one as they are defined.

III-iv: The preservation of the practical and moral legitimacy of international law:

This argument maintains that in cases of extreme human suffering, there is a necessity to act using military force, even in the face of Security Council opposition, if we are to maintain the integrity or the spirit of the law. Wil D.

Verwey puts it like this:

If international law, at the present stage of its development and taking account the present level of functional capabilities of the UN System, were to provide no room for genuinely selfless, morally-dictated last-resort humanitarian intervention in extreme cases where the Security Council is unable to act timely and effectively, it might lose control over, or even become irrelevant to the solution of, some of the greatest human dramas in the world. In such cases, prohibiting intervention by individual states [...] might become so utterly immoral as to undermine the basic fundamental, if not the very idea of law.¹¹¹

I anticipate a real problem with this claim: international law has to provide “room” for “genuinely selfless, morally-dictated” humanitarian interventions. International law is not equipped to provide moral exceptions to rules as is suggested above simply because there is no mechanism which would allow for it. The stability for an international society of states is guaranteed through the legal principles of sovereign inviolability, sovereign equality, and non-intervention. If we draw a separate category which makes exceptions to the norms which are supposed to guarantee international peace and stability, at best we jeopardize international law, or at worst, we bring an end to it, but I cannot see how we would “preserve the practical and moral legitimacy of it” by breaking it. The ‘humanitarian exception’ creates a special category of states who are presumably not only morally superior to other states, but also who are above the law, for the

¹¹¹ Verwey quoted in *Humanitarian Intervention*, DUPI, 99.

law, at times, will not apply. The difficulty in Verwey's claim is to decide who will make the ultimate final judgments about exceptional cases.

In the previous section, I have shown how the fundamental assumptions inherent within the concept of 'humanitarian intervention' include a separation of good and bad: those on the side of justice and freedom, and those seeking to destroy it. In my analysis, I included a critique of the role the international community plays prior to and during regional conflict, with a view to introduce a conceptual shift in our understanding of the global dynamic of seeming closed, non-Western, regional conflicts play. This claim by Verwey puts back into place the separation of us and them: good and evil. In this critique, I want to look at the International Commission on Intervention and State Sovereignty (or, the ICISS) in terms of how they place our (Western) responsibility to protect in conflict areas.

The synopsis of the ICISS summarizes the basic principles of R2P in two ways: State sovereignty implies responsibility and while that responsibility lies within the state itself, when a population is suffering, and the state is not able or not willing to halt or avert the suffering, the international community must take on the responsibility to protect those nationals. The report produced by this commission allows for the exception Verwey seeks in his appeal to preserve the integrity of the law in whatever way necessary. The responsibility to protect refers to the responsibility of either the state in question, or the greater international community to protect individuals in times of crisis. But while it prioritizes prevention in principle ("Prevention is the single most important

dimension of the responsibility to protect”)¹¹², it offers nothing in the way of a mechanism for (a) ensuring that this principle is realized, or (b) holding those responsible whose policies or actions have contributed to the conditions of the crisis. While the report admits that

... Intra-state warfare is often viewed, in the prosperous West, simply as a set of discrete and unrelated crises occurring in distant and unimportant regions. In reality, what is happening is a convulsive process of state fragmentation and state formation that is transforming the international order itself. **Moreover, the rich world is deeply implicated in the process.** Civil conflicts are fuelled by arms and monetary transfers that originate in the developed world, and their destabilizing effects are felt in the developed world in everything from globally interconnected terrorism to refugee flows, the export of drugs, the spread of infectious disease and organized crime.¹¹³ (emphasis added).

The report goes on to frame this in terms of “acute dilemmas” and yet continues to recommend military intervention, despite worries that “it can be difficult to avoid doing rather more harm than good”¹¹⁴ in the words of the report itself. In my view, the commission fails to make the necessary and appropriate connections that would secure peace and stability, and uphold the integrity, both the spirit and letter, of international law. It first recognizes how porous borders are, and within it, the implications of the international community in regional ethnic conflicts; it adheres to the principle of both sovereign integrity and prevention; and then it continues to recommend military action so that we minimize “the risk of becoming complicit bystanders in massacre, ethnic cleansing, and even genocide”, despite that military action might do more harm than good. I attribute this inconsistency to a failure to fully appreciate or recognize the tendency of the

¹¹² R2P, (3), Elements, A. p., xi.

¹¹³ ICISS, 1-20.

¹¹⁴ ICISS, 1-22., 5.

West toward hypocritical paternalism, rooted in the historical habit of colonialism. By ultimately punishing the victims, instead of helping them, the West is absolved of its responsibility before and during conflicts. In this way, making exceptions to the law in order to preserve the integrity of the law fails its stated goals. The next claim to legitimacy made by interventionists is the appeal to the “lesser evil” principle. It appeals to the Robert McNamara school of thought where ‘sometimes to do good, you have to do evil’.¹¹⁵

¹¹⁵ *The Fog Of War: Eleven Lessons from the Life of Robert S. McNamara*, DVD directed by Errol Morris (2004; Berlin, Germany: Sony Picture Classics, 2007).

III-v: The lesser evil principle—Emergency Rule:

This justification—that is, doing wrong to prevent greater wrongs is connected with the first justification about preventing mass scale human rights abuses by military force as the only option to do so. It is supported by concern for the protection of the life and dignity of the individual in international law. It adheres to the belief that sometimes to do good one must do some evil. While this appeals to the sensibility of many people, a counter claim can be made just as well, without really being able to assess the truth or validity of either. Take what Kant says, for example: “[A]ll these supposedly good intentions cannot wash away the stain of injustice from the means which are used to implement them.”¹¹⁶ Or, Mo Tzu “If the rulers and officials and generals of the world sincerely desire to promote what is beneficial to the world and to eliminate what is harmful, they should realize that offensive warfare is in fact a great harm to the world.”¹¹⁷

I think one will determine which premise is true may depend ultimately on how much faith one has in the ability of war to ‘do good’. And it will rely on whether or not one believes that force can be used benevolently. I would like to show two things: first, I will map out how we have moved toward a lesser-evil principle (in support of war as a method for resolving dispute), and in so doing, illustrate the way in which interventionists have re-written war in a way that makes it acceptable to liberal minds; second, I want to offer a feminist

¹¹⁶ Immanuel Kant, “Section III: Cosmopolitan Right,” in *Kant’s Political Writings* ed., H.S. Reiss. (Cambridge: Cambridge University Press, 1991) 173.

¹¹⁷ Mo Tzu, “Against Offensive War,” in *Basic Writings of Mo Tzu, Hsun Tzu, and Han Fei Tzu*, ed. and trans. Burton Watson (New York: Columbia University Press, 1967), 60-61.

interpretation of the negative effects of war or humanitarian intervention in practical terms.

The 'lesser-evil' principle has gained much ground since the end of the Cold War. As Chandler observes "The transformation of the public and political perception of military action is reflected in the fact that the social democratic Left have been more in favour of military engagements by Western forces over the last ten years than the conservative Right".¹¹⁸ There are two major trends that indicate our changing predisposition toward a mental and actual readiness for war as a means for solving conflict: the first exists at the international level. Central to our international institutional policy-making is the inclusion of documents, like R2P, outlining the conditions for military intervention. Aside from policy-making legitimizing the use of force, the UN is in the process of restructuring its military operations to be permanently ready for war.¹¹⁹ The second trend is that on the level of peace activism, peace movements have been replaced by NGO's and other professional associations.¹²⁰ The fact that in the first eighteen months of power, the UK Labour government dropped more bombs than the previous Conservative one did in eighteen years, that the leading advocates of the Kosovo war all had social democratic backgrounds, and that NGO's like MSF, Amnesty International and Human Rights Watch have offered not only support, but often pressured governments to the launch wars in the last 15 years, all testify to the way in which war discourse has been redefined through an ethical agenda. This

¹¹⁸ David Chandler, *From Kosovo to Kabul: Human Rights and International Intervention* (Ann Arbor: Pluto Books, 2006), 157.

¹¹⁹ *Ibid.*, 157. This is a devastating cry from Kant's cosmopolitan vision: "Standing armies will gradually be abolished altogether" in *Kant's Political Writings*, 94.

¹²⁰ Chandler, 157.

prioritizes war as a method for resolving conflict and it goes against the post-WWII trend, as well as against the Paris Pact of 1928 for the renunciation of war as a method for resolving dispute. This trend adheres to the principle that human rights can be achieved through war. The conceptual shift made by liberals is that

War has come to be defined through the discourse of human rights and ethical intervention as either an attack on vulnerable people, that is, human rights abuse, or as an attempt to protect the human rights of the vulnerable. The redefinition of war and military intervention has made one kind of conflict irrational, 'degenerate' and uncivilized and another moral and ethical.¹²¹

One clarification that needs to be made when weighing the benefits and costs of a military operation for a humanitarian goal is to distinguish 'humanitarian intervention' from 'war'. Some authors sharply distinguish one from the other while for Coady, military operations are one and the same no matter what we call them.¹²² I distinguish between declaring a 'humanitarian intervention' and declaring a 'war' only in terms of public intention, but not in terms of their effect with regard to its potential for destabilization, death and destruction. Hehir's reason for distinguishing the two also has to do with justification, and he claims that it is more difficult to justify a humanitarian intervention than a war.¹²³

The reason these distinctions are important is because I am trying to distinguish between whether there is such a thing as a 'humanitarian war'. I propose to determine whether the costs outweigh the benefits; whether it is efficacious; and finally I want to explore whether there are conceptual difficulties

¹²¹ Chandler, 169.

¹²² C.A.J. Coady, "The Ethics of Armed Humanitarian Intervention" *Peaceworks No. 45*, (August 2002): 7.

¹²³ Coady refers to Brian Hehir's distinction in "Intervention: From Theories to Cases" *Ethics and International Affairs*, 9 (1995): 7.

with the idea. The consensus (in the West) seems to be in terms of seeing good war (humanitarian intervention) as moral, just and necessary, and most importantly, as a method for resolving conflict, reducing human rights abuses, and restoring justice. Bad wars ('degenerate') are those 'other', non-Western conflicts, and are an expression of the "cultural and civilisational failings of the people of that region".¹²⁴ This way of framing post-Cold War conflict fails to consider the analysis from any geo-political or economic perspective. It neglects to consider social struggle, and further, it deprives the investigation of any consideration of the international power relations affecting regional conflict. The analysis is purely psychological: its level of comprehension, is Hollywood in nature. Conflict in non-Western states has been described as evil, irrational, uncontrollable, whereas for Western powers, war is the civilizing force, killing innocents only as an unintended consequence of restoring human rights.

There is a tendency to see our (Western) forces as the advocates of freedom and justice. If we did not believe that, we would not be able to support military action for the purpose of doing good. There must be an underlying belief that not only can force be used benevolently, but that if it can, we (Western, liberal-democratic states) surely must be able to be those enforcers. The literature on humanitarian intervention accepts this presupposition overwhelmingly. Some critiques, however, look at the possibilities of armies doing good in ways that challenge this belief in profound ways. In "The Politics of Collective Security" Orford provides a detailed account of how discourse on human rights abuses and

¹²⁴ Chandler, 169.

solutions for regional conflicts has neglected gender-differentiated effects of their 'solutions'. Her extensive research shows two things: the universality of male interests is taken for granted by international lawyers; and that as a result, women are rendered less secure by actions authorized by the Security Council in the name of collective security. Perhaps most shocking is that

...the persistence of complaints made by women alleging that they have been raped or assaulted by their "protectors" in Bosnia, Cambodia, and the Gulf suggests that peacekeepers and peace enforcement forces are no less likely than members of other military forces to rape and assault civilian women and women soldiers.¹²⁵

I think the reason it is shocking is because we have naturally assumed a good-guy, bad-guy paradigm in our minds and when the merits of humanitarian war are weighed and argued, part of the equation is not that we are capable of the kinds of human rights abuses we seek to halt. If we believed that, we could not develop policies that demanded military intervention.

The empirical evidence demands that we reexamine our assumption about being the advocates of human rights and about being able to restore those rights through force. Some examples to this effect are as follows: In December 1993, Aldo Ajello, the commander of the U.N. mission in Mozambique received a letter of complaint from the International Save the Children Alliance stating that U.N. military personnel had bought sex from hundreds of girls, many of whom were orphaned or abandoned during the war. In response to sexual assault complaints and the dramatic increase in prostitution in Cambodia, Yashuki Akashi, the chief of the United Nations Transitional Authority in Cambodia, and later the head of

¹²⁵ Orford, Anne, "The Politics of Collective Security" in *Michigan Journal of International Law* 17 (1995-96): 377.

U.N.'s peacekeeping operation in Bosnia replied that: "...18-year-old, hot blooded soldiers" have a right to drink, enjoy themselves, and chase "young, beautiful beings of the opposite sex".¹²⁶ Beyond the empirical evidence that points to particular case studies, of which these few examples are certainly not exhaustive, is the work of Clausewitz, who details the fact that all of our good intentions go astray when real soldiers are put down on the ground to fight wars, the unpredictability of which cannot be accounted for in theory. As Clausewitz puts it, war is ultimately about the use of force, and while philanthropists may imagine that there is a skillful method of disarming and overcoming the enemy, doing so without great bloodshed is impossible. In war, he says, errors from good intentions are the worst kinds of errors.¹²⁷ This is a fact of war that Clausewitz refers to as "fog" and McNamara later quotes in a film about that very subject.¹²⁸

I tend to argue against military force to achieve peaceful ends.

International legal scholar, Professor Oscar Schachter, says authoritatively that

[n]either human rights, democracy or self-determination are acceptable legal grounds for waging war, not for that matter, are traditional just war causes or righting wrongs. This conclusion is not only in accord with the UN Charter as it was originally understood; it is also in keeping with the interpretation adopted by the great majority of States to the present time.¹²⁹

Let us consider this from a Kantian perspective, although I recognize that to do so is not to assume a unified Kantian perspective. While I invoke what Georg

¹²⁶ Gayle Kirshenbaum, "Who's Watching the Peacekeepers?" Ms., May-June 1994, p. 12 quoted in Orford, 378.

¹²⁷ Clausewitz, 127-132.

¹²⁸ The film is then called "The Fog of War" because McNamara quotes Clausewitz when describing the events of wars he lived through.

¹²⁹ Oscar Schachter, *International Law in Theory and Practice* (Dordrecht: Nijhoff, 1991), 128.

Cavallar nicely calls Kant's warning against "moral terrorism"¹³⁰, with reference to a war with good intentions, others like Fernando Teson, Sidney Axinn, Howard Williams will defend humanitarian intervention using a Kantian perspective and argument. My reading of Kant is simply that war is never justified by good intentions, like the implementation of human rights. This, I believe, goes against the most fundamental tenets of Kant's moral and political philosophy. Many interpreters of Kant, however, (like Teson, Axinn, Williams, and to a degree Cavallar) believe that the duty of non-intervention is incompatible with the basic tenets of Kantian moral theory. The difficulties that arise for interpreters of Kant who believe in the efficaciousness of a humanitarian intervention are that there exists a conflict between the value of maintaining the dignity of human life, and the evil of war. Those who oppose Kant's conceptual difficulties with the 'good-intentioned war', like Williams, approach the question from a teleological and consequentialist perspective, which confronts and conflicts with Kant's conceptual framework. Kant would argue that we can always find good arguments for the use of violence on the grounds that it is in the best interests of the world.¹³¹ Indeed we have always done so. But Kant is unequivocal in his response. His clarity and brevity puts an end to dispute when he says "Woe to the legislator who wishes to establish through force a polity directed to ethical ends."¹³² This is what Cavallar interprets from Kant to mean "moral terrorism", although Cavallar too has some problems with accepting the unconditional duty

¹³⁰ Georg Cavallar, *Kant and the Theory and Practice of International Right* (Cardiff: University of Wales Press, 1999), 130.

¹³¹ Kant, 173.

¹³² Kant, Immanuel, *Religion within the Limits of Reason Alone*, trans. Theodore M. Greene and Hoyt H. Hudson (New York, Harper & Row, 1960), 87.

of non-intervention. He begins with Kant's own exception, wherein Kant suggests it "would be a different matter if a state, through internal discord, were to split into two parts, each of which set itself up as a separate state and claimed authority over the whole".¹³³ Cavallar refers to an interesting distinction Hauke Brunkhorst makes between state and popular sovereignty.¹³⁴ The latter takes precedence over the former, he will claim, and therefore may justify an intervention according to Kant. I would respond on side with Reisman who makes two objections: first, we must oppose interventions because the selectivity involved in choosing one state over another leaves the project open to abuse, and that secondly, we do not know when "a considerable part of the population" is exposed to massive human rights violations.¹³⁵ While Cavallar believes we can go beyond the text of Kant to reinterpret his political philosophy in order to make it relevant to our context, I believe Kant's moving appeal has much force and must be considered even within the context of humanitarian crises:

Now, moral-practical reason within us pronounces the following irresistible veto: *There shall be no war*, either between states, which, although internally law-governed, still live in a lawless condition in their external relationships with one another. *For war is not the way in which anyone should pursue his rights.*¹³⁶

It is always difficult, however, to make any 'unequivocal' statements about the interpretation of Kant. Teson demonstrates this when he makes compelling arguments to show a Kantian interpretation for the necessity of

¹³³ Reiss, *Kant's Political Writings*, 96.

¹³⁴ Cavallar, 89.

¹³⁵ W. M Reisman, "Sovereignty and human rights in contemporary international law," *American Journal of International Law* 84, (1990), 866 quoted in Cavallar, 185.

¹³⁶ Reiss, *Kant's Political Writings*, 174. First italics Kant's emphasis, second, mine).

humanitarian intervention. The spirit in which I interpret Kant is that in which the ultimate goal would be to resolve methods of dispute without resorting to the power enforced by violence, but by appealing to a much deeper, meaningful and lasting power, that is, the power of the legislator from within. In other words, if we have a true belief in human rights, then the way to enforce the enactment of such values is not to bomb people into submission, but rather to appeal to reason. And while the latter method takes much longer, the fact of the matter is that the former method does not work. At best, 'humanitarian interventions' can halt one form of violence, replacing it with another, and then leaving the new power imbalance to perpetuate violence on a reverse side. Instead of letting crisis situations come to a level of gravity so severe that one is left in a panic, and in which any action is a choice to be made between all evils, we should examine the possibilities of diplomacy in which state interference (in a positive, and non-military sense) stifles the fires that explode. A Kantian vision of cosmopolitanism encourages the use of a stronger, more durable power. That power appeals to reason, not force.

In more cases than not, the fact of military intervention has meant brutal invasion in the name of humanity. By labeling the action 'humanitarian' we are subject to the moral terrorism Kant alludes to when he describes the legislator using force to establish ethical ends. It is conceptually contradictory to accept that war is waged for humanitarian purposes. Kant had a problem with it, and that problem remains today, despite appeals to humanitarian crises. Howard Williams

challenges the Kantian conceptual difficulty with waging war for peace in his study of Kant's political philosophy:

A reformer and republican more passionate than Kant might, indeed, recommend intervention in the name of progress, and if such intervention were a success who would fail to applaud it? This is a difficult problem to which it is impossible to give an unequivocal answer.¹³⁷

One of the reasons it is impossible to give an unequivocal answer is because it is as yet still an unrealized hypothetical situation that we have not seen. This (perhaps disputable) observation must influence the way in which we understand the problem of humanitarian intervention.

Whether war as a lesser-evil principle is a valid justification is really something we can decide in terms of how the idea appeals to our sensibilities. Those who tend toward this justification must be prepared to account for, at least in some way, the problem of the unpredictability of war, the damage it does, and its future cost. The lesser-evil principle makes some assumptions about the efficaciousness of war, and this is not something to be dismissed. The genuine questions that emerge then point directly to what circumstances would allow for wars which would be both effective and cause the least amount of damage. These are not easy questions to answer.

One of the inevitable facts of interventions are their violation of state sovereignty (often treated by interventionists as many lesser evils). The next section will then deal with what it means to interventionists and non interventionists alike to deal with the problem of the violation of state sovereignty. Advocates of intervention will argue that in fact there is a *de facto*

¹³⁷ Howard Williams, *Kant's Political Philosophy* (Oxford: Basil Blackwell, 1983), 247.

sovereignty being upheld with military action from a foreign state. I will treat that problem accordingly.

III-vi: The *de facto* integrity of the core of state sovereignty:

This very important justification rests on the assumption that while at the heart of state sovereignty is the territorial integrity and political independence of the state, that right is derived from the citizens of that state. This is precisely the claim that Walzer makes when he says that the duties and rights of states are nothing more than the rights and duties of those who compose them. Grotius conceived the individual and her natural rights as the core of law, and to which the fundamental principles of good faith and solidarity are universally applicable, regardless of nationality or status. This principle of natural law was applied to the international sphere, and thus the Law of Nations derives its core premises. Accordingly, the nation state was developed out of the necessity to guarantee the security of the individual. It follows that the legal rights of the state are bound within the mandate of securing the inherent and basic rights of the individual. Viewed in this light, the international right to state sovereignty simultaneously endorses and restricts its powers: a threat to the security of the citizens who together comprise the state permits the suspension of that conditional right. This argument relies on the assumption that the purpose of the United Nations is the security of persons, with a view to develop and maintain global peace. And while the UN was established to do this via the governance of intra-state conflict, the majority of conflicts are inter-state, so if their purpose is to protect the individual, it is increasingly the case that the culprit of the crime of war falls on the heads of the individual's own governments, therefore the point of the UN is to protect individuals from their own governments. This, the argument follows, means that

humanitarian intervention does not in fact violate state sovereignty—rather, it helps maintain it in accordance with its original intention. Any serious critique of humanitarian intervention must be able to address this reading of state sovereignty.

Strictly (legally) speaking, sovereignty refers to the legal independence of all states or international organs. Rostow defines it like this:

The formal structure of the international state system is built on the principle that each state is autonomous and independent, and has the right in its internal affairs to be free from acts of coercion committed or assisted by other states. This rule is basic to the possibility of international law.¹³⁸

According to the International Law Commission's "Draft Declaration on Rights and Duties of States" (1949) articles one and two distinguish external and internal sovereignty as being respectively "the right to independence and hence to exercise freely, without dictation by any other State, all its legal powers, including the choice of its own form of government" and "the right to exercise jurisdiction over its territory and over all persons and things therein, subject to the immunities recognized by international law".¹³⁹ Legally speaking, then, the problem of humanitarian intervention rests within its inherent breach of the principle of sovereignty. Humanitarian intervention must be able to reconcile, on a legal basis, *de lege lata* (what the law is, explicitly) with *de lege ferenda* (what the law ought to be). The ability to do so lies in its capacity to provide a moral justification for what the law ought to be, stemming from a universal conception

¹³⁸ E. Rostow, "In Search of a Major Premise: 'What is a Foreign Policy For?'" (April 1971), 239-242.

¹³⁹ International Law Commission (ILC) 'Draft Declaration on Rights and Duties of States' (1949), GA Resolution 375 (IV).

about the law of nature, with regard to basic security of all persons. It is with this in mind that Aristotle said “One part of what is politically just is natural, and the other part legal. What is natural is what has the same validity everywhere alike”.¹⁴⁰ It is this that cosmopolitans refer to with respect to a universal or common morality.

Before addressing this claim, I want to review the literature on what the stated purpose of sovereignty is, because if it is a principle worth defending, it must have some merit to it above and beyond the principle itself. What makes this principle worth defending, and why is the challenge of it met with such suspicion and reticence by many? Finally, after sketching out some of the objections to the violation of state sovereignty, I will offer a new interpretation of the concept of sovereignty, and how it should be understood in terms of globalization.

One of the problems with the violation of the principle of sovereignty is that the mechanisms or means used to implement the desired ends are somewhat contradictory. First, the challenge to sovereignty that is, the exercise of the most basic sense of ultimate authority over a particular territory, is integral to the purported intentions of the kind of political institutions we want to install. Further, it is only through sovereignty that such institutions are developed and implemented. In this sense, the means (military intervention) are at odds with the ends (the guarantee of human rights, which can only be implemented through a sovereign state’s institutions). The idea that a military force can go in and halt massive human rights abuses without any political interpretation of the situation,

¹⁴⁰ Aristotle, *Nicomachean Ethics* (Oxford: Oxford University Press, 1998), 20 (1134b).

and therefore, without any particular plan for a post-intervention period, makes the possibility for the effectiveness of the intervention unlikely. Admittedly, the ICISS recognizes that "...intervention sometimes means taking sides in intra-state conflicts. Once it does so, the international community may only be aiding in the further fragmentation of the state system"¹⁴¹. The only way to guarantee peace is through the binding international human rights covenants, and the only way to do that is through the sovereign exercise of ratification of international treaties. Human rights records according to OSCE indicate that states whose sovereignty is firmly grounded are more likely to be respected than in states whose sovereignty is tenuous.

Secondly, the idea that international actors can construct democratic governance goes against, in a sense, what democratic governance is really about. "Democracy is," says Stanton, "among other things, a means for resolving conflicts in a society on an ongoing basis".¹⁴² Within that structure we identify institutions like, for example, regular, free and fair elections. The Western liberal tradition emphasizes procedures that ensure effective participation which in turn is designed to ensure public accountability of elected officials. Sustainable democratic institutions can only prevail in societies where winning or losing an election will not cause them harm. This problem is illustrated through the army coup against President Jean-Baptiste Aristide of Haiti less than a year after he won internationally recognized and certified elections. There must be a reconciliation of and a mechanism balancing the mediating role of sovereignty

¹⁴¹ ICISS, 1.22., 5.

¹⁴² Kimberly Stanton, "Pitfalls of Intervention: Sovereignty as a Foundation for Human Rights", *Harvard International Review* 16, no. 1 (Fall, 1993): 15.

with the nature of the democratic learning process: “The road to change is not through force, but by encouraging practices consistent with democracy and respectful of human rights”.¹⁴³ What Stanton hopes to achieve with this analysis is a reinforcement of the ratification of international covenants, from which we can derive claims that are valid in international law in national courts. By institutionalizing international human rights practices on the legislative, judicial and enforcement level, the authority is asserted on the local level as opposed to the international one, where that kind of implementation is purely theoretical. This also ensures that interventionist aims do not have imperial aspirations in their chosen territory of concern. Neocolonialist fears about humanitarian intervention are prevalent in this claim: “It is well-known that the practice of intervention has diverged from international law with respect to ‘less civilized,’ ‘non-Western,’ ‘developing’ states, leaving intervention linked with imperialism and colonialism in historical memory”.¹⁴⁴

But I want to further challenge the notion of sovereignty, especially in terms of how it is used (and abused) in this context. Any challenge to sovereignty must include an analysis of how we understand sovereignty in an age of globalization. Further, we must include the meaning and significance of ‘sovereignty’ in an age where globalization is not only a fact, but an irreversible one. That sovereignty is contingent upon so many other economic as well as cultural factors is but one clarifying point through which we are challenged to see states not as individual separate entities in which conflict erupts, void of any

¹⁴³ Stanton, 16.

¹⁴⁴ Stanton, 16.

international interference or knowledge, but rather a web of intricately woven designs, already challenging the idea that we live segregated, each of us on our own islands.

The notion of strict sovereignty is in fact a mythical one: no such thing actually exists. Interference with one another's borders happen at many levels: economic trade, environmental degradation; political philosophies; refugee crises; and media are only a few of the ways in which our borders are more malleable, less solid than international law recognizes. The only time interventionists talk about the need to trump the right of sovereignty is in terms of military action. But sovereignty is trumped through all kinds of other more subtle measures.¹⁴⁵

Sovereignty is already conditional upon many factors which influence, interfere and restructure traditional notions of its inviolability. I have already made the argument that so much of intra-state activity is dependent and influenced by international actors, thus already reducing what it means to be sovereign (in the sense of 'independent').

Intervention is already a fact, but military intervention is not its logical fallout, especially given the amount of influence the international community is already able to yield. If the international community is able to yield enormous influence, as I have shown that it has, then my suggestion, which may sound naive, but which I believe is far more effective and less dangerous to global peace and stability, is that that influence be used in a non-military capacity to reduce the risk of conflict.

¹⁴⁵ The film, *Genocide By Sanctions*, DVD, directed by Gloria La Riva (New York: People's Video Network, 1998) is a devastating portrayal of the impact of US foreign policy on Iraqi children.

I believe that this idea is the truly radical one, whereas humanitarian intervention is treated as though it is radical and innovative. It is radical because sovereignty is an idea that ensures the rights for equality for all member states of the world, not just the strong ones, whereas justifying military force is a fact of history. There is nothing new or interesting about it. Even using human rights as the justification for the use of force is not a new or radical idea. It has been used, and it has been abused throughout history. But putting pressure on our governments to use the power they already have to impede conflict, instead of encourage it is the radical idea. It allows us to maintain the sovereign equality it took so long to achieve and it delegates responsibility for all members of the global community to participate in active, non violent way with the genuine cosmopolitan intention to ensure peace and stability. Sovereignty is not the thing that should be attacked because it is not the core of the problem.

The next claim to legitimacy refers to the principle of deterrence. Its justificatory appeal remains within the frame of the humanitarian narrative in that it presupposes a number of key factors about the nature of conflict being strictly internal, without considering external influences or the impact of the international community. As such, it will be criticized along the same lines of the general theme throughout this critique.

III-vii: The deterrence principle

The deterrence principle relies on the belief that the practice of humanitarian intervention will discourage weak states from conducting systematic violations of human rights, and that absent such a policy, human rights violations would likely increase in problem areas where separatist groups emerge or ethnic tensions exist. In general, this position holds that adherence to human rights is a precondition to state stability and that weak states would be forced to comply if examples were set by humanitarian interventions. This in turn contributes to global peace and security.

On a very practical level, this theory may backfire: As explained by the Danish Institute of International Affairs,

By increasing the frequency of humanitarian intervention and sharpening the rhetoric about absolute rights for individuals and groups that overrule traditional notions of sovereignty there is a risk of altering the calculations of and encouraging rebellion among minorities and other groups who are targets of government oppression.¹⁴⁶

But because there exists a disproportionate amount of media coverage and government attention to regions which are more or less of strategic importance, the risk is that weak states could be in humanitarian crisis situations, suffering further fragmentation, with no recourse to help. The fact that humanitarian interventions are recommendations, and not obligations, and further, because military action is selected on the basis of strategic importance or political alliance, plans by rebel forces to gain attention through violence may work against them.

¹⁴⁶ *Humanitarian Intervention*, DUPI, 102.

This kind of deterrence-setting can cause more friction than the intended consequence of stability.

Also, adhering to this principle requires an abandonment of the principle of equality between states, and to do so would be, in my opinion, a terrible setback in the gains international law has made in developing a theoretically egalitarian international society of states. Further, this principle gives too much legal and military power to the already disproportionately powerful states who would be the interveners or the example-setters. To make the claim that there is a risk for abuse is to neglect the reality which extends beyond 'risk'. Rogue states in this case are only weak ones. Even if we show, through international legal case study where, when, how and to what degree a powerful nations like the United States had defied international law, thereby qualifying them as 'rogue states', they would not be subject to a military intervention on the basis of example-setting to the rest of the world. Stronger, intervening states will never be subject to this kind of scrutiny and this leads to an inherent inequality amongst states. A cynical way of framing this argument would be to suggest that the rules of Security Council only apply to strong (powerful) states, while weak ones are subjected to ad-hoc law. International legal scholars have set principles of equality in the explicit letter of the law with a view to reduce the kind of imbalance that a 'deterrence-principle' would admit. This principle legitimizes inequality between states, and treats international law with disdain. The next section will address the problem of Security Council paralysis.

III-viii: The only response to Security Council paralysis:

Some respond to the problem of humanitarian intervention by suggesting that because rogue states can calculate and thereby abuse the Security Council system by relying on votes one way or another, while getting away with abusive practices in their state, the only way to resolve this problem is to act despite Security Council paralysis. This is a familiar argument made by human rights activists frustrated by the inability of the Security Council to make any definitive moves in times of urgency. The idea thus furthered in that the Security Council is not able to fulfill its function as an executive power which is in effect, to maintain international peace and security.

In response to this, weighing the alternative may prove to be just as unpalatable, and it may further jeopardize the already fragile international security system we have in place. Making exceptions for the use of force after working so hard as an international community to prohibit it, may not only mean a step backward in the development of international law, it may create a loop-hole for the prohibition of the use of force when non-humanitarian interests dominate. Further, dividing the Security Council in this way (acting despite the invocation of the veto) can upset the legal order established post WWII, dividing the great powers, and creating the kind of hostility at the international level which could lead to greater global instability: “Side-stepping the Security Council and endangering the relationship between the great powers for the sake of human rights enforcement might produce consequences for the whole world far worse

than inaction in the face of humanitarian disaster".¹⁴⁷ Following that, with the undermining of the authority of the Security Council, we would really have no central authoritative figure to whom we turn to address issues of security and peace. This would be to ultimately undermine the whole project for peace post WWII—that is, the beginning of the end of the United Nations. The next section will deal with what it means to raise the intolerance for human rights abuses in the sense that military action will elevate our standards for human rights throughout the world.

¹⁴⁷ *Humanitarian Intervention*, DUPI, 102.

III-ix: The enforcement of high regional standards by use of humanitarian intervention without Security Council approval:

The idea advanced here is that if a group of liberal-democratic states raise the bar for the security and human rights of individuals higher than what the international legal standards have set, they should not be bound to the laws of the lower standard. Basically, it means that individuals in conflict zones whose lives are at risk are failed by the global community who are adhering to the lowest common denominator.

Inherent in this idea is the presupposition that the liberal-democratic states are morally superior, precedent-setting states, whose example rogue states are bound to follow, lest they are punished by the use of military force by the stronger. By this point, I think I have adequately shown that the participation of so-called liberal democracies in foreign conflict compromises their position of moral superiority. Further, what this view advances is the creation of a new law, a parallel set of rules, enforced by the more powerful states. In my view, this would be to put at risk the existing legal order for another set of rules, developed and enforced by, let us call it, the political elite. I think this would cause great damage to our international legal order which seeks to include the world as a global community in the advancement of law for the protection of all the peoples of the world. The United Nations, after all, is composed of “we, the people”, not “we, the elites”.

Positing the claim that humanitarian intervention is truly based on humanitarian grounds, we must observe some ‘realist cautions’ as delineated by Coady. There are three that he notes. The first refers to the danger of moral

superiority, wherein not only does one suffer from an inflated moral sense of self, but one becomes blinded to one's own moral flaws as a result. Under this distortion, regions or groups of people are categorized under 'good' and 'evil', excluding complex subtleties required for the astute political and moral judgment. Coady writes "Sanctification of oneself goes hand in hand with demonization of the other, and such rigid dualism is an obstacle to a sober ethic of international responsibility."¹⁴⁸ Realism, he goes on to say, requires that we recognize evil wherever and whenever it occurs. He notes that the monsters of today are our friends of yesterday, and may be our allies of tomorrow.

The second moral trap delineated refers to the moral oversimplification of seeing human rights violations without any context. While concern for human rights weighs heavily on us, this concern must not blind us from the history and context within which they occur. "Outrage", claims Coady "is no substitute for insight. A legitimate concern for principles needs to be anchored in the factual realities within which the principles have to make sense and be applied".¹⁴⁹ Thirdly, we must caution against implicit imposition of values on others. Quite simply there are some values that may not have merit on a universal scale, while those we regard as a moral minimum must be approached with caution and care.

The idea that we, in the West, can posit the standards for the rest of the world follows the trend of colonialism, and moves away from what I would call genuine cosmopolitanism. The problem with some visions of cosmopolitanism, and the reason they are regarded with such suspicion is indeed because they often

¹⁴⁸ Coady, "The Ethics of Armed ...", 16.

¹⁴⁹ Ibid, 16.

sound more like masked colonialists than advocates for members of humanity which include all members, and not just the ones who see things as we do. The idea that we can raise the standards for the rest of the human race is therefore inherently suspect, and should be treated with caution, especially when raising those so-called standards requires using military force. Having dealt with the last claim for legitimacy generally used, and as delineated by the Danish Institute of International Affairs, I will now conclude this section with a view to introducing the way in which a reinterpretation of cosmopolitanism will further challenge the way humanitarianism is used as a justification for military force.

III-x: Conclusion: The Viability of Humanitarian Intervention

The crux of the matter is about humanitarian interventions and their tenability. It seems that the principle challenges much of what international legal theory has worked so hard to achieve. The impulse behind international legal movements, like the Kellogg-Briand Pact condemning recourse to war is the maintenance of security and the preservation of the sanctity of human life. But the powerful impulse motivating humanitarian intervention is (as we shall call it) a cosmopolitan principle that we should help fellow human beings of the world, regardless of borders. Both the insistence of the inviolability of sovereignty and the insistence that we traverse sovereign borders are motivated by the same thing: human security.

The motivation of the solidarist trend to support humanitarian interventions are worthy enough, but the theory neglects to recognize the importance of political context and the power dynamics within which such actions are taken. Failure to appreciate the context within which any humanitarian catastrophe occurs renders us vulnerable to grave errors in judgment, especially in terms of post-intervention phase. Further, it supposes that the good intentions of the citizens of Western states, from where military intervention is likely to emerge, are a genuine reflection of the intentions of the governments representing them. Pluralists see the problem in terms of agreeing to a basic number of rules (sovereignty and its corollary, non-intervention) as a way of safeguarding the world from the ravages of war. The solidarists then face the challenge of developing (especially unilateral) military interventions reflecting a cosmopolitan

will or law an expression of the whole, because surely any cosmopolitan conception must include the whole, and not just the powerful.

At this point I have dealt with the problems of motive, intention, and inconsistency; I have treated what I think are the major conceptual and foundational problems with humanitarian intervention with an analysis of both the narrative frame and the problem of media and knowledge. Further, I have outlined some of the practical justifications used to legitimize the use of force for humanitarian reasons. Now I turn to what I believe lays at the heart of interventionism—that is, the cosmopolitan frame. That humanitarian intervention is conceptually and theoretically problematic is a fact to be lamented by interventionists, and perhaps celebrated by non-interventionists. What I want to contribute with my critique of the subject is that at the heart of humanitarian intervention is not a genuine cosmopolitanism. Cosmopolitanism must be reexamined with a view to giving back to the people what has been misappropriated for often political purposes. Cosmopolitanism redefined as such allows people to simultaneously maintain the integrity of their local identity and warrant the respect attributed to all members of humanity qua human beings.

In order to make this critique of humanitarian intervention a valuable contribution to the discourse of its legitimacy and tenability, it must speak to the cosmopolitans of the world. It must appeal to the advocates of a so-called cosmopolitan world order. The challenge will be to critique some of the assumptions cosmopolitans have been known to make, and yet to maintain the integrity of the idea of cosmopolitanism. It is not my intention to impede the

progress of cosmopolitanism. Rather, I hope to contribute to its redirection in order to strengthen the merit of its foundation.

Central to my argument will be that instead of defining cosmopolitanism from a Western world view, and instead of then imposing that definition on the rest of the world, cosmopolitans must make both a moral and conceptual shift in terms of understanding the plurality of perspectives in the world. In this argument, I challenge the cosmopolitan to redefine him or herself, instead of defining the other. To do so, I will begin with outlining why cosmopolitanism is important for both interventionists and non-interventionists alike. I will then provide a brief historical overview of some of the conceptions of cosmopolitanism, paying special attention to some of the problems that emerge from it. From there I will move on to what I call failed cosmopolitanism, exemplified by Diogenes, in order to introduce a competing conception of patriotism. My analysis of patriotism will be to show how it can play an important role in correcting some of the flaws cosmopolitanism is susceptible to. In so doing, I provide a brief analysis of what patriotism does include, what it should not include and how to develop a mechanism for testing it against the common charge of irrationality and exclusivity. This will provide the backdrop for what I call a cosmopolitan patriotism, from which I aspire to derive at a global conception which challenges the merits of humanitarian intervention, and instead provides the challenge for cosmopolitans to engage in a conceptual shift that will allow us to rewrite the narrative frame from which we currently justify such interventions.

Chapter IV:
Cosmopolitanism: Competing Conceptions

**IV-i: The importance of cosmopolitanism for both interventionists
and non-interventionists:**

The historical context for the idea of a ‘cosmopolitan legal order’ can be found in the Ancient Greek conception that there exists a universal law of nature, to which everybody is bound. This idea can be traced back to Aristotle: “One part of what is politically just is natural, and the other part is legal. What is natural is what has the same validity everywhere alike.”¹⁵⁰ The Stoics continued the tradition with their theories about the Law of Nature being something inherently built within the structure of the universe, and something as such, naturally directing all rational beings. This knowledge was conceivable a priori, and therefore both universal and applicable to all human beings. This section will reveal some problems with this original conception, highlight its historical progress, offer some contemporary illustrations of the idea, and most importantly, examine the idea against the emerging conception of humanitarian intervention, with a view to show its incompatibility with it.

Up until this point, I have mapped out the dominant conception of humanitarian intervention, with a view to expose some of the core problems inherent within its legitimacy. I have tried to show that central to our understanding and acceptance of the legitimacy of humanitarian intervention is a misconception about an ‘us’ and ‘them’ frame. A consistent strand which runs through this argument is that rather than focus on how to go in and ‘help’ others using military force, we need to critically re-examine our relationship to the

¹⁵⁰ Aristotle, 20.

'other' prior to and during conflict. By including our role in the greater analysis we seek to develop a mechanism where we genuinely hold responsibility for our actions in the atrocities that occur. Only then can we develop international policies whose aim is to reduce the possibilities for conflict, through peaceful measures, while maintaining global stability. This is the context within which I develop a cosmopolitan vision which I believe supports true, universal goals. The vision I see as currently dominated in the literature, that is, promoting cosmopolitan militaries for cosmopolitan purposes is one which I believe subverts its own intended goals.¹⁵¹

The notion of cosmopolitanism is foundational for both interventionists and non-interventionists alike, because we have the same goals: to ensure global stability and peace for all members of humanity. What motivates our collective analysis, our project, and our contributions of differing conceptions of cosmopolitanism is a fundamental respect for and love of humanity. What complicates this effort is the fact that we do have different conceptions of cosmopolitanism, and more importantly, different ideas about how to implement our notions about cosmopolitanism. At this point, our common understanding of cosmopolitanism is vague enough that it could serve different purposes, or competing political agendas. The idea that a cosmopolitan ethic is both possible

¹⁵¹ These ideas are generally found in the work of William Smith, 2007 (particularly in the project "Cosmopolitanism and military intervention" with Robert Fine); Daniele Archibugi, "Cosmopolitan Guidelines for Humanitarian Intervention", in *Alternatives*, (vol. 29 no.1 2004); Loarraine Elliott and Graeme Cheesman, "Cosmopolitan ethics and militaries as 'forces for good'" in *Forces for Good: Cosmopolitan Militaries in the 21st Century* (Manchester: Manchester University Press, 2005); or, "Cosmopolitan theory, militaries, and the deployment of force", (Department of International Relations, RSPAS, Canberra: Australian National University, 2002); or, Mary Kaldor *New and Old Wars: Organized violence in a global era* (Cambridge: Polity Press, 1999).

and worthy is not in dispute. Expressions of a cosmopolitan ethic exist in abundance and we see examples of it everywhere. World wide efforts to maintain peace and end hunger are manifestations of a cosmopolitan ethic, no matter how cynically we evaluate our efforts and progress. I do, however, contend that the idea expressed in its most general terms is often manipulated to serve political ends. Still, cosmopolitanism is a worthy and as Kant would argue, necessary goal for our continued survival and I believe it is best expressed through the improvement and development of current international law, and not in the development of humanitarian intervention. Troublesome is the idea that cosmopolitanism as a moral idea is sometimes hijacked to suit the needs of advocates of humanitarian intervention, although nothing about it represents the collective will of the international community. In the first section of this chapter, I will engage in the dubious task of defining cosmopolitanism, but as I do so, I will come across the more problematic areas of cosmopolitanism, not the least of which is to understand the relationship between patriotism and cosmopolitanism. As such, what will follow is an analysis of what patriotism is with reference to cosmopolitanism.

IV-ii: Defining Cosmopolitanism:

While a survey of the literature on cosmopolitanism will provide a broad range of interpretations, some general principles find their way to the surface of the discussion thereby shaping, more or less, a normative frame. It is from that frame that we use to develop and enrich our common project and universal dream. Its negative formulation, found in any standard dictionary focuses on what cosmopolitanism is not: parochial, nationalistic, and prejudiced. More vague is what it aspires to be: a universal morality. Scholars make reference to 'world citizenship' which "implies membership on the part of all individuals in a universal community of all human beings as moral persons"¹⁵². Cosmopolitan thinkers identify generally three basic premises which constitute cosmopolitanism: the first refers to all human beings as the ultimate units of moral and political concern; the second is that all human beings possess equal moral status; and the third is that persons are subjects of concern for everyone, and in that sense, no one can escape the obligations they have to respect the equal moral status of all human beings.¹⁵³ Nussbaum refers to cosmopolitanism as the recognition of humanity "wherever it occurs, and to give its fundamental ingredients, reason and moral capacity, our first allegiance and respect"¹⁵⁴. Or put another way, a cosmopolitan ethic "entails the acknowledgement of some notion

¹⁵² Patrick Hayden, *Cosmopolitan Global Politics* (Aldershot: Ashgate Publishing Ltd, 2005), 11.

¹⁵³ *Ibid*, 3.

¹⁵⁴ Martha Nussbaum, "Patriotism and Cosmopolitanism" in *For Love of Country: Debating the Limits of Patriotism*, ed., Joshua Cohen (Boston: Beacon Press, 1996), 7.

of common humanity that translates ethically into an idea of shared or common moral duties towards others by virtue of this humanity.¹⁵⁵

The conceptual claim made by cosmopolitanism is that all human beings enjoy equal moral worth in a single global community, often poetically referred to as ‘the community of humanity’. There is an important distinction between legal and moral cosmopolitanism that authors like Brian Barry and Patrick Hayden note, we should not confuse the latter with an institutional prescription.¹⁵⁶ Moral cosmopolitanism refers to the conceptual idea that “all persons stand in certain moral relations with one another by virtue of the fact that they are members of a universal community”.¹⁵⁷ The latter refers to a political order based on the implementation of equal legal rights and duties of all citizens of the world. The moral claim is a conceptual one, whereas the legal one is a practical imperative. The latter makes demands on us which some interpret with international legal reforms—i.e., the legalization of and justification for actions like humanitarian intervention. It suggests that we reevaluate our traditional understanding about the inviolability of state sovereignty in order to fulfill the cosmopolitan demand. It is interpreted to mean that cosmopolitan law is above traditional law protecting territorial integrity. It is still not clear, however, what the correct interpretation of the moral cosmopolitan is in legal terms. Kant is always considered a moral cosmopolitan, yet there is much debate about whether he advanced the principle of military intervention, which many contemporary cosmopolitans, like Fernando

¹⁵⁵ Lu, 87.

¹⁵⁶ Brian Barry, “Statism and Nationalism: A Cosmopolitan Critique”, in *Global Justice: Nomos XLI* (1999) 35; Hayden, 3.

¹⁵⁷ Hayden, 3.

Teson develop. While Teson claims that a correct interpretation of Kant necessitates the application of military intervention in humanitarian crises, not all Kantians agree¹⁵⁸. Defending one claim against the other depends often on which part of Kant one chooses to focus on, and how one reads Kant. His inconsistency on this question reflects some of the profound difficulties accompanying the institutionalization of a conceptual ideal of this kind. In a world riddled with the kinds of tensions Kant could not have anticipated, the problem of defining, interpreting and furthering a conception of the cosmopolitan ideal becomes that much more urgent. The need to develop a normative framework empowering states to act as global police is the realization of a particular cosmopolitan conception on a legal level. But it is not a universally accepted framework for the realization of the moral cosmopolitan who wants to advance the goal of global security and the security of persons. These competing conceptions about how to translate the (conceptual) moral cosmopolitan ideal into the (practical) legal cosmopolitan is what makes this project an urgent one.

The idea that we have a universal law under which we can all live can be traced to the Stoics. According to the Stoics the source of cosmopolitanism is reason. The rational capacities of all humankind unite us in a global community. Central to Stoic thought was that the more we are able to liberate ourselves from external circumstances upon which we have no control, and the more we are able to rely on our rational capacities, the more at ease we will be with ourselves and

¹⁵⁸ For instance, "Kant on Politics, Peace, and History: Editor's Introduction" in Immanuel Kant, *Toward Perpetual Peace' and Other Writings on Politics, Peace, and History*, ed. Pauline Kleingeld (New Haven: Yale University Press, 2006), xv-xxiv.

each other. The capacity of reason is that which links all members of humanity in one group. As Cicero puts it: “For its bonding consists of reason and speech, which reconcile men to one another, through teaching, learning, communicating, debating and making judgments, and unite them in a kind of natural fellowship [...]”.¹⁵⁹ The development of this human capacity for reason can only be realized within society, and from that smaller unit, we move towards a universal level to harmonize our interests and find common ways of living together.

What we can appreciate today that perhaps the Stoics were naïve to the fact that we are not always (or often) motivated by reason alone. Other more subtle influences can subvert, distract, or direct our attention and the conclusions we draw may have little to do with reasonable arguments. This remains a fact of humanity. Rather than deny or reject that fact, I think that we are able to derive great value from the diversity of influences that we have which are based in what I will refer to here as *external non-rational influences*. Those external non-rational influences may refer to anything from a person’s particular idiosyncrasies, to family circumstances, or community values. They are the nuances which contribute to the shaping of identity. Instead of seeing those other influences as irrational, we can put them in the category of the non-rational. Today there is a new tolerance and appreciation of the special status of non-rational influences, and a recognition of their contribution to what we refer to, in part, as our humanity. They are integral, after all, to most of what we feel and by extension, of what we think. To dream of a purely rational world, in which we derive the same conclusions because we are following the same sets of rules is not

¹⁵⁹ Hayden, 13.

only unrealistic, but even adverse to our needs. It was a novel idea when the Stoics came up with it but it does not suit our human needs. It, in fact, denies our humanity, and has proven to be not only unreliable, but undesirable. We should consider this in light of how the cosmopolitan project continues to be shaped throughout history.

Much of cosmopolitan discourse includes a conception of universal, common interests, in general, but the specific content about which causes some problems. Cicero claims that ... "all men should have this one object, that the benefit of each individual and the benefit of all together should be the same",¹⁶⁰ but warns at the same time that "[i]f anyone arrogates it to himself, all human intercourse will be dissolved".¹⁶¹ The challenge for cosmopolitanism is to find not only definitions of common interests, but methods of inquiry that are inclusive and universal at the same time. The weight of this challenge is significant, for how can we make claims for the greater community of humanity, and who, precisely, is making these claims on behalf of the whole? We must frame the question in terms of a universal applicability of that which we can conceive. Cicero treats the problem like this:

Furthermore, if nature prescribes that one man should want to consider the interests of another, whoever he may be, for the very reason that he is a man, it is necessary, according to the same nature, than what is beneficial to all is something common. If that is so, then we are all constrained by one and the same law of nature; and if that also is true, then we are certainly forbidden by the law of nature from acting violently against another person.¹⁶²

¹⁶⁰ Cicero quoted in Hayden, 14,

¹⁶¹ Ibid.

¹⁶² Ibid.

For the Stoics, cosmopolitanism begins with, but is not limited to, local forms of government. They did not make exclusive local and universal communities. We will see how Nussbaum separates and makes prior the universal community of humanity. This will be a point of contention and I will argue that this separation is unnecessary and that making our commitment to humanity prior to our commitment to local obligations inadvertently undermines the goals of the cosmopolitan. I will later show parallels with the way we conceive of and apply new standards in international law. When we examine the legal equivalent in international law, we can see that this separation renders legal reform inconsistent and that it ultimately subverts its own goals. This point will become particularly important when examining the role of patriotism and its relationship to cosmopolitanism.

The pressing question for this inquiry is to ask how we understand cosmopolitanism. What epistemological mechanism do we have for revealing something about that which concerns us all? In order to show a method for arriving at defining and understanding cosmopolitanism, I want to first show what methods can fail us. The point about this is to caution against an approach that will not serve our ultimate cosmopolitan ends: cosmopolitan ends are always serving the interest of humanity. The next section will deal with Diognese, our failed cosmopolitan, or what cosmopolitanism is not and I will compare his efforts with those of Socrates and Kant, the kinds of successful cosmopolitans we want to emulate today.

One of the more contentious claims I will make is that cosmopolitanism need not stand in opposition with patriotism. Before that, however, I will have to define patriotism, especially in terms of its relationship to nationalism. Because I write very positively about patriotism, I will have to acknowledge what happens when patriotism goes wrong. More importantly, I will delineate some of the circumstances which ignite the evils of nationalism in order to focus more on the conditions which make violent conflict possible. My work consistently incorporates an analysis of the greater picture in conflict, which will ultimately guide us in determining how to be good cosmopolitans, and how to implement the kinds of policies that will be comprised of long-term effective mechanism to reduce the risk of further conflict. Defending patriotism as I do, will of course, open up a slew of other problems more difficult to treat: the most obvious one of which will be referred to as the *problem of patriotic partiality*. I will show how I think we can treat that problem, and then I will outline the benefits of what I call a *cosmopolitan patriotism*. A cosmopolitan patriot will be defined as the kind of cosmopolitan who is first a good patriot. In making such a claim normative, I will certainly confront some valid objections. Without being categorical about it, I will show how there are some cosmopolitans who are better and worse than others. Like Diogenes, there are failed cosmopolitans—although I am quite sure that Diogenes will serve as an exception to that rule. This is in an effort to show how we know about each other, compatriots and non compatriots alike with a view to developing an analysis that will help reveal the mechanism for developing cosmopolitan notions.

IV-iii: Diogenes: The Failed Cosmopolitan, or What Cosmopolitanism is Not:

Two central historical reference points upon which we must draw to better develop a notion of cosmopolitanism are Stoicism and Kantian cosmopolitanism. Any definition of cosmopolitanism often begins with or cites one or both of these sources. Contemporary thinkers on cosmopolitanism interpret and develop these ideas in sometimes conflicting ways. Martha Nussbaum, for example, defines cosmopolitanism in opposition with all forms of patriotism, whereas Pauline Kleingeld defends patriotism as not only compatible with, but a necessary component of Kantian cosmopolitanism. I tend toward Kleingeld's position favourably, while finding fault and inconsistency with Nussbaum's treatment. Stoic cosmopolitanism, although separate and distinct from the Cynics, was influenced by the Cynics, and in particular, Diogenes whose claim to world citizenship is often cited to represent a cosmopolitan sensibility. I will use Diogenes to frame the way in which patriotism is often framed in opposition to cosmopolitanism, before dealing with the problem of patriotic partiality. The purpose of developing the notion of patriotism is to show that by defining it in opposition to cosmopolitanism, we make the goal of attaining some sort of viable definition of cosmopolitanism that much more difficult.

Nussbaum frequently draws on Diogenes to frame the context for cosmopolitanism. When asked where he comes from, Diogenes is famously reputed as answering, "I am a citizen of the world".¹⁶³ This should reflect in essence the value of cosmopolitanism in that one belongs not primarily to his or

¹⁶³ Martha Nussbaum, "Kant and Cosmopolitanism" in *Perpetual Peace: Essays on Kant's Cosmopolitan Ideal*, eds., James Bohman and Matthias Lutz-Bachmann (Cambridge, Massachusetts: MIT Press, 1997), 29.

her own local community, but rather to the greater community of humanity. Nussbaum interprets Diogenes to mean that he “insisted on defining himself, primarily, in terms of more universal aspirations and concerns”.¹⁶⁴ Diogenes would not have made a good candidate for communitarianism, nor would he have made a very good cheerleader for the local game. What that really means is that he was not bound by local affiliations. His aspirations were greater, higher than what the common obligations of the state citizen would entail. But I intend to show (and later I will show where Kant may have agreed with this claim) that Diogenes in fact fails as a citizen of his own state, and as a result, he also fails as a citizen of the world. The idea expressed by Diogenes is that he refused to be bound by the social laws and customs of his particular community. Instead, his allegiance would be to the greater community of humanity. However, I would argue that Diogenes’ refusal to be bound by local laws and customs is in fact a failure on his part to be an active, participating member of his community. The extent to which he fails, therefore, as a citizen in his own community, is the extent to which he fails as a world citizen. The two are related in that the success of the global cosmopolitan citizen depends on the success of the local one, lest claims to world citizenship lack genuine meaning and commitment. Diogenes exemplifies this well, and I draw on him to show not only what cosmopolitanism is not, but where we can go wrong in treating it irresponsibly. The utter lack of commitment Diogenes has toward his community and his complete disregard for social customs (which he rendered trivial and banal) make it difficult for me to imagine that he had any feeling for the whole of humanity. After all, it is our

¹⁶⁴ Ibid.

local affiliations from which we derive a sense of responsibility and feeling for humankind, and it is through the concrete actions on the local level that we can develop notions and feelings about and for ‘humanity’. Kant warns of this tendency toward the abstract as opposed to the concrete in his work *Metaphysics of Morals Vigilantius*. He claims that “it cannot but be the case that, because of too much generality, he scatters his affection and entirely loses any particular devotion”.¹⁶⁵ Lu puts it quite succinctly in an essay aptly called *The One and Many Faces of Cosmopolitanism* when she addresses critics of cosmopolitanism for claiming that, like Diogenes, cosmopolitans are attached to nothing, in replying that “A person without roots or allegiances is certainly doomed to superficiality, but a cosmopolitan, with multiple roots and bound by diverse compelling obligations, almost certainly is not”.¹⁶⁶

Our conception of global obligation is not born out of a vacuum, but rather is derived from a very particular, concrete relationship with local affiliations. That local affiliation is subjective, situated, particular. That particular understanding inspires and drives our larger (cosmopolitan) goal. In effect, it defines our cosmopolitan goals. It might explain why a cosmopolitan intellectual in Iraq critiques the project of humanitarian intervention, while a cosmopolitan intellectual in New York defends it. They both have affiliations and commitments to humanity, but their particular experiences inform them of different things, different realities. This conceptual order is fundamental to our

¹⁶⁵ Kant, *MM Vig*, XVII, 2.1, 673 quoted from Kleingeld in, “Kant’s Cosmopolitan Patriotism” *Kant-Studien* 94. (2003): 311.

¹⁶⁶ Lu, 98.

understanding not only of the project of cosmopolitanism, but also how it will translate into international law.

Diogenes, it seems, had feeling for neither his own community nor the greater one, rendering his claim empty, void of meaning, and even irresponsible. His commitment to humanity brings to mind Oscar Wilde's quip: 'I love humanity, I just hate people'. Only in the sense that we love particular human beings can we extend this feeling toward those whose names and faces we do not know. The value of cosmopolitanism, then does not stand opposed to patriotism (that is, a sense of duty and a feeling of love toward one's own local community) but rather, because of it. From this local sense of belonging can one extend oneself to the greater goal of world citizenship. Skipping the first step renders the second empty, without content or meaning. We would be destined to be like Diogenes, grand in words, little in action. Unlike Diogenes, the Stoics did not insist on withdrawing from public life in the local community to realize their cosmopolitan goals. Rather, they derived the source of their inspiration from contributing and adhering to the laws of their community. Participation in public life was an obligation for the citizen, and the argument advanced at the time was that one could only develop one's rational capacities on a universal level by being an acting, thinking, participating member of one's local community (city state, or *polis*). Socrates exemplifies the sentiment of cosmopolitanism expressed within his local community much better than does Diogenes because of his genuine commitment to humanity based on, but not limited to, his particular community. Charles Taylor offers insight when he takes the Aristotelian view that "Man is a

social animal, indeed a political animal, because he is not self-sufficient alone, and in an important sense is not self-sufficient outside a polis".¹⁶⁷

Cosmopolitanism, according to the Stoics, is that "the basis for human community is the worth of reason in each and every human being".¹⁶⁸ Reason is "a portion of the divine in each of us".¹⁶⁹ Indeed, what we are looking for in a definition for cosmopolitanism is that which connects all of us as members of the greater community of humanity. If we can claim that reason is that which separates us from other kinds of animals, it is reason which connects us to each other. And if what the Stoics claim is at least partly true (that reason is what makes us divine) we can argue that the absence of reason is what makes of evil. I say partly because both reason and feeling contribute to our humanity, and just as reason is shared universal tool (albeit applied in a variety of ways), so to is feeling. While we have different conceptions of what is good and evil, we all have a conception of good and evil. Our collective response to cruelty is both an individual and shared response, contributing to our common humanity, or cosmopolitanism. Lu summarizes the point like this:

Different ethical approaches may value differently moral goods such as freedom, humanity, community and security, but in acknowledging that all these goods can be destroyed by cruelty and fear, ethical perspectives may be united in their condemnation of cruelty and fear.¹⁷⁰

It is not reason alone which unites us, nor feeling alone, but the interconnectedness of both reason and feeling which enables us to understand

¹⁶⁷ Charles Taylor, *Human Agency and Language* (Cambridge: Cambridge University Press, 1985), 190.

¹⁶⁸ Nussbaum, *Perpetual Peace*, 30.

¹⁶⁹ Nussbaum, *Perpetual Peace*, 30.


¹⁷⁰ Lu, 96.

concrete (thick) morality on a conceptual (universal, 'thin') level. What struck Hannah Arendt at the Eichmann trials was not so much the presence of evil, but the absence of thought. Understood like this, reason is a moral choice, and it is what makes us worthy. It is the tool with which we become human, and becoming human is about joining the club (the greater community of humanity). Zeno interpreted this to mean that we can ground a common idea of law—that resonates with something universal, and something universal begins to sound like a truly cosmopolitan conception. Cicero claimed that every human being should promote the good of every other human being just because s/he is human: "And if this is so, we are all subject to a single law of nature, and if this is so we are bound not to harm anyone".¹⁷¹ This would be the controlling factor in stabilizing patriotism, not allowing it to conflict with the values of community of humanity, allowing us to examine with reason (and feeling because it too is capable of scrutiny) the values we have inherited through our traditions and communities. And this, indeed, is what allows communities to grow and change: our ability to examine our own local values, test them against reason and feeling, and derive conclusions about their worth. All people do this in the sense that all communities are vibrant, living organisms, changing as we grow. I have shown that reason is not the sole tool from which we derive our understanding of the world, But it forms, the common part of our humanity, with other things like emotion, compassion, ideas about justice or the good life, varying as those ideas might be. Where the local community informs and constitutes the 'thick' or

¹⁷¹ Cicero quoted in Nussbaum, *Perpetual Peace*, 31.

substantive part of our local (patriotic) identity, reason refers to the ‘thin’, cosmopolitan part of our identity.

The next step is to show why patriotism and cosmopolitanism need not be incompatible. In order to do that, I need to play with the definition of patriotism open it up a little bit, and include the richness and diversity it is capable of entailing. It seems our conceptions of both patriotism and cosmopolitanism are often oversimplified or too rigid. Cosmopolitanism as world citizenship is too vague and abstract for our practical day to day experience, for practical application. It fails to include what it means for you and I, citizens of a particular place at a particular time to be ‘world citizens’. On the other hand, self-identity limited to patriotism is too rigid and exclusive. It lacks the imagination and plurality necessary for rich moral life. Therefore, an analysis of what patriotism means in this context is necessary. Most important in this critique is the idea that it is unnecessary to identify and define oneself either as a patriot or as a cosmopolitan, to the exclusion of each other. I will answer that by defining patriotism in a way that can appeal to the sensibility of the cosmopolitan, without alienating the patriot. In so doing, I will also show that the patriot is more than a mindless, flag-waving drone. In order to strengthen this argument, I will have to address the problem of the negative side of patriotism—that is, extreme nationalism. I will show that it is not ‘love of country’, or ‘patriotism’ that is the problem in as much as it is a set of conditions which bring out the worst in people. In order to develop this idea, I will offer a brief description of a way to look at



patriotism that coheres with our experience of it in a positive way. The next section is devoted to showing what this means exactly.

IV-iv: Defining Patriotism:

In this section, I will address not only what I mean when I use the term ‘patriotism’, but how, if at all, it is different from nationalism. Further, I need to consider how a patriot of one state deals with patriots of another state: this will be to distinguish universalistic from particularist conceptions of patriotism. In this section after offering a series of distinctions in the way we define ‘patriotism’, I isolate some core problems with the definition of patriotism—that is, how we understand and practice loyalty, and how we understand the term ‘love’. I will introduce the problem of partiality in the next section, because any defense of patriotism needs to address the problem of how partiality can be explained, justified, and especially accommodated in a cosmopolitan ethic.

First, I will use Kant’s categorizations to illustrate the different kinds or levels of patriotism and in order to show the complexity within that term. Pauline Kleingeld identifies three types of patriotism in Kant’s work: civic patriotism, national patriotism and trait-or quality based patriotism. Civic patriotism refers to the active participation of members in a community. Civic nationalism is also associated with Ernest Renan who defined it as “a voluntary association of individuals” where “...individuals give themselves a state, and the state is what binds together the nation”.¹⁷² According to Kant, citizens are not necessarily of the same ethnic origin as their governments; they are able to criticize the government; they are not properties of government, nor does the government see them as property. National patriotism refers to membership of a nation. In this

¹⁷² Jocelyn Couture, Kai Nielsen, and Michel Seymour, eds., *Rethinking Nationalism* (Calgary: University of Calgary Press, 1996), 2.

case, common national ancestry should lead to patriotism. Finally, trait, or quality-based patriotism refers to love for one's country given the experience of particular traits or qualities that it happens to have. Herder identifies what might fall under Kant's category of national patriotism which is a nationalism based on common language, culture and tradition. In this case, the nation precedes the state and it is a collective body, transcending the individual. Herder thought that if people shared the same language, culture and history, they also shared the same ancestry, lineage and blood.¹⁷³ Today we see that this is not necessarily the case.

Some authors, like Jeffrey Johnson, radically distinguish patriotism from nationalism, attributing all the negative things we normally associate with nationalism to that term (ethnic superiority, xenophobia, etc.) and then attributing all the positive things like love and devotion to one's community to patriotism. According to Johnson, "Nationalism is a distortion and perversion of patriotism"¹⁷⁴. He compares Gandhi's vision of patriotism as a love of the local which extends to the global and 'nationalism' as defined as "a closed set of sentiments that manifest itself in a fanatical fixation—a narcissistic and exclusionary focus—on one's own tribe or country while denigrating other tribes and countries"¹⁷⁵. In essence, he is simply separating what is good about patriotism from where it can go terribly wrong by labeling the latter 'nationalism'. Kai Nielsen, on the other hand, uses the term 'nationalism',¹⁷⁶ when he talks about what Johnson calls 'patriotism'. A cursory reading of standard dictionary

¹⁷³ Ibid, 3.

¹⁷⁴ Jeffrey Johnson, "Cosmopolitan Patriotism" *New Thinking* 1, no. 1 (Winter, 2003): 23.

¹⁷⁵ Johnson, 20.

¹⁷⁶ Kai Nielsen, "Cosmopolitan Nationalism", *The Monist*, 82, no.3 (July 1999): 446.

references to both nationalism and patriotism always includes “love of country” for which a citizen is prepared to make sacrifices if need be, as the main defining characteristic, but definitions for nationalism also include its negative tendency, such as “excessive patriotism” or “chauvinism”. This is what we normally think of when we hear rallying nationalistic cries. For the sake of consistency, I will use the term ‘patriotism’ but I must include (by conflating) the term ‘nationalism’ as it is used by many authors to define what I am referring to as (the more positive sibling) ‘patriotism’.

Jeff McMahan, for example, defines “nationalism” vaguely as “a cluster of beliefs about the normative significance of nations and nationality”.¹⁷⁷ He construes two strands of nationalism—one positive and one negative. The positive construction includes virtues such as loyalty, commitment and self-sacrifice, while the negative includes the incapacity of those qualities to be exercised equally to non-members by definition. Due to the fact of being a members-only club, nationalists develop their virtues with reference to exclusion of others. The partiality their members are afforded comes at the expense of foreign nationals in that for patriotism to exist, there has to be foreign, non-nationals if we (the patriotic group) are to be defined in any concrete way. More specifically, he attributes the beliefs of nationalists to include, among other things,

...that the continued existence and flourishing of their own nation is a fundamental good, that the members of the nation ought to control their own collective affairs, and that membership in the nation makes it not only permissible but in many instances morally required to manifest loyalty and partiality to fellow members.¹⁷⁸

¹⁷⁷ Jeff McMahan and Robert McKim, eds., *The Morality of Nationalism* (New York and Oxford: Oxford University Press, 1997), 108.

¹⁷⁸ *Ibid*, 108.

He distinguishes between two types of nationalists: those he calls *particularist* from those he calls *universalists*. The former group, in its most radical manifestation, refers to entitlement and exclusion of these beliefs of only the group in question, at the exclusion of foreign non-nationals who might have the same patriotic feelings toward their own communities. There is no real reason to defend or argue against that view as its irrationality disqualifies it from any meaningful contribution to the discourse on the subject. The *universalists*, on the other hand, include in their conception of nationalism that all people have the same rights they do in terms of valuing their own communities and attributing to them a special status. This view merits some serious consideration because it probably most appeals to those patriots who see themselves as part of a greater community of humanity, with a particular affiliation and identity, for which they care deeply, but because of which, they do not want to deny other, like-minded patriots from enjoying equal status.

Discourse on patriotism makes inescapable references to 'loyalty to' and 'love of' one's country. Loyalty and love, although generally viewed as positive characteristics, can cause some deeply problematic moral issues, depending on the recipient of the loyalty and love. The two terms seem to presuppose many things in our common understanding of them, and those things refer most innocuously to stupidity, blindness, exclusion and intolerance of other. I want to evaluate some of the assumptions we make when we refer to conceptions of both loyalty and love, although in order to make our personal experiences of loyalty and love analogous to patriotism, I will have to distinguish between romantic love which is

often incomparable to patriotic love, and makes different requirements of us. I will however, use the analogy even in romantic and familial loyalty and love to illustrate and distinguish a constructive, positive way of expressing those values, versus a destructive and negative way to do so. This is not to say that the negative assumptions we make about loyalty and love are unwarranted. Indeed, the reason we make them is because we are often guilty of applying these misconceptions in our practical experience of using them. This is, however, to deeply evaluate the meanings of loyalty and love with a view to challenging our misuse or abuse of the terms, and more importantly, to see how revealing these assumptions might help us overcome some of the problems we have with patriotism.

To do so is to identify what the requirements of loyalty and of love are. This means specifically delineating what the defining qualities and characteristics about loyalty and about love are insofar as we understand and use those terms. It is to question the important assumption that loyalty to something, for example, necessitates the exclusion from another thing. We use these terms in reference to different things: loyalty in romantic relationships normally constitutes at least some exclusion from engaging, for instance, in other romantic relationships, but the same is not necessarily true, for example, with friendship. Romantic loyalty is more specifically about fidelity, referring more to something like conjugal faithfulness, and it is not the same as being loyal in a broader sense. Romantic fidelity, as distinct from more general types of loyalty, makes special requirements of us because of the special status romantic affiliations have. Exclusion from engaging in other romantic relationships does not present a moral

problem because we tend to recognize the special status of those relationships, and we understand what is required of them. However, that deals with loyalty purely on only one level. What are the other ways with which we understand ‘loyalty to’ and ‘love of’ which apply even to romantic relationships, despite their special status?

Being loyal to someone, for example, does not necessitate lying for them if they have committed legal or moral wrongs. Loyalty is not a substitute for honesty and it can be expressed in many different ways. Loyalty can be expressed by valuing common goods that enrich human life—not only the kinds of goods that enrich only one person’s and their lover’s life. Instead of perceiving one’s commitments to another in terms of a restriction from other values, at the exclusion of more universal ones, we can better interpret loyalty to mean a loyalty towards someone as one value within a greater set of values, neither confining nor impeding values pertaining to the greater good of humanity. Loyalty, in this sense, does not accommodate the aiding and abetting of immoral crime and such behavior. Further, loyalty does not mean thinking uncritically, unreasonably, or not at all. Loyalty, like love, conceived in its greatest capacity includes critical observation, reasonable analysis, thought, activity, and commitment. Practiced the right way, it contributes to moral growth, character building and knowledge. The best friend, the best parent, the best spouse, will not cheat for his/her friend, child, lover, but rather participate in acts that will enable the friend, child, lover to grow, and become better by realizing and appreciating those values that make up the whole, not just the part belonging to us. It is the harder, more courageous

manifestation of loyalty than the one immediately satisfying the temporary need. And just because we do cheat for our children and lie for our lovers, that does not mean that this is how to rightly enact loyalty or to fulfill the essence of its meanings. It simply points to acts that are less courageous and less moral than we hope, but it does not diminish the aspiration toward the better example. This is how commitment, love and loyalty to the particular help contribute to the greater. Acts of loyalty on the local level must not oppose our commitments to the global level because to do so would be to devalue what is closest to us for immediate gain. This is where we misuse the terms of love and loyalty that are normally so equated with exclusion and denial of other.

Comparing love and loyalty on a familial and romantic level with the same values on a national level serve only to show us how we can enact those values in ways that are constructive and good, just as we can, during moments of weakness, or due to weakness in character, enact those same values in very destructive and morally bankrupt ways. Being loyal to someone is not a good in itself, it is a good because of how that action is being realized—with thought, care, reason, and feeling as opposed to loyalty that is hateful, irrational, and blind. This distinction serves to clarify how patriotism could be (and indeed is) misconstrued negatively, but the distinction also helps to show how patriotism is a positive and constructive thing.

Patriotism is misconstrued in the way that love often is as well. The literature on nationalism seems to treat ‘love of’ as unruly, irrational, and in opposition to reason. On the one pole stands reason and universalizable

principles, and on the other side we pit love, passion, unstructured emotions, nationalism. The division is not only oversimplified, it devalues the possibilities of what love can achieve, while overestimating reason. Love can be a blinding and irrational force, but it can just as well be a form of knowledge, an avenue to understanding. Compassion and empathy are forms of knowledge best achieved through feelings like love. It can give us special access where reason fails. The relationship between love and reason is far too intricate to separate in such black and white terms.

Patriotism is but one of many self-expressions and I argue that having a sense of patriotism does not preclude having other kinds of affiliations and commitments. Charles Jones defines patriotism is quite standard (“love of one’s country and one’s compatriots, and patriotic loyalty”), but then adds “the patriot is someone who believes that he is justified in extending greater concern to some persons—compatriots—than others”.¹⁷⁹ But that would be to suggest that the patriot really has only one identity—the one stemming from the state, and has no other identity. We must be careful of oversimplifying the patriot just as we are critical in our understanding of the more abstract notion of cosmopolitanism. I have only just introduced some of the problems with both cosmopolitanism and patriotism, with the understanding that if we take the cosmopolitan out of the clouds, and pull the patriot out of the parade, we might actually arrive at what would be a self understanding that coheres with our actual experience about what it is to be both a patriot and a cosmopolitan. This is to make the not-so-radical

¹⁷⁹ Charles Jones, “Patriotism, Morality and Global Justice”, in *Nomos XLI: Global Justice*, eds., Ian Shapiro and Lea Brilmayer (New York: NYU Press, 1999), 127.

claim that we are rarely only patriots, and (impossibly) only cosmopolitans. The former informs the latter, the latter is grounded by the former. But, before I continue unraveling the complexities and problems with patriotism, I will draw attention, in light of the greater project, to how we view patriotism, and how we practice the uses of that term, especially in terms of how and to whom we attribute the negative or positive connotations of it. I will introduce the idea of attributing the status of good and bad to patriots, and I will address what that means in the context of the cosmopolitan. I argue that there are standards and double standards which are applied according to a particular world view which I will challenge.

IV-v: Good and Bad Patriots: Standards and Double Standards:

I have shown that being a patriot is something that one can do well, using reason, feeling, and imagination to weigh and measure one's responses to the state, or one can do badly, limiting one's expression in the world to occur through a single conception of the world—i.e., the patriotic one. Good patriots would be those who have a love of and commitment to their country in a positive and constructive way. Bad patriots are irrationally passionate about their countries and are incapable or unwilling to use reason and feeling to assess the policies of their governments. They would have false beliefs about superiority and they would be exclusionary or particularist in their conception of patriotism.

Many critics of patriotism (or, in this sense, nationalism) divide patriots into categories that are both interesting and alarming. Good and bad patriots are so classed not in terms of a particular criterion, like a detailed analysis of what constitutes good patriotism or bad nationalism, but according to geo-political divisions, furthering the 'us' and 'them' dichotomy. In his seminal work, *Orientalism*, Edward Said exposes the kinds of assumptions we make as we divide up the world into east and west. Relevant to this analysis is his observation that "Orientalism was ultimately a political vision of reality whose structure promoted the difference between the familiar (Europe, West, "us") and the strange (the Orient, the East, "them")."¹⁸⁰ I will show how we have not sufficiently challenged our old colonialist practices in judging foreign cultures, especially in terms of understanding their conflicts. This supports my claim that one of the problems in appealing for humanitarian intervention within a cosmopolitan frame

¹⁸⁰ Edward Said, *Orientalism* (New York: Vintage Books, 1994), 14.

as it is currently shaped, is that it involves a fundamental misunderstanding of other cultures and people. How we assess foreign conflicts, and how we understand patriotism, will help us reveal the assumptions that we make when we decide how to implement a 'cosmopolitan order'.

When discussing patriotism, there exists a double standard, which remains unchallenged in the discourse on nationalism. Canadian patriotism is not at issue. The 'us' and 'them' dichotomy exists in blatantly racist terms. What follows is an excerpt on the debate about nationalism, and it represents the views of a series of scholars without challenging the ethno-centric values, which, as good cosmopolitans, we are trying to move past:

Many scholars of nationalism **do acknowledge** that some forms of nationalism are less erratic than others. Hans Kohn, John Plamenatz, and Anthony D. Smith all distinguish Western from Eastern forms of nationalism. Kohn sees **Western nationalism as essentially a rational and liberal way of thinking** grounded in the notion of human rights. **Eastern nationalism is its opposite: it is mystical, ethnocentric, and grounded in tribal feelings.** For Plamenatz, Western nationalism characterizes culturally developed nations that can, from a position of self-confidence, approach each other on an equal footing, seeking cooperation on the basis of mutual respect. Eastern nationalism characterizes primitive nations who, motivated by feelings of inferiority, adopt belligerent policies. Smith speaks of **Western nationalism as civic and political, and of Eastern nationalism as ethnic and genealogical.**¹⁸¹ (emphasis added).

This excerpt is, on the one hand, especially worrisome and, on the other, very revealing. It is worrisome because it appears in a context which is not challenged, but it is revealing in that it expresses what seems to be an inherent belief on the part of Westerners: we are indeed more advanced, civilized, and rational than Easterners, perhaps including other non-Western groups as well. This

¹⁸¹ Yael Tamir, *Rethinking Nationalism*, 69.

assumptions leads to more serious repercussions: we do not monitor the actions of Western peacekeepers when they are in foreign lands and we do not question who the victims of humanitarian intervention will be. In seeing ourselves as the more civilized and more rational faction of a deeply uncivilized and irrational world, we tend to see ourselves as the saviors of those in crisis. But other than a direct appeal to racist assumptions, nothing actually justifies this belief. It is simply ethnocentrism which we tend to cloak in cosmopolitan terms. Inherent in these kinds of presumptions are potentially abusive practices, which may be the unintended result of genuinely mistaken beliefs.

Further, and most importantly, the way in which we characterize nations as irrational and tribal will influence the way we think about international policies and the way we conceive of cosmopolitanism. If “our” (Western, liberal-democratic) patriotism is rational, self-confident, egalitarian, and “their” patriotism is ethno-centric, primitive, and mystical, then surely we will dismiss any contribution “they” would have in terms of a cosmopolitan ethic, and the burden would be put upon “us” to devise an ethical and legal cosmopolitan world order that would in effect, create two different sets of rules: ones that apply to the rational and liberal states and ones that apply to the ethnocentric and tribal ones. This not only creates a world order which is structurally, practically, and theoretically unequal, it leaves no room for a mechanism by which we remedy that inequality. This means that in effect, we are less likely to understand the people, the conflicts, and most importantly the solution to the problem because, in part, of their inferior status to ours in this ‘cosmopolitan’ system or order. It is

therefore easier to justify humanitarian interventions because by dehumanizing the people of the regions in which we intervene, we think less about civilian casualties, or the devastating consequences of war.

When Eastern and Western patriotisms are distinguished as respectively irrational and rational, what is at the foundation of this belief is the fact of conflict, which is understood (incorrectly) strictly in ethnic terms. Because these conflicts are read only along ethnic lines, an “erratic nationalism” is attributed to them. What these East-West divisions really assume is that there is something inherently backward about Eastern nationalism that does not take into consideration the context within which conflicts arise. If Western nations have not launched into civil strife lately it is not because our nations are more advanced, it is because nothing in our socio-economic conditions would allow for such a thing. The belief that ‘we’ Westerners could not launch into the kind of death and destruction we saw in the Balkans because we are somehow inherently better or more advanced is precisely the kind of racist belief that many cosmopolitans unconsciously hold.

In the next level of analysis, it is necessary to show when it is appropriate engage in patriotic feeling as well to account for patriotic pride in a healthy, evaluative way. The West is believed (by Westerners) to be less erratic in their patriotism which is empirically difficult to support if one travels though the American mid-west on July 4. In any discussion on patriotism, therefore, it is important to include what it is to be reasonably patriotic. It will also be important

to account for who is included as being reasonably patriotic, or put another way, who is included in being a good patriot.

Patriotism is not so much a problem in terms of what it can include (loyalty, love, commitment), but rather it is problematic in terms of how it is practiced. Now, I have argued that there are good and bad ways to practice patriotism, but I oppose the claim that we can divide nations into the kinds of general characteristics that we have seen some scholars create. Further, I believe that evaluating patriotism in terms of geo-social, political regions, as opposed to concrete guidelines furthers the cynical belief on the part of weaker nations that the West is interested not in human rights, but in global domination. Concrete guidelines can illuminate when patriotism is good and constructive and when it is bad and contrary to our cosmopolitan goals. To protect ourselves from that kind of accusation, we must be prepared to evaluate the kinds of assumptions we make, and their potentially devastating repercussions.

Still, patriotism evokes images of flag-waving, and this is sometimes (in some contexts) distasteful. When it is appropriate and when it is not, will be evaluated with reference to what I call the *problem of pride*. I will apply a criterion for evaluating the circumstances in which it is appropriate or not to show patriotic feeling. I will use as my basis, once again, a standard to which we must adhere when we evaluate our patriotic feelings. As I have consistently claimed, feelings are one avenue toward knowledge and nothing impedes us from analyzing emotional responses. Nenad Miscevic treats this problem in *Nationalism and Beyond* when he makes an analogy between being a member of

the white race and being a member of a national community.¹⁸² I will address that problem by illustrating when and where it is appropriate to talk in terms of pride and I will delineate a criterion upon which we can make those decisions.

¹⁸² Nenad Miscevic, *Nationalism and Beyond: introducing moral debate about values*, (Budapest, Hungary: Central University Press, 2001), 3.

IV-v: The Problem of False Pride

Miscevic asks us to imagine someone saying he/she is “proud of being white”¹⁸³. With this introductory analogy, he sets out to show why nationalism “is almost as problematic as racism” and goes on to argue that “our attitude to national exclusivity should become more like our negative attitude towards the racial kind”¹⁸⁴. There is no doubt about the moral reprehensibility of racism, but this does not speak to the soundness of the analogy. Many critics of nationalism use it, although I want to again underline that I am dealing with tamer version of patriotism, as opposed to extreme patriotism—what Johnson refers to as ‘nationalism’. However, to make sure that we do not go wrong with patriotism, I must treat this analogy as a legitimate challenge. If we replace the word ‘white’ and substitute it with a nationality what is reprehensible about pride in a race, Miscevic argues, is the same thing that makes pride in nationality distasteful. This problem refers to what I have described as the problem of making false assumptions about superiority, or put differently, the problem of pride. While a variety of authors have dealt with this in different ways,¹⁸⁵ I want to focus on the issue of ‘pride’, what it is, and when it is appropriate.

It is difficult, for example, to imagine someone being proud of being white without interpreting that to mean that they are making claims to superiority at the same time. The reason for that fact has to do with an historical narrative about a cultural indoctrination of white supremacy, the violence inherent in that and of slavery. Imperialism, oppression, hateful practices are amongst some of the parts

¹⁸³ Miscevic, 3.

¹⁸⁴ Miscevic, 4.

¹⁸⁵ McMahan, 126.

of the historical narrative that would make one recoil from making claims about white pride. But what if someone said they were proud of being black? What makes that claim substantively different? McMahan makes an exception for members of oppressed groups who have been the victims of discrimination, although he does so in terms of racial partiality. I will be dealing with what it means to be proud, when that is appropriate, and why Black pride, is one example where pride is appropriate.

The roots of black pride, represented in slogans like “Black is beautiful” are derived from struggle and determination in the face of discrimination and oppression. White pride is inextricably associated with theories of natural superiority, upon which a justification for discrimination is based. If a person is able to speak about black pride, and indeed, this is not only acceptable but encouraged, then the problem Miscevic sets out is not with being proud of one’s skin colour, but rather with being proud about a history of discrimination and hateful practices. There is no place for white pride today because there is no struggle against which the white race has had to fight in order to survive and advance. That is not the same situation for those who have been oppressed and discriminated against.

To further probe the issue, we must put ‘pride’ under the microscope. What justifies an Italian in saying “I’m proud of being Italian”. That, in a sense is like being proud of an accident. What does that do to the ethnic Greek who was adopted by an Italian family whose name changed from Vasilios to Tony. People are, of course, proud of their accidents. There must, however, be a distinction

between what is acceptable from what is not, and criteria upon which to base that distinction. Why, for example, should one be alarmed if a rich, white American man were to stand up and say “I’m proud of my colour, nationality and gender”, whereas if Audrey Lorde stood up to say “I’m proud of being a black American poet” it would not evoke the same reaction. This has to do with the fact that Audrey Lorde has contributed to a greater struggle to succeed and become who she is, through effort whereas the American male really did not have to do anything to become what he is. The point of pride is located where one contributes to their community in a meaningful way. The poet, too, is proud of her accidents, and had nothing to do with being born female and black, but because of her struggle to maintain an identity and pursue goals in an otherwise hostile environment to her gender, colour and profession. Rich, white men do not have to defend, assert, protect their identity, property, or in general, basic human rights in the way that Black women poets do.

To go back to the Italian patriot again, without going into the problem of ethnic purity, because it really has no place here, the problem is to determine when and why a person feels pride for their nationality and when, if ever, that is morally permissible. The Italian patriot might find herself waving a flag and beeping her horn after the Italians win the world cup in soccer. Nussbaum may shudder, and my critics may ask in what way did Maria contribute to the Italians winning of the world cup? In what way did she struggle, like Audre Lorde, and go against the odds to contribute in a meaningful way to what it means to be Italian? The response has to do with imagination, feeling and belonging. Being

part of a community, albeit accidentally, includes feeling pride with regard to its achievements and conversely, shame with its failures. As Appiah observes, the patriot is the first to suffer when his or her country fails him/her¹⁸⁶. The non-patriot simply does not care, and that is a serious problem.

Hitler most notoriously failed the people of his state when he advanced his conception of racial purity. If the German non-patriot feels nothing when failed by his or her state and if that non-patriot appeals to the notion of cosmopolitanism to explain his or her lack of feeling toward community, then that citizen has failed his or her state in the same way that the leader has. It is the example of Diogenes all over again. This argument relies on the belief that to be a contributing member of a cosmopolitan world order, one has to have been able to participate in some meaningful way to one's own local community. Feeling shame for the failures of one's state is the first step toward making a positive contribution to its revised conception and rebuilding. The non-patriot can say "I just don't care about this place" and then leave, but that lack of feeling and subsequent inaction will impair that person's ability to contribute to the advancement of a cosmopolitan project.

We participate in our communities in various ways, so while the toilet cleaner, who has never succeeded in joining any soccer club, may feel great joy at his country's team winning the cup, he is justified in feeling so, as he is a member of that greater club. Still, this does not put him at odds with the even greater club of humanity. We continue to participate in the realm of competitive sports, and good sportsmanship teaches us the limits to our support for the home team. Beating up the winning side does not show good sportsmanship, for example.

¹⁸⁶ Kwame Anthony Appiah, "Cosmopolitan Patriots" *For Love of Country*, 26.

While our membership to community is accidental, it is that accident which defines us, and this definition does not compete with our definition of what it means to be a human being—such as being a member of the greater community of humanity. It is important to underline that this definition never necessitates exclusion from, or superiority over, any other club member. It can, and it often does, but it should not, and its definition does not rely on any such exclusion.

Miscevic conflates two distinct ideas: nationalism and racism. He likens one to the other claiming that there are no real grounds for nationalism, calling what nationalists refer to as their identity as “imagined community”. Imagined, it is—to a certain degree, but I fail to see the problem with imagination, and fear venturing into the world of epistemological soundness when it comes to defining either a people, or better yet, humanity. Cultural identity makes reference to tenuous ideas. They are subject to interpretation and revision. While it is true that we belong to particular communities by accident, but we interpret them in imaginative ways and these interpretations are expressions of the whole. These interpretations are that which define us.

The problem of pride must be evaluated in the same ways that all feelings are evaluated—tested against reason, informed by empathy and compassion. Pride, too, must be reasoned out: why am I proud? Do I have any reason to be? If the test fails, disappointment, regret and suffering are the appropriate responses. Many of the greatest patriots in the United States spend an enormous amount of time, energy and devotion arguing against, and revealing some of, the more sinister American foreign policies of the last fifty years. They do so because of a

fundamental belief in what their country stands for. Pride in this way can motivate action for the greater good. In the case of what I call genuine American patriots (as opposed to the morally bankrupt flag-waving drone), pride motivates tremendous effort to redirect foreign policy which shames the country, and especially the patriot. This is the patriot who questions what it means to love one's country, and who responds to those questions deeply, sincerely, and at great cost to oneself.

To further push the boundaries of this claim is to ask if this feeling of pride requires something more, like a loyalty and attachment to Canadians (if one is Canadian) above and beyond other non-compatriots. Does making the claim require that we love and care for our compatriots more than non-patriots? If so, this is going to be a problem—not the least of which is that we do not know most of our Canadian compatriots. This is to address the problem of how a theory could demand of us that our loyalty and love of the place from which we hail, necessitates that we prefer those living within the geographical borders of our own country. Such a claim will challenge the idea that to be good citizens of the world, or cosmopolitans, we should be good patriots first. My response will include an analysis of where patriots go wrong exactly, with a view to broaden the theory, offer some solutions to those kinds of problems that seem more intuitively correct. In this next section, I will offer up a theory about when, and under what circumstances, if ever, patriotic partiality is morally permissible or necessary.

IV-vi: The Problem of Patriotic Partiality:

There are two strands of nationalism or patriotism with which many people are uncomfortable, and for which reason notions of nationalism are regarded with suspicion and distaste. Nationalism becomes a moral issue when it assumes exclusion of other, and as a result, creates partiality. It is commonly thought that having a commitment and obligation toward our immediate community negates or precludes our greater obligations to the community of humanity. The belief which seems to contradict the idea of impartial justice integral to cosmopolitanism, referred to as *patriotic partiality*—(that is, that people may favour their own compatriots over non compatriots)¹⁸⁷ is framed in a slightly deceptive way. It is not that we do or do not favour our compatriots over others, nor that we should or should not favour them. It is simply a descriptive fact that we have an immediate feeling for and compassion toward that which is closest to us, and this fact in no way needs to conflict with our commitments toward humanity. We have a multiplicity of affiliations and identifications which enrich our lives. Tragedy, as Nussbaum observes, is the irreconcilable conflict of two or more of these obligations. Good people, she explains, tend to have multiple values (which I am equating with commitments). Bad luck is the conflict of these values, and this is why the moral life is fragile.¹⁸⁸

When I say that we tend to have feeling toward those closest to us, I am referring to the kinds of people with whom we have relationships. The first, most

¹⁸⁷ Kok-Chor Tan, "Cosmopolitan Impartiality and Patriotic Partiality" in *Global Justice and Global Institutions* ed., Daniel Weinstock (Calgary, Alberta: University of Calgary Press, 2007), 165

¹⁸⁸ Martha Nussbaum, *The Fragility of Goodness: Luck and ethics in Greek tragedy and philosophy* (New York: Cambridge University Press, 1986), 7.

obvious example is having special obligations toward family, and this is referred to as *familial partiality*. But just because a person cannot help having (for example) special feeling for his or her own child, that fact (neither prescriptive nor derived from choice) does not preclude having compassion for, and a commitment toward all children—partly as an extension of feeling for one's own child. Children, of course, have special status in the moral permissibility of partiality because we have moral (and legal) obligations toward them. Partiality toward one's family is usually regarded in the literature on nationalism as incomparable with partiality toward one's compatriots because of the intensity and depth of familial relations.

I am not making the claim that familial partiality is like patriotic partiality. Clearly they are different. However, I am suggesting that having special obligations and duties to our own families does not preclude (by necessity) other kinds of obligations. Rather, I am making the stronger claim that because of our local obligations, we have stronger incentive to fulfill the moral demands of the greater community of humanity. The commitment to people of the world is derived from or inspired from the commitment one has learned in one's own community, and we cannot skip that step, so to speak. This is to develop the argument that to be a good cosmopolitan, one should be a good patriot first. This is by no means to make the reverse claim, which is that all patriots are cosmopolitans. However, I will show how good patriots will tend toward cosmopolitanism. Just as we have failed cosmopolitans, we also have failed

patriots, whose reasoning and moral imaginations fall short of fulfilling the obligations we have toward humanity.

What makes patriotism problematic for ethics is not that we prefer our compatriots, identify with them, and care for them, it is rather that we are supposed to do so *more* than for non-compatriots. But I do not think this is true, even if at first glance the definition of patriotism seems to suggest that it should. To separate and examine each issue, let us look at what it means to prefer compatriots over non compatriots in very practical terms, and in what cases it is or is not morally permissible to show partiality to compatriots. To prefer compatriots to non-compatriots on the basis on nationality alone and as a general rule seems inherently racist, and nothing about patriotism requires it. That we identify with, understand, and communicate well with compatriots is a fact about shared language, culture, history, and politics. Canadians get, and laugh at the Molson's "I am Canadian" ad, just as hard as the Quebecois laugh at "Je suis Quebecois, Tabernacle!" version. Any number of examples will serve this point, and the claim is morally neutral. It is the point at which one excludes non-compatriots *as a general rule* where one's patriotism can get ugly. Shared language is part of shared meaning, and it is therefore a natural part of self-expression which is often served in one's community well, and which can be enriched and developed in the presence of other non-compatriots. To reject people on the basis of nationality is like rejecting them on the basis of skin colour. It is racist, and as such, deplorable. But that is not what patriotism is. While patriotism includes "love of" in its definition, and "love of" assumes

“preference”, it does not preclude a love of other non-compatriots as well, perhaps in a different way, and different only insofar as the relationship, and therefore, understanding of non-compatriots is different.

The second problem posed by patriotic partiality is the one that has to do with caring for and helping those in need. The question refers to who is partial to whom, for what reason, and the answer demands a moral justification.

Governments of a state are partial to their own citizens evidenced by the fact that we put substantially more money in health care and social welfare, the arts, and education of our own state, than we do in foreign aid. This seems to me justifiable because it is an instrumental decision, based upon the purposes and goals of the government—that is, to organize the money collected from its citizens in a way that benefits them. However, when the government is able to fulfill that function, a patriot would not be incoherent or inconsistent with him/herself to put pressure on the government to use a portion of our money for the aid of non-compatriots who need it. Nothing in patriotism precludes this. This brings us to an important recognition in the partiality of patriots, when it is invoked, and if it can be justified.

In order to introduce the element of ‘crisis’ situations, I want to go back to the family analogy, despite having already attributed special status to it, and despite common sense dictating that we are partial to the needs of our own children before the needs of other children. Does the fact that familial partiality (owing to our families before other people) allow, for example, me to give my child many presents for Christmas, knowing full well that other children, like my

own, who by accident of birth are born in places where they lack the basic necessities for survival? We can say for certain that the allowance for familial partiality does not necessitate that I spend all of my money on Christmas gifts and not on aid despite the special-obligation stemming from the special-relationship status that I have with my children. To make the question harder, does familial partiality even *allow* for that? In answering this question, I will move on to what patriotic partiality allows for and demands. Quite simply, there is no moral justification on the grounds of familial partiality to over-indulge one's children on the grounds of special relationship status and because one can afford to do so. Familial partiality, like patriotic partiality must be assessed in terms of a particular criterion which includes more than membership for its allotment. In crisis situations, we determine how best and most effectively to distribute our resources in ways that consider not only nationality, but other things as well. The patriot is not obliged by some universal moral code to prefer his/her compatriots in times when others might be in more dire need than his/her compatriots. This speaks directly to the claim I made earlier that patriotism is not the only identification from which we derive our self-understanding and a conception of our place in the world. If the only self-identification were a patriotic one, then nationality would be the only criterion upon which one would determine how to distribute one's funds. If patriotism was the founding, but only first, identity, upon which others were built, then one could look around the world and assess its needs in more constructive ways.

Earlier I referred to good parents, good friends, good spouses, distinct from bad ones as analogous to good and bad patriotism. Bad parenting, like cheating for your child, is akin to supporting bad policies in your country simply because your government came up with them. In the same way, distributive justice for the patriot includes an analysis for determining how best to act in our globalized world, where we know that our actions affect the lives of other human beings. Think about what the over-indulgent parent teaches the child at gift-giving occasions: over-indulgence and consumerism are acceptable practices even in a world of extreme economic inequality. This person not only fails as a parent, but h/she fails as a person because by only recognizing the importance of his/her child, h/she fails to recognize the importance of other children. This is not to say that a parent must care equally for all children as that goes against not only common sense, but our capabilities as parents. But not recognizing others' needs, when one's own needs are not lacking, is not at all patriotic. It is inhumane. That person's humanity is slightly diminished in refusing to recognize the gravity of other children's suffering. Nothing in this story is patriotic.

This does not resolve the problem completely. I must now address the problem of choosing between the needs of the compatriot and non-compatriot when both are in need. On one hand one may argue that the poorest people's needs in developing countries are always higher than the poorest people's needs in our societies. On the other hand, some may argue that we have an obligation to help our local compatriots who are suffering because one's suffering in rich countries, while relative, is no less significant than the suffering of poorer non-

compatriots. I do not think a formula for patriotic partiality could give us universal laws that are applicable in all cases. When Jones and other scholars claim that patriotism involves extending greater concern to compatriots than to non-compatriots,¹⁸⁹ I do not see why we must be so categorical about it. We may, when situations arise, care more for compatriots, but there are many instances when good patriots send their money to far away places in a crisis situation, and nothing about their patriotism is necessarily hindered because of it. If the definition of patriotism includes categorically that all patriots *must* prefer their compatriots over and at the exclusion of non-compatriots, then the claim is too hard to defend—it is, in fact, unjustifiable. But such a vision of patriotism is simple and unimaginative. It shuts doors instead of opening them. Patriotism does not preclude reason, feeling, imagination and compassion, all of which we use in determining how to act in the world. No formula for how to be a good patriot could ever really fulfill the act of being a moral agent, situated in a particular place, in unique circumstances, at one time or another. Many factors will be considered when determining one's role both as a patriot and as a citizen of the world. At this point I might be accused of talking about something else—something distinctly sounding like a 'cosmopolitan' patriotism. Indeed, I am. Those skeptical of patriotism will challenge the defender of patriotism to explain how the cosmopolitan patriot can account for raw and ugly nationalism—that part of patriotism which can and often does go very wrong. The theory of cosmopolitan patriotism may sound on paper praiseworthy, but that theory does

¹⁸⁹ Charles Jones, *Global Cosmopolitanism* (New York: Oxford University Press, 1999), 112.

not account for the fact that patriotism often means, in people's actual experience of it, exclusion, and xenophobia.

To a certain degree, I have already begun to address this by talking about the importance of having not just a patriotic identity, but many other ones as well. The next section will analyze the conditions under which a person sees him or herself purely in ethnic terms. The relevance of this analysis is to show that in fact it is not patriotism that is at the heart of the problem, but rather the conditions under which people become unreasonable, or the conditions which force them to engage in the inhumanity of war. If war were only about ethnicity, critiques of patriotism would be right in arguing against it. But I will show that there are reasons why patriotism turns ugly, and if we can uncover the reasons, then we will find better ways to engage in conflict resolution, rather than through further conflict. The next section will address the problem of how and why patriotism can go wrong with a view to understanding, anticipating and correcting the problems of patriotism, before it spins out of control.

IV-vii: The Frame for why Patriotism goes Wrong

If a patriotic identity was the single identity from which one's self conception starts and ends, then the dangers are profound. As Jeff McMahan puts it it would be "the mark of a drone to accept with docility or without reflection a ready-made, mass-manufactured, one-dimensional conception of oneself...".¹⁹⁰ While this does exist I see people, for the most part, as far more complex than that. People's sympathies and bonds may start with, but certainly do not end with the national one. If we treat our national identities as one step toward our other identities, then we develop as richer, more complex individuals, from which finally, a cosmopolitan citizen can triumphantly emerge. It is specifically a triumph for the cosmopolitan patriot because it is a step toward peace:

Membership in and identification with a range of groups may enrich one's life, extend one's sympathies and bonds with others, and thereby lessen the potential for incomprehension of and conflict with others. Both prudence and an impartial concern with consequences therefore suggest that it is desirable for people to cultivate complex, multilayered individual identities, built around distinctive individual qualities and multifarious group identifications.¹⁹¹

McMahan refers to this as "complex identification" but he specifically excludes it from the definition of patriotism. As he puts it "complex identification does not, of course, exclude nationality as an element of individual identity; it merely denies nationality the preeminent importance assigned to it by the nationalist".¹⁹² A contemporary definition of patriotism does not necessarily put "preeminent importance" on nationalism per se, but rather attributes to it the value of the one out of many ways in which we understand ourselves in relation to the world,

¹⁹⁰ Jeff McMahan, *The Morality of Nationalism*, 121.

¹⁹¹ *Ibid*, 121.

¹⁹² *Ibid*, 121.

especially vis à vis our global commitments, to which patriotism is but one step.

There are times when patriots define themselves solely in terms of their nationalities. Walzer is wise to note that this happens when a state or a group is under attack or feels that it is under attack.¹⁹³ Nationals of former Yugoslavia had a variety of criticisms of their leader, Slobodan Milosevic, (distinct, separate, and likely more accurate than the criticisms from the international community), but in April 1999, the majority rallied in support of their President. They were under attack. Nationalism in former Yugoslavia had never been higher—not because the people have a genetic or cultural predisposition to nationalism¹⁹⁴ but because they felt unjustly attacked, misrepresented in the global community. The response was to identify purely in terms of nationality. It is not the natural state of affairs, and an examination of the literature on nationalism shows that it is especially during crisis situations where nationalism becomes an acute problem.

What is relevant to my critique is the way in which this understanding of bad patriotism illuminates some problems with the idea that we can solve crisis situations using military intervention. More precisely, a military intervention is more likely to breed not only acute nationalism, but also a greater degree of hostility, violence, and long-term instability. Military intervention thus promotes not cosmopolitan conditions, but rather its antithesis: nationalism, violence, instability. All of this leads to greater abuse of human rights. Global actions that

¹⁹³ Michael Walzer, *Thick and Thin: Moral Argument at Home* (Notre Dame: University of Notre Dame Press, 1994), 82.

¹⁹⁴ Rebecca West's magnum opus, *Black Lamb and Grey Falcon* (London: Penguin Books, 1940) documents the history of Yugoslavia beginning pre-WWII. Its perspective is invaluable in the uncanny way it foreshadows future events by locating the role of the Balkans in past failed global efforts toward peace. It also provides an atypical view of the region because of the way she 'reads' the narrative of the Balkans from within. West spent years traveling throughout, and studying the Balkan, especially within the context of European geo-politics and history.

encourage the worst part of patriotism must be evaluated with a view to develop the conditions for a cosmopolitan peaceful world order.

Charles Taylor makes the same ‘us’ and ‘them’ distinction when he talks about patriotism, attributing the good kind to the Quebecois, and the bad kind to others who have been engaged in wars, but he then immediately makes an observation, which I understand to mean that nationalism is the lesser culprit than other circumstances. He observes that

...nationalism is an outbreak of emotion that is understandable when people are under strain because of, say, a disorienting social and economic transition, especially if this is accompanied by hard times. So we understand why lots of Russians voted for Zhirinovsky in the last election, even though we deplore it, just as we understand why Algerians voted for the Islamic Salvation Front in their last election. Now if things had been going better, if people had felt more secure, or if there hadn't been so much unemployment and hardship, these extreme and dangerous parties wouldn't have made the headway they did.¹⁹⁵

This means that nationalism (“love of country”) is not the problem in as much as economic, geo-political circumstances which put the kind of strain on people that lends itself to fear, fear to irrationality, and irrationality to instability. Understood in this context, it is not nationalism per se that is the problem, but the kinds of conditions that enables extremism to erupt. That extremism could manifest itself in religion, nationality, cults or just about any other group activity. A terrorist from New York and one from London may have nothing in terms of ethnicity in common. Their reasons for conspiring to engage in terrorist activity then must be seen not in terms of an irrational nationalism, but in terms of the global conditions out of which blind fanaticism can erupt. The underlying claim here is that

¹⁹⁵ Charles Taylor, “Nationalism and Morality” in *The Morality of Nationalism*, 32.

conflict must be understood not solely in terms of ethnicity, lest we miss crucial parts of the analysis.

Kant defends the idea of nationalism within the context of the term 'republican' indicating that the condition for patriotism is freedom, equality and independence. This excludes groups promoting intolerance and inequality from the cosmopolitan ideal because they adhere to principles that go against the greater good of humanity. In other words, they are self-contradictory and incoherent and are excluded by their own inconsistency. We cannot set a criterion for ourselves and a different criterion for all other groups without being accused of setting multiple standards, for which no justification can be provided. Therefore patriotism has set limitations, but those limitations adhere to universal reason, rather than cultural difference. The same reasoning applies to the principle of tolerance. A patriot cannot be intolerant of other groups without being accused of being inconsistent or self-contradictory. So if cultural membership (the basis of patriotism) is in the Rawlsian sense a 'primary good', then it morally speaking, must be available to everyone, lest it be arbitrary, and therefore not a primary good. So we can get around the problem of partiality by not making the requirements of the patriot so limited. Instead, we see that good patriots will be good cosmopolitans. Cosmopolitan patriotism is the notion I develop in the next section.

IV-viii: Cosmopolitan Patriotism:

Taking Kant's idea of a cosmopolitan patriotism to another level, I would like to draw on the ideas of contemporary thinkers like Kai Nielsen, Charles Taylor, Kwame Anthony Appiah to develop the notion of what cosmopolitanism looks like when it is joined with (or modified by) patriotism. Having already articulated the different forms of patriotism according to Kant, and having made claims to what cosmopolitanism is not (that is, in opposition to theories of community and local identity), I propose to set some basic guidelines or qualifications for the cosmopolitan ideal. In what follows, I will defend the fundamental premises of cosmopolitanism to include social liberalism as defined by Nielsen to include tolerance, equality, the protection of human rights, autonomy, with an emphasis not on individualistic liberalism, but rather on the social nature of liberalism which includes the best possible conditions for human flourishing for everyone. I will advance the argument that patriotism and cosmopolitanism must not only be compatible, but they must be integrally linked—two sides of a coin, and I will develop these ideas along these lines: patriotism is a primary good and as such, is extended to all human beings; self identity is an inherent part of human flourishing and is derived from our local attachments and affiliations (community); and human flourishing is the necessary precursor to a democratic society, not just in word, but in practice. In defining and developing these premises I will show why cosmopolitan patriotism is a better, more substantive form of the kind of cosmopolitanism than the one that Nussbaum advances, which opposes patriotic sentiment. Following that, I will

show how this form of cosmopolitanism addresses some of the dangers I perceive in a cosmopolitanism without national roots.

The necessity of being a cosmopolitan patriot, instead of being a cosmopolitan has to do with the best conditions possible for human flourishing, and the best conditions possible for human flourishing will lead to (hopefully) the conditions for a truly (rather than superficially) democratic society, under which the conditions for a federation of nation states can emerge, as Kant envisioned in *Toward Perpetual Peace*. Taylor, Kymlicka, Nielsen, Appiah, Barber and Berlin to name just a few, have argued for the need to have a sense of self which stems from local identity. In *The Malaise of Modernity* Taylor uses the expression “at sea” to describe what happens to one when they are disconnected from that sense of local community.¹⁹⁶ The reason why patriotism is integral to cosmopolitanism, argue Kant, Nielsen, Johnson, is that the local identity is necessary for one to fit into the global one. While we have a need to belong to the community of humanity, we have a prior need to belong to a local community. To say ‘prior’ does not mean that it is just more important, but that it is the condition *sine qua non*. It is not possible to belong to the community of humanity without having this local sense of who one is, or so I have argued. I will make allowances for those who do not identify with the particular, (non-patriots) but I will show why I think that that is a loss. More importantly, I have tried to dissuade the reader from making exclusive two kinds of identities which I think not only go well together, but are also integral to one another. Because that local group tells us who we are, we can then participate with and belong to the greater group. This argument rests

¹⁹⁶ Charles Taylor, *The Malaise of Modernity* (Concord, Ont: Anansi, 1991), 30.

upon the belief that group identity and cultural membership are needs for all human beings. Neilsen paraphrases Berlin when he says “Without our distinctive national identities we would be lost: there is no standing outside these comprehensive cultures and living and life”.¹⁹⁷ And if these are human needs, then they are the conditions without which we cannot grow, develop and flourish. Growth, development and human flourishing are the conditions for thought, and thought is the condition for a truly democratic society. It is no wonder that Kant saw no conflict, but instead a necessity for a person to be a patriot and a cosmopolitan at the same time. The end goal was enlightenment, and enlightenment would surely lead to perpetual peace as “...reason, as the highest legislative power absolutely condemns war”.¹⁹⁸

Most importantly, the necessity of grounding cosmopolitanism in a particular nationalist setting is to enable the individual to flourish in order that s/he may become a thinking, acting and participating member of her local and by extension, greater community. Taylor calls self-identification an “essential condition” for a free (non despotic) regime.¹⁹⁹ Self-identity is the first step to knowledge, and it is achieved and developed within a particular setting—first within family, then local community, and so forth. A strong foundation enables a person to flourish in order that h/she may become a participating member of society. In other words, this foundation creates the conditions for a truly democratic spirit.

¹⁹⁷ Nielsen, 455.

¹⁹⁸ Reiss, 104.

¹⁹⁹ Baynes, *Perpetual Peace*, 222.

Taylor aptly calls his brief response to Nussbaum's claims about the moral ambiguity on patriotism, "Why Democracy Needs Patriotism" in which he makes the claim that free, democratic and egalitarian societies need strong identification on the part of their citizens.²⁰⁰ Democratic societies can only work, argues Taylor, "if most of its members are convinced that their political society is a common venture of considerable moment and believe it to be of such vital importance that they participate in the ways they must to keep it functioning as a democracy".²⁰¹ This participation requires a sense of bonding among the people working together. And this is indeed where Taylor sees the danger today: "A citizen democracy is highly vulnerable to the alienation that arises from deep inequalities and the sense of neglect and indifference that easily arises among abandoned minorities".²⁰² The only way to achieve this is to demand great solidarity among compatriots. Taylor goes on to argue that we do not serve the purposes of humanity by neglecting our commitments to our compatriots, but rather our failure within our communities results in failure toward humanity.

Procedural liberalism and a politics of neutrality hinder the development of the loyalties that are necessary to motivate citizens into participating democratic society. The failure of democratic societies in turn negates the conditions Kant speaks about in creating a peaceful federation of nations. Often what strikes us about Kant's claim that citizens in a republican (what we would call 'democratic') society would never agree to participate in war is that it seems our experience tells us the exact opposite. But in fact, what can be called

²⁰⁰ Taylor, *For Love of Country*, 119.

²⁰¹ Taylor, 120.

²⁰² Taylor, 120.

democratically elected politicians acting on the will of the people, might be the façade of democracy, covering up the massive inequalities and disconnected individuals not truly practicing their democratic rights because of alienation, atomism, consumerism, among other barriers, as the communitarian critique would claim. The “soulless despotism” Kant warns about is evident in this kind of blanket cosmopolitanism, which is not based in anything concrete, and is reminiscent of Diogenes’ claim to world citizenship.

The analogy that I offer is that patriotism (that natural human tendency toward what is most familiar) is represented in international law by the twin normative pillars of international society: sovereign equality and non intervention. International law protects the tendency that one has to flourish in the familiarity and safety of one’s own community. Sovereign equality means that we, citizens of the world, are all represented equally at the international level. In that sense, it is a cosmopolitan ideal. Non-intervention understood in this context, protects world citizens from the kind of invasion and occupation we see in Iraq, Afghanistan and Kosovo. Cosmopolitanism, when understood fallaciously as an independent, neutral position, rootless and universal, represents the position of humanitarian interventionists who risk violating the very human rights they seek to protect by violating some of its own most basic and fundamental principles—namely, the aspiration to equality for all citizens. Cosmopolitanism, when practiced like this, claims its legitimacy from an apolitical, neutral, global world order, but in fact is situated, particular, and political.

Liberal nationalism, as defined by Nielsen, includes the key principle that if group identity and membership to local community are goods for all human beings, then it follows that the patriot recognizes this good not only for his or her own group, but for all groups. I have already defined this in the previous section as a kind of “universal” patriotism. It extends to all human beings. As such, it passes the Kantian categorical imperative that one can will upon all members of the community of humanity the need and desire to belong to and love a particular community of which one is a part. Recognizing patriotism as a fundamental human need for belonging and identity demands that this fundamental human requirement extends to all human beings. What is often mistakenly defined as patriotism is the desire to belong to a particular group as an exclusive right—that is, without extending that need and desire to other groups, or believing that one’s particular membership situates them above all other groups. Having this human need and exercising it does not pit one against the other, as I have argued throughout this critique. Rather, it opens the door to recognizing and appreciating the other. Johnson, who defines patriotism as a love of one’s homeland sees the relationship between love of one’s local community to love of the greater community as one in which the former opens the door to the latter:

Love as an ontological openness allows us to celebrate what we find ourselves present and available to *hic et nunc* in such a way that the mode of presence and availability becomes a foundation that launches us into a wider world of phenomena that we can also appreciate and celebrate. Love at one level leads us to love at other levels. Love is an act that opens the door to other forms of love that are vital to the creation, recognition, and development of life. Thus the love that is patriotism, viewed as an ontologically open act, is a devotion to and celebration of the place and land that is near and dear to us that also makes it possible for us to appreciate, and even celebrate, **those places and lands sustaining those who are different than us, but who nevertheless share with us the**

inalienable and fundamental reality of being human.²⁰³
(emphasis added).

This conception necessitates an ontological openness of otherness: patriotism is often associated with the very opposite of that

The relationship I create between good patriots and good cosmopolitans has to do with the claim that when we are able to fulfill our commitments on a local level we are better equipped to then fulfill our commitments at the global level. Socrates is a better example than Diogenes on this account. Many cosmopolitans draw upon and consider Socrates as an inspirational source. He too replied that he was from “The World” when asked where he came from, however what distinguishes Socrates from Diogenes was not his refusal to adhere to the laws and customs of his state, but rather his utter allegiance to his state, to the point where he refused to escape it to save his own life, even though he knew that the state wronged him. While Socrates challenged the norms of his day, and while he may be called subversive, radical, and a threat to his government, he acted within the law, and out of respect for the law, to develop, modify, and expand its horizons. Socrates’ intention, it can be argued, was to improve his local community out of a sense of great love and duty towards it. By accepting his fatal sentence, he consciously acted to serve as an example of what can go wrong when states go awry. But his act was not one complicit in crime—it was to serve philosophical ends, to make a claim, loud and bold, which no one could ignore. And, it can be further argued that Socrates’ great love of and duty to his community extended to the community of humanity because the message was not

²⁰³ Johnson, 20.

just for the citizens of Athens, it was for the whole of humanity. However, he expressed it in terms of his local community. In this sense, Socrates was both a patriot and a cosmopolitan. Not only was that not contradictory, but his patriotism and cosmopolitanism were related to one another in an integral and fundamental way. He was a patriot in the sense that he had a deep feeling of commitment for his community and a cosmopolitan in that he saw all human beings equal in moral worth, based on reason, feeling and imagination. The authenticity and depth of Socrates' cosmopolitanism depended upon his genuine commitment to his own local community.

The friction between cosmopolitans and patriots seems to be the separation of loyalties. The Stoics, unlike the Cynics, do not separate as mutually exclusive their membership to community from their membership to humanity. One can draw from the Stoics that not only is there is no reason why one cannot pursue more universal aspirations and concerns at the same time that one maintains and embraces one's own local identity, having those local identities enriches that experience. We should be careful not to make mutually exclusive the two clubs of local and universal communities. Nussbaum interprets and quotes Seneca when she writes that

[...]each of us dwells, in effect, in two communities—the local community of our birth, and the community of human argument and aspiration that “is truly great and truly common, in which we look neither to this corner nor to that, but measure the boundaries of our nation by the sun”.²⁰⁴

²⁰⁴ Nussbaum, *For Love of Country*, 7.

She then goes on to say that “It is this community that is, fundamentally the *source* of our moral values” (emphasis added).²⁰⁵ The Stoic claim that we dwell in two communities is a descriptive one. We can understand ourselves as being part of a smaller and greater community: the smaller refers to our local origins and teaches us language, custom, and religion, among others, and the larger refers to the community of humanity. To claim, however, that the second community is the “source” of our moral values would make it prior to the first, which is impossible. We can only draw our conception of the community of humanity from our local communities. It is precisely this point where I think much current scholarship on cosmopolitanism fundamentally misses the point in terms of our individual relationship to the ‘world’. This is to say that we belong primarily to the greater community and secondarily to our local one. In fact, we belong to the greater community because of the smaller one. This idea locates the individual, but does not put him or her at odds with the greater whole. This is especially relevant in terms of our conception of humanitarian intervention because if we suppose that we are outside of any particular social or moral construction, we are apt to think that the ideas we have are impartial, global, and by extension, correct. Without taking into consideration how and from where we derive these ideas, and what our life experiences are which helped us form them, we are vulnerable to committing the error of hypocritical paternalism, well intentioned, but possibly dangerous.

Defined as a love for one’s community, Johnson characterizes patriotic love as a precursor to cosmopolitanism:

²⁰⁵ Nussbaum, 7.

Love is an act that opens the door to other forms of love that are vital to the creation, recognition, and development of life. Thus the love that is patriotism, viewed as an ontologically open act, is a devotion to and celebration of the place and land that is near and dear to us **that also makes it possible for us to appreciate, and even celebrate, those places and lands sustaining those who are different than us**, but who nevertheless share with us the inalienable and fundamental reality of being human.²⁰⁶ (emphasis added).

Nussbaum extracts from the Stoics the notion that class, rank, status, national origin, location, and gender all morally irrelevant attributes. If a person claims, Nussbaum argues, that she is an “X” first (Italian, Canadian, etc.) and then a citizen of the world second, that person “has made the morally questionable move of self-definition by a morally irrelevant characteristic”²⁰⁷. But these attributes define us. We cannot think outside of them: we are bound by class, rank, status, national origin, location and gender. We can shape, move, and even deny the boundaries of those attributes, but we cannot escape them, think outside of them, render them irrelevant. They do not make us morally greater or lesser than one another, but we are the sum and total of these attributes. Rather than call them morally irrelevant (because whatever they are morally, relevant they are) we can appeal to the notion of equality in terms of moral worth, and that is clearer, more precise than to disregard the attributes that define us, locate us, without which we do not exist. Or as Himmelfarb puts it,

...we do not come into the world as free-floating autonomous individuals. We come into it complete with all the particular, defining characteristics that go into a fully formed human being, a being with an identity...To pledge one’s “fundamental allegiance” to cosmopolitanism is to try to transcend not only nationality but all the actualities, particularities, and realities of life that constitute one’s natural identity.²⁰⁸

²⁰⁶ Jeffrey, 20.

²⁰⁷ Nussbaum, *For Love of Country*, 5.

²⁰⁸ Himmelfarb, *For Love of Country*, 77.

However, unlike Himmelfarb, I do not concede that cosmopolitanism is an illusion. I do not conceive of cosmopolitanism as a stage at which it is necessary to “transcend not only nationality but all the actualities, particularities, and realities” which define us. It is this misconception of cosmopolitanism that I am addressing. It is not the goal of cosmopolitanism that I reject, as Himmelfarb does, but rather it is only Nussbaum’s particular construction of the term in this particular reading with which I find fault. In particular, it is her tendency to pit cosmopolitanism against patriotism. While Nussbaum has since developed and modified her position to one less rigid, I included this reading because I think it represents some general misconceptions about cosmopolitanism, which lead to other, more serious errors. I offer the notion of patriotism as a robust and rich conception of the deeply and genuinely committed cosmopolitan.

Nussbaum is imposing a moral interpretation where it is not clear that one exists. By making claims to national identity, we are not necessarily asserting our superiority over other nationalities, although, the scholars who offered up an Eastern/Western distinction to separate the irrational from the rational may be accused of doing so. This act is in part to make the “morally questionable move” of superiority due to what she correctly calls “accidents”.²⁰⁹ That all of these attributes are accidents is true. That we make claims about superiority because of them is sometimes true, but is certainly not necessarily or always true. It is always wrong, and claims of superiority based on nationality go against the fundamental nature of cosmopolitan and even reason itself. However,

²⁰⁹ Nussbaum, *For Love of Country*, 5.

contemporary thinkers defending patriotism like Nielsen, Kleingeld, Appiah, and Taylor do not defend any such claim. What we must distinguish then is the difference between (i) the fact that these accidents define us, and (ii) the false and morally wrong claim that our differences determine our status in terms of moral beings in the world—that is, when we do indeed refer to our accidents to make false claims of superiority.

Our identification with particular and local communities and our commitments can be described as patriotic, but this does not preclude being cosmopolitan, which essentially means appreciating other nationalities as well, or, believing in the value of plurality. A cosmopolitan city means there are many differences there, and the differences are not only tolerated, but embraced. In a cosmopolitan city, Chinese people eat at Greek restaurants and Italian people eat Thai. At the end of the day, we may all meet for a drink at the Jazz Festival, where musicians from all over the world contribute their talent to a spectacle of diversity. A patriot would, if he/she were consistent, encourage the patriotism of other nations as well as embrace his/her own. Failure to do so, or exclusionary visions of one's own country is irreconcilable with Kantian categorical imperative (or even the biblical one) of universal maxims. If I love my country, thrive in it, and understand myself and the world through it, I must extend that to all peoples of the world. In this sense, a necessary component of being a cosmopolitan, is to be a patriot first. The patriot fails if he/she is not able to extend his/her feeling and respect for compatriots to non compatriots. Failed patriots are those who have simplified human moral life to the immediate here and now. They lack

imagination, compassion, and reason. It is a very human failure, but a failure all the same.

This is to say that cosmopolitanism and patriotism are not mutually exclusive. If we turn our attention to Kant, by whom many modern cosmopolitans are inspired, we see an exemplification of how cosmopolitanism and patriotism not only fail to be mutually exclusive, but how they are linked to one another. Pauline Kleingeld analyses this relationship in her article “Kant’s Cosmopolitan Patriotism”, and from it we can draw an understanding of cosmopolitanism that resonates more honestly with our human experience.²¹⁰ In her analysis, Kleingeld first defines Kant as a moral cosmopolitan, which refers to the idea that all human beings are members of a single moral community, and that we all have obligations to one another regardless of nationality, language, religion or customs. This is in line with what Nussbaum defines as cosmopolitan, but what distinguishes Nussbaum from Kant in this case is that Nussbaum sometimes sees this as contrary to the obligations one has toward one’s own particular nationality. Kant clearly does not. In the *Metaphysics of Morals Vigilantius*, Kant says of “world patriotism and local patriotism” that “both are required of the cosmopolitan”.²¹¹

Kleingeld examines Kant’s patriotism in terms of its relationship to cosmopolitanism. In so doing, she asks if there exists a conflict between the two. Her response is set in the political context of a republican state, which means that all individuals are members of a state; that they have an innate and equal right to

²¹⁰ Kleingeld, 299-316.

²¹¹ Kant, MM Vig XXVII.2.1, 673-4, quoted in Kleingeld, 299.

external freedom, and that there is a system in which each everyone's freedom can co-exist with each other. Civic patriotism, she goes on to argue, has to do with the maintenance of a just society in terms of duty. Kleingeld explains:

The duty of civic patriotism is the duty to promote the functioning and improvement of the republic as an institution of justice. It is not originally a duty to support one's compatriots but, rather, a duty to promote the institutionalization of justice. It is likely that there will be cases in which one's compatriots receive certain benefits as a result, but this is then not simply because they are one's compatriots but rather because they are one's members in the just republic that one ought to sustain and support as an institution of justice.²¹²

Kant shows why it is necessary to have some imperfect (special) duties to the state, which we do not have for other states. To deny this would be like denying just states, in which justice with regard to external freedom would be impossible. That these special obligations do not conflict with our general cosmopolitan duties can be shown in three ways: first, our imperfect duties of civic patriotism are not prior to our cosmopolitan duties especially if those latter duties are perfect ones. This is to say that if one's civic duties were to go against the demands of humanity, as they might well have done so in Nazi Germany, we would have to deny our civic duties and adhere to the perfect duties qua human beings. A conflict in values, or tragedy, occurs when we are put in the position where we must choose between two (or more). I will use the case of Nazi Germany to illustrate this point. As patriotic Germans, it would be in our national interest to choose our obligation to humanity over our civic obligation, because one does not want to belong to a member of a local community which is remembered in the way that Nazi Germany is today remembered. Those Germans who risked their

²¹² Kleingeld, 309.

lives to stand up for justice understood that, and I would argue that they were the true patriots.

Secondly, civic patriotic duties apply universally everywhere in just republics. Just republics, Kant thought, tended toward peace, naturally strengthening individual republics as they need not focus on preparation of war. Kant develops these ideas in more detail in *Toward Perpetual Peace: A Philosophical Sketch*. Suffice it to say here that one's civic duties would contribute to a greater global peace on a local level. And finally, because both patriotic and cosmopolitan duties can be compatible, as in the case of just republics, it is not inherently nor necessarily contradictory to adhere to one's duties on a local level.

Finally, Kleingeld assesses the third form of patriotism, trait or quality-based patriotism as something which cannot be a Kantian duty because it stems from a 'pathological' love. Pathological love is derived from feeling, cannot be commanded, and is contingent upon the qualities and characteristics that appeal differently to each of us. While Kleingeld defends civic patriotism as the only one which can be consistently applied to cosmopolitanism, she does not prohibit national or trait-based patriotism as long as they do not conflict with the values of moral cosmopolitanism. Often patriotism of any kind is looked upon with suspicion because of the acts of aggression and the assumption of superiority committed and displayed in its name. Nothing in the content of patriotism need necessarily promote those things, and often may be in conflict with its own interests. By that I mean that it is in no one's interests to belong to a member of a

club holding a record of atrocities. Appiah observes this when he says that “[...] the patriot is the surely the first to suffer his or her country’s shame: it is the patriot who suffers when a country elects the wrong leaders, or when those leaders prevaricate, bluster, pantomime, or betray “our” principles”²¹³.

Maintaining values that do not conflict with the values for the whole of the human community serves the interest of the patriot and it serves the interests of the cosmopolitan. In this sense, the patriot and the cosmopolitan are not only compatible, but are integral to one another. It is our ‘cosmopolitan side’ that provides the tools with which we analyze our patriotic feelings, keeping them in check.

I have argued that patriotism then, which is a natural feeling one tends to have for the community in which one is raised, tempered by reason, that which links all members of humanity in one group, is the foundation for a greater concept referred to as cosmopolitanism. Cosmopolitan patriotism, then, refers to two sides of the same coin. I have insisted on the necessity for a patriotic foundation for a cosmopolitan vision because I will argue that lacking such a patriotic basis renders cosmopolitanism not only empty in content, but dangerous. What renders cosmopolitanism without a patriotic basis dangerous and irresponsible is examined in my analysis of some of the common fallacies and misconceptions about the nature of cosmopolitanism. In what follows, I will expose some of those fallacies and misconceptions.

²¹³ Appiah, 26.

IV-ix: The Cosmopolitan Non-Patriot: “White Girl Don’t!”²¹⁴

Kant’s argument for defending national patriotism sounds much like what I was arguing earlier with regard to a love for the general and abstract versus love for the concrete and particular. Kleingeld describes this argument as grounded in an empirical psychological premise: practical love “needs to crystallize around or focus on some particular subset of humans towards which one feels an emotional attachment, because the lack of any such focus threatens one’s efforts to do one’s duty”²¹⁵. His argument rests on the assumption that if one, like Oscar Wilde once said, claims to love everyone, one in fact loves no one. Kleingeld puts it succinctly when she says

...because the lack of focus on the part of the Weltliebhaber [the person without affection and devotion for anyone except the world or humanity at large] leads to impassiveness, and because impassiveness constitutes a hindrance to moral behavior, it is morally required to give one’s moral universalism a particular focus, more specifically, a patriotic focus.²¹⁶

It is important to note that when Kant talks about ‘focus’, he means to say that this is not justified in itself, but rather as the basis upon which one can further one’s practical love in general. In Kant’s own words, the intention of the patriot should be that “in being devoted to his country, he should be inclined to further the well-being of the whole world”²¹⁷. Kleingeld argues that while there may need to be a ‘focus’ as Kant describes, it need not necessarily be that of ethnicity or even country (which are often not the same in any case). Kleingeld may be right when she claims that a citizen may be focused in other ways than patriotic ones.

²¹⁴ Chrystos, *Not Vanishing*, (Vancouver: Press Gang Publishing, 1988), 9.

²¹⁵ Kleingeld, 311.

²¹⁶ Kleingeld, 311.

²¹⁷ Kant, *MM Vig XXVII.2,1*, 673-4 quoted in Kleingeld, 312.

Quite justified is the Canadian who is devoted to a particular community, like family, work, neighborhood or something else that brings together people with common interests, and not in terms of ethnic or national borders, in claiming that she has no devotion to this greater entity called “Canada” and yet is quite comfortable seeing herself in terms of a cosmopolitan. Let’s call her the Canadian non-patriot.

The claim that good cosmopolitans are first good patriots because they have a sense of identity, they have learned the value of loyalty and commitment, and they are grounded in a way that will enable them to be more thoughtful cosmopolitans may sound fine in theory, but the question remains about what can actually justify this claim. Now take the Canadian non-patriot and put her in far away places, where she feels quite at home working with foreign people, toward all of whom she has an affinity. Her life’s work is dedicated to establishing NGO’s for economic and social development. Would I really be able to say, “You’re not a very good cosmopolitan” and if I did, what could justify such a response?

First, I would not make such a bold claim. I have set up the problem in such a way that makes it very difficult to answer. To resolve the problem, I will depict the problem in two ways: First, let me consider this from Kleingeld’s point of view: is it enough to have particular associations, commitments and loyalties, or do those loyalties need to extend to the state? And why did Kant insist the commitment to human kind needed to start with the state? The first scenario

refers to a scenario described by Native American author, Chrystos.²¹⁸ In it, she illustrates a young aid worker off to rescue impoverished children in developing countries from their fate of disease and death. In a poem called “White Girl Don’t”, Chrystos offers a scathing criticism to the “white girl” who has no interest or care for the deplorable conditions under which Native children live. Her critique includes skepticism that the American aid worker ever really cared about people inasmuch as she cared about traveling to exotic lands where other people’s problems are more interesting, from which she can take a number of pictures, and come back home to show what she has done. Perhaps the critique is unfair. It depicts someone who is insensitive to local problems and insincere about helping other people. Still, it highlights some of the problems that we can have when we, as I put it before, skip the first step. The question is really about how genuine our commitments are to the greater community, and whether our local affiliations have been able to help us get there, understand, and respond in authentic ways. Chrystos’ insight draws on the possibility of the insincerity of the cosmopolitan aid-worker who is more interested in herself than in the impoverished conditions of other people. It is a valid challenge to the cosmopolitan, especially because of the implications some cosmopolitan policies will have on the locals of foreign territories.

On the other hand is the Canadian non-patriot who claims that her lack of affinity to her state is motivated by an individualistic understanding which rejects all forms of communitarian-oriented theories about how we become who we are. In this depiction I will try to address whether this Canadian non-patriot must be a

²¹⁸ Chrystos, 9.

bad cosmopolitan *necessarily*. If the Canadian non-patriot refuses to identify with anything remotely Canadian, it might be harder for her to understand other people in their own communities. It will be especially difficult to recognize why people are so vigilant about protecting their collective identities when they are under threat. She may wrongly conceive of them as chauvinistic. Appeals to collective identity and common historical references may seem to her absurd. This will be particularly damaging during times of conflict and struggle where there are disputes about territory and rights. The non-patriot is going to suffer a serious disadvantage in trying to understand the passion, the meaning and the attachment to a particular territory because the non-patriot has none of these feelings. Thankfully, empathy allows imagination, and imagination can contribute to understanding something foreign to oneself. In that case, the Canadian non-patriot will not necessarily fail her mission, but she will be somewhat more challenged in this respect. In terms of whether the Canadian non-patriot's mission will fail is not categorical. A person is able to surpass some of the disadvantages of the lack of patriotism with some effort, creativity and openness.

I have tried to explain why there is so much focus and emphasis on the necessity of establishing a patriotic foundation upon which a cosmopolitan one may be built. Earlier I made a claim that the example Diogenes provides us, from which numerous authors have cited with a view to advance the cosmopolitan ideal, is a dangerous and irresponsible route. The basis from which I make such a claim is linked with the moral/legal distinction drawn at the beginning of this chapter—that is to say that moral cosmopolitanism without some concrete

(patriotic) foundation will make it harder to try to establish a legal framework applicable to all people because it will lack some sort of basic understanding on the part of the patriot in his or her context. The necessity for developing a definition of cosmopolitanism based upon human experience gives the necessary substance to apply to an abstract notion. It helps us understand cosmopolitanism in a concrete way. In this sense, the more concrete, the more real a person's understanding is in their own particular context, the better equipped they are to deal with international legal theories that institutionalize moral cosmopolitanism. Essentially, the claim is to join the patriot with the cosmopolitan, in one body, so to speak, in order that she may contribute to the difficult transition to legal cosmopolitanism. Taking this approach will help us apply the abstract notions in a practical, normative way. Without that clarity, the legal cosmopolitan may find him/herself floating in ambiguity.

IV: The Abuses of Cosmopolitanism:

Patriotism is often criticized for its abuses and its irrationality. The criticisms are well founded and because of that, we tend to be cautious about invoking the uses of patriotism in abusive and unreasonable ways. What is rarely considered is that cosmopolitanism too is vulnerable to bias and politicization, rendering it subject to the same kinds of abuses and irrationality to which patriotism is subject. Because patriotism, in its various forms, is understood as having a feeling for and allegiance to one's local community, it is often misconstrued to mean that this kind of allegiance is pitted against the greater community of humanity. We have seen that making the two memberships exclusive to one another not only is not necessary, but that in fact doing so undermines the goals of patriotism and cosmopolitanism. But because cosmopolitanism is expressed in universal terms, with noble aspirations, it is less subject to criticism, especially in terms of some of the political and cultural bias. Because the intentions of the cosmopolitan are understood as advancing the interests of all of humanity, on a moral level, and because we do not find fault with that intention, some important assumptions are glossed over.

If we look at the moral aspirations behind Nussbaum's interpretation of Stoical cosmopolitanism that "We should recognize humanity wherever it occurs, and give its fundamental ingredients, reason and moral capacity, our first allegiance and respect"²¹⁹ we cannot, at first glance, see why this would be morally contestable. But, if we examine the underlying supposition behind this claim we can point to an assumption of neutrality which does not exist. We

²¹⁹ Nussbaum, *Perpetual Peace*, 31.

cannot derive human feeling or command respect on the basis of abstract notions. Nussbaum refers to 'moral community', 'world citizenship', 'common goals', 'the world citizen' as though these things actually exist and we can delineate them, or point to them. Who are the citizens of the world, and what are their values? More importantly, who decided what their values would be? Did a Tibetan Buddhist decide that private property would fall under the category of universal human rights? To say that citizens of the world pledge their primary allegiance to humanity is a somewhat abstract and fuzzy notion. The community of humanity, or, citizens of the world, are composed of citizens of states. Actual people who belong to particular nations, and who have specific values which differ according to the basis of socio-economic and historical facts, and if the citizen of the world pledges his or her allegiance to the community of humanity, then he or she has to make concrete decisions about people and places in a political world. The citizen of the world must recognize his or her own place in the grand spectrum of the world, in order to be transparent and upfront about his or her particular understanding (hence, biases) about a situation in which he or she is entering. The cosmopolitan who is grounded will be better equipped to manage the problematic task of participating in the negotiations of a world order that is inclusive, plural and egalitarian. The bad cosmopolitan will assume a superior position based on geo-political lines, and will be incapable of appreciating the diversity of values, beliefs, and the entitlement of the protection for this diversity. The risk is that the bad cosmopolitan subsumes anything he feels inferior to his "neutral", "universal" conception under the umbrella of 'cosmopolitanism'.

The feelings of the cosmopolitan must be as rigorously scrutinized as the patriot's, in the sense that the cosmopolitan has been shaped by particular values and beliefs from which her conception of humanity emerges. Without careful scrutiny, it is possible (and probable) that the cosmopolitan projects a particular bias as a universal value, and in so doing, undermine the goals of cosmopolitanism. It does not help the cosmopolitan cause that its main advocates came from, and continue to come from nations with imperial aspirations, and that traditionally they have used force to instill their 'universal' values. The Christianity of medieval Europe promoted the goals of cosmopolitanism, while maintaining a strict regiment of what that definition constituted, and thereby making it an exclusive kind of membership. The Ottoman Empire, too, was cosmopolitan. Currently, cosmopolitanism seems to be a Western, specifically American, idea, borrowed from the ancient Romans, neither of whom have a terribly good reputation for preserving the notion of sovereign equality. Lee Harris makes this biting observation:

The Roman ideal of cosmopolitanism was in fact the natural perspective of men who had been brought up to govern and administer a world empire as opposed to a Greek city-state, a nomadic caravan, or a village in Scythia. Nor should this cause surprise—all imperial societies find it in their interest to promote the ideal of cosmopolitan values, by which they mean that of the dominant culture, in contradiction to the clearly inferior local values of those on the outskirts of the world...In short, by a strange dialectical miracle, out of the intensity of Roman patriotism arose the sublimity of the cosmopolitan ideal that Nussbaum recommends as America's proper educational project".²²⁰

In order to protect the notion of cosmopolitanism from this kind of attack we must be careful, especially coming from richer and more powerful parts of the world,

²²⁰ Lee Harris, "The Cosmopolitan Illusion", *Policy Review* 118 (April/May 2003): 49.

not to impose particular cultural values on a universal frame and call it cosmopolitan. Doing so would certainly undermine our goals, and render invalid the cosmopolitan claims we put forth, and which are so integral to our continued survival as a species. This is why I invoke the use of the term ‘cosmopolitan patriotism’, which has been drawn on by many contemporary thinkers looking to reconcile the false contradiction between patriotism and cosmopolitanism.

I suggest that the way to protect the notion of cosmopolitanism against accusations that it is empty in content and political in nature, it not only should be, but it must be defined in relation to patriotism—not just as something which can be reconciled with patriotism, but rather something of which patriotism is an integral part. This is what I tried to show in ‘cosmopolitan patriotism’. This reading of cosmopolitanism addresses and answers two important problems in the idea of traditional cosmopolitanism, as practiced by the Stoics, the Christians of the Middle Ages, the Turks of the Ottoman Empire and currently the Americans. The idea of patriotic cosmopolitanism must include a national identity which is formed at the community level, and therefore, it recognizes the political nature of identity and nationhood. Practicing cosmopolitanism with patriotic roots will help to resolve the serious claim that cosmopolitanism is empty in content, and that it is neutral in its point of reference. Instead, this mechanism lends content and transparency to the project. It opens up the notion of cosmopolitanism to scrutiny, without which words like ‘moral community’, ‘world citizen’, ‘universal goals’ replace or trump the need for such scrutiny. It makes the ‘world citizen’ subject to criticism and it provides the kind of analysis from which he is normally

exempt because of the lofty nature of his title which would inadvertently undermine our collective goals. This, I shall argue, is more dangerous than blind and fervent nationalism. Nationalism spun out of control is immediately caught, vilified, brought to trial. Unchecked 'cosmopolitanism' can, as Carl Schmitt warned, create the worst of human tragedies in the name of humanity.²²¹ In order to advance the goals of cosmopolitanism, we need to subject it to scrutiny, redefine it, extract from it the best it has to offer, and strip away its lofty pretensions. Only then can we arrive at something we can use constructively and effectively.

²²¹ Carl Schmitt, *The Nomos of the Earth* (New York, Telos Press Publishing: 2003), 172-175.

V: Shattered Cosmopolitan Dreams: The Decriminalization of Aggression

At this point I want to return full swing to the original premise and show why humanitarian intervention within a cosmopolitan frame is incoherent in terms of achieving global peace, security and stability. To show that, I must include an analysis showing how aggression is becoming institutionally decriminalized, and how this does not serve our cosmopolitan purposes. In this section, I intend to:

- (i) define and briefly outline the history of the ‘crime of aggression’; and to
- (ii) show how and why (traditionally left-wing anti-war activist oriented) intellectuals and liberals have aligned themselves with the movement toward military intervention for ‘humanitarian’ purposes; and thirdly to
- (iii) show how ‘humanitarian’ military intervention has contributed to the decriminalization of ‘crimes against peace’ (aggression)

Following this historical and empirical analysis, I would like to

- (iv) show what conclusions we can draw in order to develop a conceptual frame and understanding for the problem of humanitarian intervention.
- (v) demand that we engage in a conceptual shift requiring us to see conflict in terms of our relationship to it.

To contextualize what the term ‘crime of aggression’ refers to, I will draw on

Justice Robert Jackson of the Nuremberg trials:

To initiate a war of aggression, therefore, is not only an international crime; it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole.

--Justice Robert H. Jackson, Nuremberg Trials²²²

Crimes against peace, otherwise known as ‘the crime of aggression’ is not just a war crime, but rather the supreme crime: it is the umbrella under which all other war crimes fall under, and the condition (*sine qua non*) without which all other

²²² Justice Robert H. Jackson, *Opening Statement before the International Military Tribunal*. Retrieved from <http://www.roberthjackson.org/Man/theman2-7-8-1/>

war crimes could not occur. The crime of aggression is the supreme crime because all other categories of crimes, including genocide and crimes against humanity can only happen in the context of existing aggression—i.e., war. Therefore, crimes against peace, or the crime of aggression has been defined by the Nuremberg Principles as the “Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances”.²²³

This principle dates back to 1927 with the Kellogg-Briand Pact, otherwise known as the General Treaty for the Renunciation of War, which states that

The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.²²⁴

While the Kellogg-Briand Pact of 1928 tried (unsuccessfully) to make war illegal, the declaration of war was not yet considered a criminal act for which the individuals responsible for it could be held accountable. After a twenty-year effort, the United Nations General Assembly came up with an authoritative definition of aggression: It states that the first use of armed force by a State in contravention of the Charter constitutes prima facie evidence of aggression. This leaves room for interpretive difficulties. It stipulates that as long as the aggression is not undertaken in a way which is inconsistent with the Charter, then it would not be considered aggression. Hence the ambiguity in what one calls aggression, another calls self defense. It may look very much like the United

²²³ Gerhard von Glahn, *Law Among Nations*, 6th edition (Toronto: Maxwell MacMillan Publishing Company: 1992), 880.

²²⁴ Von Glahn, 393.

States has committed the ultimate crime against peace, or the crime of aggression in Iraq, but if they defend their actions using the argument that they are defending themselves against terrorism, unconvincing as that may be, an interpretive argument remains, and the debate continues.

The consequence of this was simply that we stopped declaring war. One new trend is to call 'aggression' 'humanitarian intervention'. Global despotism, as warned by Kant, looms over and threatens the cosmopolitan ideal. The Kantian conception of the cosmopolitan ideal, from which we draw much inspiration today, is one in which citizens are able to flourish and fully develop within the permanently peaceful co-existence of states. It was important to Kant that this condition was not temporary, which he referred to as a state of war with moments of peace in between war, because in such a case, the constant preparation for war, physical, financial, and mental, would drain from our potential as human beings to participate in and contribute to the greater project of humanity. R2P documents stipulate clearly the necessity for constant preparation for war. This goes against the Kantian ideal for the conditions for cosmopolitan global order.

The Kantian context, to which the cosmopolitan ideal refers has been hijacked to serve other purpose, intentionally or not. And it is for this reason that a critique of humanitarian intervention must be articulated within the scope of the cosmopolitan project, so as not to render its critics advocates of a purely realist position, which is not only uninteresting, but it does not contribute to furthering our cosmopolitan goals. More difficult is to maintain a belief in, and a desire to

further the goals of cosmopolitanism, while rejecting the notion that ‘we’ can ‘save’ people using military force, thus defying international law, for a higher moral purpose. It is precisely because this dangerous new trend is supported and pursued by so many otherwise respectable left-leaning thinkers, activists, writers, poets and so forth (the late Susan Sontag, David Rieff, Michael Ignatieff, Elie Wiesel, to name just a few) that there exists a kind of moral urgency in the examination of the evidence, to draw both empirical conclusions and to delineate conceptual difficulties with the notion that military intervention can be used to advance the goals of humanity.

(ii) In order to do this, let us juxtapose the cosmopolitan ideal with what is currently called “humanitarian intervention” and to what otherwise liberal-minded, human rights activists refer when they suddenly find themselves not only adhering to the use of force to promote peace, but also siding with otherwise not like-minded political affiliations. What is threatening to some cosmopolitans committed to peace is this strange communion between otherwise political rivals. In order to maintain the integrity of the cosmopolitan ideal, we must strip away incompatible alliances by examining how each component is defined separately and in relation to one another. In concrete terms, what role does the emotionally charged, highly manipulative and often mendacious book *A Problem From Hell: America and the Age of Genocide* by Samantha Power play in the effort to persuade liberally-minded, human rights thinkers to encourage otherwise illegal (and as I will show, immoral) military action in sovereign states? Put another way, how does such exploitative sensationalism, which tries to pass itself off as

investigative journalism, uphold and participate in committing what Nuremberg called the “supreme crime”—the crime of aggression under which all other war crimes occur? Part of this project, then, must include an investigation into the sources behind such claims that justify ‘humanitarian’ bombing so that conclusions can be drawn based on facts and reason, not fictional half-truths.

The ‘humanitarian’ modifier of ‘military intervention’ exploits the noble aspirations of the cosmopolitan ideal, drawing upon it to justify imperial motives in power politics. So called ‘humanitarian’ military intervention decriminalizes aggression, demonizes whole populations, creates hostility and hatred between peoples, and ultimately creates the umbrella condition under which all crimes against humanity can and do occur. Far from promoting the rights of citizens everywhere, it creates the conditions for war crimes, and future wars. Implicit in the preparation to make the case for humanitarian intervention are moral dualism, the demonization of a people, and the creation of public opinion using propaganda. These detract from the development of the cosmopolitan ideal: they hinder and undermine its goals, and they make peaceful conditions for a federation of nation states unlikely. Michael Parenti gives us reason to fear the use of the term ‘humanitarian’ when it comes to aggression:

In the span of a few months, President Clinton bombed four countries: Sudan, Afghanistan, Iraq repeatedly, and Yugoslavia massively. At the same time, the U.S. was involved in proxy wars in Angola, Mexico (Chiapas), Colombia, East Timor, and various other places. And U.S. forces are deployed on every continent and ocean, with some 300 major overseas support bases -- all in the name of peace, democracy, national security, and humanitarianism.²²⁵

²²⁵ Michael Parenti, “Introduction” in *Strange Liberators*, iii.

Diana Johnstone makes the claim that in particular, the bombing of Yugoslavia marks a turning point in history with regard to the expansion of U.S. military hegemony. Normally reserved for Central American countries, U.S. interventionism had moved into Europe, inviting alongside with it Germany to participate for the first time since World War II in foreign military intervention. What is crucial about these acts were not so much that they moved forward with the ease that they did, but that they had the support of left-leaning liberals, who, taking their cues from the media, encouraged and furthered these goals of military intervention. Diana Johnstone puts it this way:

Apparently, many people on the left, who would normally defend peace and justice, were fooled or confused by the claim that the "Kosovo war" was waged for purely humanitarian reasons. The altruistic pretensions of NATO's Kosovo war served to gain public acceptance of war as the appropriate instrument of policy. This opened the way for the United States, in the wake of 11 September 2001, to attack Afghanistan as the opening phase of a new, long-term "war against terrorism".²²⁶

(iii) What is important to notice is that two things are conjointly occurring: (i) the decriminalization of aggression by (ii) making aggression acceptable on humanitarian grounds. Aggression is not humanitarian, no matter what way one looks at it. And this is not really a problem for humanitarians anymore, not at least in the way the problems are being framed and treated. This is what the Observer writes about Afghanistan:

UNICEF reported last week that 100,000 more children will die during this winter...if bombing of the country continues...One hundred thousand more deaths if bombing goes on. A greater good is squandered if it ceases...The only truly humanitarian outcome for Afghanistan's starving now requires the downfall of the Taliban government.²²⁷

²²⁶ Johnstone, 1.

²²⁷ *The Observer*, quoted in David Chandler, *From Kosovo to Kabul: Human Rights and International Intervention* (London: Pluto Press, 2002), 51.

Robert Hayden makes this point when he says: “Attacks against civilians are probably inevitable in any supposedly humanitarian intervention” and “...the decision to attack a sovereign state is, logically, a decision to attack the civilian population of that state” and therefore, he concludes that “the greatest triumph of the human rights movement, “humanitarian intervention,” is revealed as its greatest defeat, because it transforms what had been a moral critique against state violence into a moral crusade for massive violence by stronger states against weaker ones”.²²⁸ The evidence is in the result: the ‘humanitarian’ bombing of former Yugoslavia, a 78-day campaign, including the dropping of 1,100 cluster bombs, each containing 220,000 bomblets, killing anywhere from 500-1800 civilians, as well as hitting nine hospitals and over 300 elementary and secondary schools. Military forces also targeted and destroyed the entire public infrastructure, causing \$4 billion worth of damages on bridges, houses, buses, electrical plants, and hundreds of acres of forests.²²⁹ Amnesty International reported that flying of 38 000 sorties (NATO aircraft) at 15 000 feet, “made adherence to international humanitarian law virtually impossible”.²³⁰ Aggression, the umbrella crime under which all other crimes against humanity occur, cannot be made humanitarian, no matter how many times it is claimed to be so. John Laughland made this important observation:

²²⁸ Robert Hayden, “Biased Justice: ‘Humanrightsism and the International Criminal Tribunal for the Former Yugoslavia,” *Cleveland State Law Review* 47, no. 4 (1999): 571.

²²⁹ Cohn, 121.

²³⁰ “Kosovo: One Year Later” retrieved from www.stratfor.com/CIS/specialreports/special26.htm; “NATO violations of the laws of war during Operation Allied Force must be investigated,” Amnesty International (25 July 2000), retrieved from www.amnesty.org/news/2000/4/002500.htm

We now think of Nuremberg mainly as the trial of the Holocaust. This is not how the architects of Nuremberg saw matters. Exhausted by up to six years of all-engulfing war, the allies were mainly preoccupied with the fact that Nazi Germany had plunged the whole world into conflict...**For the judges at Nuremberg, the primordial war crime was to start a war in the first place. All other war crimes flowed from this.** Although naked aggression has always been illegal under customary international law—as is attested by the numerous and no doubt spurious legal justifications made throughout history by belligerent states for their actions—Nuremberg was innovatory in its clear legal formulation that the planning and execution of a war of aggression constituted a criminal act in international law. It was for this crime, and not for crimes against humanity, that all the Nazis at Nuremberg were judged.” “This is not justice: The Hague has replaced Nuremberg’s jurisprudence of peace with a license to the west to kill.”²³¹

The extensive use of depleted uranium in the former Yugoslavia, constituting a violation under international law, has been extensively documented.²³² Its use fails all four rules derived from the whole of humanitarian law regarding weapons. The use of DU constitutes a violation of law under the greater category of aggression, which, as John Laughland states in the above explanation, is the principle lesson of Nuremberg. Any steps toward its legalization renders the whole Nuremberg experience futile, and dangerously inane. This futility is evident by the dismissal of the allegations brought forth by Michael Mandel: Joining together with other Canadian law professors and lawyers and the American Association of Jurists, Mandel filed a complaint against

²³¹ John Laughland, “This is not justice: The Hague has replaced Nuremberg’s jurisprudence of peace with a licence to the west to kill,” *The Guardian* (London), February 16, 2002. Retrieved from <http://www.globalresearch.ca/articles/LAU202A.html>

²³² Gregory Elich is but one of many who describe the use and effects of DU in his book “Strange Liberators: Militarism, Mayhem, and the Pursuit of Profit” (Florida: Llumina Press, 2006): “Missiles struck storage tanks at the petrochemical plant, sending over 900 tons of highly carcinogenic vinyl chloride monomer (VCM) surging into the air. By sunrise, clouds of VCM poured through the town, registering as high as 10,600 times the permissible limit for human safety, and billowing clouds from the plant were so thick that residents were unable to see the sun...for months afterwards doctors in Panchevo recommended that women avoid pregnancy for the next two years, while those who were less than nine weeks pregnant were advised to seek abortions due to the high probability of birth defects.”, 152.

NATO leaders with the ICTY, which alleged that 68 individual NATO leaders had committed crimes under the jurisdiction of the ICTY. These included crimes against humanity and crimes against the laws and customs of war. They would have alleged crimes against the peace - or aggressive war - as well, but the United States had seen to it that the crime of aggression was not included in the mandate of the ICTY. The tribunal dismissed the complaint without serious investigation. Amnesty International later confirmed that NATO had committed war crimes in Yugoslavia. What is interesting to note here is that the international court tribunal for war crimes has neglected to include in its mandate what the Nuremberg Trials revealed to us as the principle crime: they failed to include the crime of aggression as part of their mandate. When a court neglects to include the supreme crime of aggression in its mandate, it calls into question its universal applicability, its genuine intention to persecute war crimes, and its cosmopolitan effort to contribute toward a peaceful global order.

(iv) All this implores the reader to question why a traditionally left-leaning, or liberal-minded, human rights upholding citizen would support and further encourage its government to act in such a capacity. Justification for military intervention in a sovereign territory is normally based upon the rescuing of a people from gross violations of human rights. In this way, it is called 'humanitarian' and supported extensively by many groups, including left-leaning liberals. The act of genocide would no doubt fall into the category of 'gross violations of human rights'. If an international tribunal would call an act 'genocide' then we would be justified in thinking that we (the West, more

powerful nations with military capability) should act, or should have acted to prevent such atrocities from occurring. It would be difficult to imagine a group of cosmopolitan-oriented people from thinking it is a duty, moral if not legal, to act in such a case. Johnstone makes this observation:

The attack on Serbia was endorsed by politicians and intellectuals identified with the left, who exhorted the public to believe that the United States and its allies no longer made war to advance selfish interests, but might be coaxed into using their military might to protect innocent victims from evil dictators.²³³

The war in former Yugoslavia was a propaganda war, as much as it was a brutal military one.

The frame for any humanitarian intervention only works in a Manichean world of good and evil. This narrative for humanitarian intervention is crucial. We cannot justify military aggression unless we speak in terms of us and them, good and bad, and if the world were so easily divided up that way, then there would be no problem for interventionists. On closer examination we can see that no conflict is so easily divisible, no conflict so easily understood. One of our greater mistakes is to set the frame in such a way that it requires, demands swift military response. That frame is to paint the conflict in not only terms of good and evil, but also in terms of our Western innocence and utter shock at unfolding events. Rwanda is not an example of a failure because there was little or no foreign military action. Rwanda is a failure of our humanity because of all of the things that the West, the liberal democratic states, organizations and institutions did to aid in the escalation of violence and conflict. When international organizations praised for prioritization of human rights are opening providing the

²³³ Johnstone, 2.

financing for the killing on both sides of the conflict, nothing can be more devastating for our moral conscience. That every rich Western nation sold arms to the Indonesians for 25 years of brutal killing in East Timor must compel us to make a conceptual shift in our understanding of world politics.

(v) This conceptual shift changes the frame, asks different questions of us, makes different moral demands on us. The radical position of the 21st century is not the legalization of humanitarian intervention. The radical position of the day is to make the conceptual shift from us and them, good and evil, to one where we recognize, acknowledge and take responsibility for our actions in ways that increase our chances for a more stable, peaceful, cosmopolitan world. It is to challenge the picture which has been presented. Making such a shift puts demands on us that are harder. They require the citizens of liberal, democratic societies to question, rather than accept superficial accounts of complex conflicts. It requires citizens to make their governments accountable for their actions, rather than give them a military license to engage in otherwise hostile aggression. This conceptual shift is radical because it forces us to understand conflict not purely in regional, ethnic terms, but rather within a global sphere which includes an international economic analysis as well as a global geo-political analysis. This conceptual shift forces us to seriously challenge our perception of our role as liberators and heroes in a deep and meaningful way. It forces us to admit that international organizations have not prioritized human rights, and it requires us to ask hard questions about why. Unearthing the many layers of not only regional conflict, but also of the international role in regional conflict shakes the

foundations upon which the idea and the implementation of humanitarian intervention can work. Once that foundation has been sufficiently challenged or shaken, the idea of humanitarian intervention becomes incoherent and nonsensical. But only when we admit that the essential problem with humanitarian intervention is the way we have set up our understanding of the context, can we begin to actually imagine other possibilities for peace. Described and developed in the current narrative, we cannot but come to any other conclusion than that humanitarian intervention is the only solution. A radical conceptual shift allows for not only a deeper, more complex understanding, but engaging in such a level of analysis opens the imagination for developing real solutions, lasting solutions for the problems of conflict. It is meaningful response, and one where we genuinely maintain the integrity of the cosmopolitan project: the protection and security of human life, and the maintenance of its sanctity. The only conclusion that can be drawn is the very incompatibility of humanitarian intervention with cosmopolitanism. I will summarize the frame of the argument then, accordingly in my next section which draws together all of the arguments showing the incompatibility of humanitarian intervention with cosmopolitanism.

V-i: The Incompatibility of Cosmopolitanism with Humanitarian Intervention:

The ethical aspirations behind the idea of humanitarian intervention within a cosmopolitan frame is generally seen as a radical idea for progressive change based on assumption of universality, empowerment of the oppressed, abused or excluded citizen, and finally, a human-centered ethical approach. But within the context of cosmopolitan humanitarian intervention, our conception of humanitarianism has been transformed by the ways in which aggressive militarism works and the ways it has forced us to rethink our ideas of 'helping'.

I have argued that we have made several mistakes in assessing and framing regional conflicts. First, we see ourselves as the only possible liberators of foreign conflict; second, we assume a kind of legitimacy on the basis of human rights salvation; third, we dichotomize the world into good and bad; and fourth, we assess foreign conflicts along strictly ethnic lines. In assessing and framing conflict in this way, we have absolved ourselves of responsibility in foreign conflicts; we have done so by never quite reporting how the West or our international organizations are party to genocide and other war crimes. With our assumed innocence, shock and horror, we see ourselves as the only option to saving the world from death and destruction. We can only do this by misrepresenting the conflicts, and by failing to question the humanitarian intervention paradigm.

By misrepresenting the reality and nature of conflict we fail to appreciate the complexity of the causes of conflict. By imposing a legal cosmopolitan world order, which subverts existing international law, based on a moral idea of

cosmopolitanism, which remains empty and unchallenged, we risk applying methods for conflict resolution that may aggravate the conflict, produce negative-long term effects, and heighten human rights abuses. Regional conflicts in non-Western regions are rarely purely ethnic in origin. To frame it as such not only does short-term damage, (the military intervention itself), it destabilizes the global community and sets the stage for further conflict, when the losing side gathers its strength and a new generation of soldiers to right what they will perceive as the wrong done against them.

Supporting humanitarian interventions assumes that intervening states prioritize human rights over other interests. It gives an enormous amount of credibility to international organizations who do not warrant it necessarily. We need to scrutinize not only our own Western powers in terms of their interests in conflict regions, but also the role of the international community in general to see what role they play prior to and during conflict. Humanitarian intervention based on a cosmopolitan right does not actually guarantee that the people who are in the most in need will be helped. The cosmopolitan right is not a cosmopolitan duty, although recommendations are made in R2P that we see our collective obligation as rescuers as a duty, but the recommendations from that document are an attempt to bypass the difficulty of trying to defend the right to enter foreign soil. The recommendations stand, with no binding force, which means that Western (powerful) states choose where to and where not to intervene on the basis not of need, but on the basis of interest (mixed motives). Nothing in this makes the idea of intervention cosmopolitan. "Cosmopolitan" law would not only apply to

places where powerful nations have some interest, it would apply universally, as its name suggests. Even in theory, we cannot change that because that would mean to demand of states their intervention when it is not in their interests, and as we have seen, this is generally regarded as not only unrealistic, but sometimes inexpedient. The difficulty in these claims is to abandon the only conceivable idea many people have to help people in crisis. Most are not prepared to reject the idea of humanitarian intervention, even if they are willing to concede the problems inherent in the idea. The serious task left to non-interventionists is to come up with an alternative to humanitarian intervention. I have argued that what we need to do is change the way we understand the problem if we are to come up with meaningful solutions which are effective and permanent. With that idea, I conclude my arguments and show that if we can understand the problem different, we can devise better plans for a safer and more secure future.

V-ii: Conclusion: Making a Conceptual Shift in our Global Understanding of Regional Conflicts

The bold claim put forward here is that the principles of state sovereignty and non-intervention have not failed us, but rather we have failed them. Recommendations toward a global security and peace include accepting the fact that the possibility of abuse in unilateral humanitarian intervention outweighs the possible good that could come out of it. Following this view, these recommendations are put forth: liberal-democracies, the prosperous and free nations of the world must be carefully scrutinized in terms of (a) our willingness to sell arms, train and equip rogue states with the means to conduct atrocities; (b) that we participate and uphold our own international human rights agreements, especially when we develop trade agreements; (c) that we develop and implement a foreign human-rights policy that applies consistently to all states.

What the problem of humanitarian intervention and solution for regional conflict demands is a conceptual shift: it requires the serious examination of these problems:

1. The degree to which the international community is implicated in regional conflicts before those conflicts explore into full blown war.
2. The degree to which they perpetuate those wars (via the arming and training of rebel forces).
3. A full analysis of the international community change or challenge of the normative frame within which (cosmopolitan) humanitarian intervention is possible.

4. An analysis of the evidence upon which we judge intervening states, as well as elite members the international community to prioritize human rights over other considerations.
5. An analysis of the mechanisms by which we have available for making our governments accountable for their role in human rights abuses.

Instead of a good-guys/bad-guys dichotomy in place which puts the blame on smaller, less-powerful states to be controlled by larger, more-powerful states, we need to engage in a conceptual shift in terms of the culprits of aggression, and by extension we must think in terms of how we could make our own countries responsible for our participation in the violence perpetuated in rogue states. If we are powerful enough to invade states and instill an occupying force on foreign lands, surely we are capable of stopping atrocities before they occur in other, profoundly less damaging ways.

These explanations are often unsatisfactory in the humanitarian intervention narrative, and the reason they are is because of the necessity we have to simplify complex issues, and because of the moral urge we have to help those in dire need. But ignoring the core of the problem does not actually help those who are most in need. Moving in this direction will not secure the lives of those who most urgently require help. This humanitarian intervention frame would only work if the conditions were really exactly as they are presented by advocates of it: the house is burning, go in and help. The analogy does not do justice to the reality of global politics, or guard against the imperial intentions of not-so cosmopolitan motives. A failure to shift our conceptual understanding of the

world from good-bad, to perhaps the more realistic bad-bad possibility negates our ability to make real headway toward cosmopolitan law and order. Most importantly in this analysis is the belief that we cannot progress, we cannot find meaningful solutions, we cannot contribute to a permanent global peace unless we seriously revise how we look at global politics.

This project is motivated from a deep belief in the possibilities of a cosmopolitan world order, and one that does not see humanitarian intervention as a route which will take us there. Cosmopolitanism is not about 'civilizing' the 'other', about fixing 'their' problems, or rescuing 'them'. Cosmopolitanism as an idea advocated by interventionists must be challenged in serious ways.

Humanitarian intervention as an idea to promote peace must be abandoned entirely if we are dedicated to peace and security. The challenge for cosmopolitans is to engage in a reexamination of its values in order that it could engage seriously in the process of a peaceful global order. It is to make this conceptual shift that will make room for the possibility of change. Without that conceptual shift, we cannot imagine other, better possibilities. The reason we cannot imagine them is because the frame called 'humanitarian intervention' does not allow them. Only by furthering our understanding, delineating the complexities in foreign conflict, admitting our responsibilities in our conduct of global economics, and geo-political foreign policies can we actually participate in the possibility of change toward a peaceful, coexistence of global order.

Cosmopolitanism is an idea that must be able to make a conceptual shift about us

and them. It is not to see us as the moral example, but to acknowledge the moral deficiency in us, and to correct it, before imposing military action on others.

Bibliography

Africa Direct, Submission to the UN Tribunal on Rwanda,
www.unius.co.uk/africa-direct/tribunal.html

Amnesty International. "NATO violations of the laws of war during Operation Allied Force must be investigated." 25 July 2000.
www.amnesty.org/news/2000/4/002500.htm

Annan, K. News interview cited from
www.pbs.org/newshour/bb/international/july-dec99/annan_10-18.html

Anderson-Gold, Sharon. *Cosmopolitanism and Human Rights*. Cardiff: University of Wales Press, 2001.

Archibugi, D. "Cosmopolitan Guidelines for Humanitarian Intervention", *Alternatives* 29, no.1 (2004):1-22.

Arend, Anthony Clark and Beck, Robert J. *International Law and the use of force: beyond the UN charter paradigm* London: Routledge, 1993.

Arendt, Hannah. *On Violence*. New York: Harcourt, Brace and World, Inc., 1969.

--. *Lectures on Kant's Political Philosophy*. Chicago: University of Chicago Press, 1982.

Aristotle. *Nichomachean Ethics*. Oxford: Oxford University Press, 1998.

Blair, T. "Doctrine of the International Community," Speech to the Economic Club, Chicago Hilton (April 22, 1999)
www.fco.gov.uk/news/speechtext.asp?2316.

Barry, B. "Statism and Nationalism: A Cosmopolitan Critique", *Global Justice: Nomos XLI* (1999).

Bass, J. *Stay the Hand of Vengeance*. New Jersey: Princeton University Press, 2000.

Beiner, Ronald, and Booth, William James, eds. *Kant and Political Philosophy: The Contemporary Legacy*. New Haven, CT: Yale University Press, 1996.

Bellamy, A. "Motives, outcomes, intent and the legitimacy of humanitarian intervention." *Journal of Military Ethics* 3, no. 3 (2004): 216-232.

Bissett, James, Former Canadian Ambassador to Yugoslavia, "Balkan Crisis Page." <http://www.deltax.net/bissett/>

Boutros Boutros-Ghali, Interview with Frontline conducted Jan. 21, 2004. <http://www.pbs.org/wgbh/pages/frontline/shows/ghosts/interviews/ghali.html>

Brock, P. *Media Cleansing: Dirty Reporting: Journalism and Tragedy in Yugoslavia*. Los Angeles: GM Books, 2006.

Brown, C. *Sovereignty, Rights and Justice: International Political Theory Today*. Cambridge: Polity Press, 2002.

Cavallar, Georg. *Kant and the Theory and Practice of International Right*. Cardiff: University of Wales Press, 1999.

Chandler, D. "International Justice." *The New Left Review* 6, (2000): 55-66.

--. *From Kosovo to Kabul: Human Rights and International Intervention*. Ann Arbor: Pluto Books, 2006.

Charter of the United Nations. <http://www.un.org/aboutun/charter/>

Chatterjee, Deen K., and Scheid, Don E., eds. *Ethics and Foreign Intervention*. Cambridge: Cambridge University Press, 2003.

Chesterman, Simon. *Just War or Just Peace: Humanitarian Intervention and International Law*. Oxford, New York: Oxford University Press, 2001.

--. *You, The People: The United Nations, Transitional Administration and State-Building*. Oxford, New York: Oxford University Press, 2004.

Chossudovsky, M. "Dismantling Yugoslavia; Recolonizing Bosnia." *Covert Action*, no. 56 (1996). <http://www.globalresearch.ca/articles/CHO202G.html>

--. "The US was behind the Rwandan Genocide: Rwanda: Installing a US Protectorate in Central Africa" *Global Research*, May 8, 2003. Retrieved at globalresearch.ca/articles/CHO305A.html

Chrystos. *Not Vanishing*. Vancouver: Press Gang Publishing, 1988.

Clausewitz, von Carl. *On War*. Translated by Michael Howard and Peter Paret, New Jersey: Princeton University Press, 1976.

Coady, C. A. J. "The Ethics of Armed Humanitarian Intervention." *Peaceworks* 45, (2002). <http://www.usip.org/pubs/peaceworks/pwks45.html>

Cohen, W. Interview with CBS *Face the Nation*, May 16, 1999: Burelle's Information Services, 1999.

Degraded Capabilities: The Media and the Kosovo Crisis. Edited by Herman, E., and Hammond, P. London: Pluto Press, 2000.

Dickson T., and Jokic A. "Yugoslavia Dismantled and International Law." *International Journal for the Semiotics of Law* 19, no. 4, (2006): 339-346.

Elich, G. *Strange Liberators: Militarism, Mayhem, and the Pursuit of Profit*. Coral Springs, Florida: Llumina Press, 2006.

Elliott L., and Cheesman, G. *Forces for Good: Cosmopolitan Militaries in the 21st Century*. Manchester: Manchester University Press, 2005.

--."Cosmopolitan theory, militaries, and the deployment of force." Department of International Relations, RSPAS, Canberra: Australian National University, 2002.

Falk, R. "Revisiting Westphalia, Discovering Post Westphalia." *The Journal of Ethics: An International Philosophical Review* 6, no. 4 (2002): 311-352.

Finnemore, M., and Sikkink, K. "International Norm Dynamics and Political Change." *International Organization* 52, no 4 (1998): 887-917.

Fog Of War: Eleven Lessons from the Life of Robert S. McNamara, DVD directed by Errol Morris (2004; Berlin, Germany: Sony Picture Classics, 2007).

For Love of Country: Debating the Limits of Patriotism. Edited by Joshua Cohen. Boston: Beacon Press, 1996.

Gentili, A. *De Jure Belli Libri Tres*. Oxford: Clarendon Press, 1995.

Genocide By Sanctions. (DVD) Directed by Gloria La Riva. New York: People's Video Network, 1998.

Gewirth, Alan. "The Epistemology of Human Rights." *Social Philosophy and Policy* 1 no. 2, (1984): 49-75.

Glahn, von Gerhard. *Law Among Nations*, 6th edition (Toronto: Maxwell MacMillan Publishing Company: 1992

Gourevitch, G. *We Wish To Inform You that Tomorrow We Will Be Killed with our Families*. London: Picador, 1999.

Grotius, Hugo. *On the Law of War and Peace (De jure belli ac pacis)* Translated by A.C. Campbell. Kitchener: Batoche Books, 2001.

Harris, L. "The Cosmopolitan Illusion." *Policy Review* 118 (2003): 153-164.

Hehir, B. "Intervention: From Theories to Cases." *Ethics and International Affairs*, 9 (1995): 1-13.

Habermas, J. "Bestiality and Humanity: A War on the Borders between Legality and Morality." Translated by Meyer S., and Scheurerman, W. *Constellations* 6, no. 3 (1999): 263-272.

--. "Interpreting the Fall of a Moment." Translated by Pensky, M. *Constellations* 10, no. 3 (2003): 364-370.

Hayden, P. *John Rawls: Towards a Justice World Order*. Cardiff: University of Wales Press, 2002.

--. *Cosmopolitan Global Politics*. Aldershot: Ashgate Publishing Ltd, 2005.

Hayden, R. "Biased Justice: 'Humanrightsism and the International Criminal Tribunal for the Former Yugoslavia'" *Lessons of Kosovo: The Dangers of Humanitarian Intervention*. New York: Broadview Press, 2003.

Held, David. *Democracy and Global Order*. Cambridge: Polity Press, 1995.

Hoffman, Stanley. *Duties Beyond Borders: On the Limits and Possibilities of Ethical International Policies*. Syracuse, NY: Syracuse University Press, 1981.

--. "Out of the Cold: Humanitarian Intervention in the 1990s." *Harvard International Review* 26, no 1 (1993). <http://hir.harvard.edu/articles/294/>

--, *The Ethics and Politics of Humanitarian Intervention*. Notre Dame, IN: University of Notre Dame Press, 1996.

Humanitarian Intervention: Legal and Political Aspects. Copenhagen: Danish Institute of International Affairs, 1999.

Humanitarian Intervention: Moral and Philosophical Issues. Edited by Jokic, A. New York: Broadview Press, 2003.

The International Commission on Intervention and State Sovereignty. "The Responsibility to Protect. iciss-ciise.gc.ca

International Law Commission (ILC) 'Draft Declaration on Rights and Duties of States' (1949), GA Resolution 375 (IV).

Ignatieff, Michael. *Human Rights as Politics and Idolatry*. New Jersey: Princeton University Press, 2001.

Jackson, R. *The Global Covenant: Human Conduct in a World of States*. Oxford University Press: Oxford, 2000.

Jackson, Robert H. (Justice). *Opening Statement before the International Military Tribunal*. <http://www.roberthjackson.org/Man/theman2-7-8-1/>

Johnson, J. "Cosmopolitan Patriotism" *New Thinking* 1, no. 1 (Winter, 2003).

Johnstone, D. *Fools' Crusade: Yugoslavia, NATO and Western Delusions*. New York: Monthly Review Press, 2002.

Jones, C. "Patriotism, Morality and Global Justice." *Nomos XLI: Global Justice*. Edited by Shapiro I., and Brilmayer, L. New York: NYU Press, 1999.

--. *Global Cosmopolitanism*. New York: Oxford University Press, 1999.

Kirshenbaum, G. "Who's Watching the Peacekeepers?" *Ms Arlington* 4, no. 6 (1994): 10-16.

Kaldor, M. *New and Old Wars: Organized violence in a global era*. (Cambridge: Polity Press, 1999.

Kant, Immanuel, *Kant's Political Writings, 2nd ed*, Edited by Hans Reiss. Cambridge: Cambridge University Press, 1991.

--. *Religion within the Limits of Reason Alone*. Translated by Greene T.M., and Hudson, H. H. New York, Harper & Row, 1960.

Kleingeld, P. "Kant's Cosmopolitan Patriotism." *Kant-Studien* 94. (2003):299-316.

Knightley, P. *War: The First Casualty, 3rd ed*. MD: John Hopkins University Press, 2004.

--. "Fighting Dirty", *Guardian Weekly*, 30 March, 5 April, 2000.

"Kosovo: One Year Later." www.stratfor.com/CIS/specialreports/special26.htm

Laughland, J. "This is not justice: The Hague has replaced Nuremberg's jurisprudence of peace with a licence to the west to kill." *The Guardian* (London), February 16, 2002
<http://www.globalresearch.ca/articles/LAU202A.html>

Lepard, B. *Rethinking Humanitarian Intervention*. Pennsylvania: The Pennsylvania State University Press, 2002.

Lessons of Kosovo: The Dangers of Humanitarian Intervention. Edited by Jokic, A. New York: Broadview Press, 2003.

Linklater, A. *The Transformation of Political Community*. Cambridge University Press: Cambridge, 1998

Lu, C. *Just and Unjust Interventions in World Politics: Public and Private*. (New York: Palgrave MacMillan, 2007.

--. *Lessons of Kosovo: The Dangers of Humanitarian Intervention*. New York: Broadview Press, 2003.

MacGoldrick, D., Donnelly, E., and Rowe, P.J. eds. *The Permanent International Criminal Court: Legal and Policy Issues*. Oxford and Portland, Oregon: Hart Publishing, 2004.

Mackenzie, Lewis. *Peacekeeper: The Road to Sarajevo*. Vancouver: Douglas and McIntyre Ltd, 1993.

Mandel, M. *How America Gets Away with Murder: Illegal Wars, Collateral Damage and Crimes Against Humanity*. London: Pluto Press, 2004.

Miscevic, N. *Nationalism and Beyond: introducing moral debate about values*. Budapest, Hungary: Central University Press, 2001.

The Morality of Nationalism. Edited by McMahan, J., and McKim, R. New York and Oxford: Oxford University Press, 1997.

Mo Tzu, "Against Offensive War." in *Basic Writings of Mo Tzu, Hsun Tzu, and Han Fei Tzu*. Edited and translated by Burton Watson. New York: Columbia University Press, 1967.

Murphy, Sean D. *Humanitarian Intervention: The United Nations in an Evolving World Order*. Philadelphia: University of Pennsylvania Press, 1996.

Nielsen, K. "Cosmopolitan Nationalism." *The Monist*, 82, no.3 (July 1999): 446-468.

Nussbaum, M. *The Fragility of Goodness: Luck and ethics in Greek tragedy and philosophy*. New York: Cambridge University Press, 1986.

Orend, B. *Human Rights: Concept and Context*. New York: Broadview Press, 2002.

Orford, A. *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law*. New York, Cambridge International Press, 2003.

--. "The Politics of Collective Security." *Michigan Journal of International Law* 17 (1995-96): 373-411.

Perpetual Peace: Essays on Kant's Cosmopolitan Ideal. Edited by Bohman, James and Lutz-Bachmann. M. Cambridge: MIT Press, 1997.

Petras J., and Vieux, S. "Bosnia and the Revival of US Hegemony.", *New Left Review*, vol a (1996): 3-25.

Pogge, T. "Moralizing Humanitarian Intervention: Why Jurying Fails and How Law Can Work" in *Humanitarian Intervention*, NOMOS 47, Edited by Terry Nardin and Melissa Williams. New York: New York University Press, 2005: 157-177.

Power, S. *A Problem from Hell: America and the Age of Genocide*. New York: Basic Books, 2002.

Prado, E. "Humanitarian Intervention: Successful outcomes without humanitarian motives? Indonesia, Australia and intervention in East Timor." PhD diss., Department of Government, University of Essex, *Political Studies Association*, 2004.

Pufendorf, Samuel, von. *The Political Writings of Samuel Pufendorf*, Translated by Michael J. Seidler. Oxford: Oxford University Press, 1994.

Yugoslavia Unraveled: Sovereignty, Self-Determination, and Intervention. Edited by Raju G.C. Thomas. Lanham, Boulder, New York, Oxford: Lexington Books: 2003.

Ramsbothan, O., and Woodhouse, T. *Humanitarian Intervention in Contemporary Conflict: A Reconceptualization*. London: Polity Press, 1996.

Rawls, John. *The Law of Peoples*. Cambridge, Harvard University Press, 1999.

Reisman, W. M. "Sovereignty and human rights in contemporary international law." *American Journal of International Law* 84, (1990): 239-258.

Remec, P., R. *The Position of the individual in international law according to Grotius and Vattel*. The Hague: M. Nijhoff, 1960.

Rethinking Nationalism. Edited by Jocelyn Couture, Kai Nielsen, and Michel Seymour. Calgary: University of Calgary Press, 1996.

Roberts, Adam. *Humanitarian Action in War: Aid, Protection and Impartiality in a Policy Vacuum*. London: Routledge, 1997.

--. "The Road to Hell: A Critique of Humanitarian Intervention." *Harvard International Review* 16, no.1 (1993):10-16.

Robertson, G. *Crimes Against Humanity: The Struggle for Global Justice*. New York: New Press, 2000.

Rostow, E. "In Search of a Major Premise: 'What is a Foreign Policy For?'" (April 1971): 239-242.

Said, E. *Orientalism*. New York: Vintage Books, 1994.

Savic, O. *The Politics of Human Rights*. London: Verso, 1999.

Schachter, O. *International Law in Theory and Practice*. Dordrecht: Nijhoff, 1991.

Scheffer, D. *The United States and the International Criminal Court: National Security and International Law*. Edited by Sewall S. B., and Kaysen C. Maryland: Rowman and Littlefield Publishers, 2000.

Schmitt, Carl. *The Nomos of the Earth in the International Law of the Jus*. Translated by G.L. Ulmen New York: Telos Press, 2003.

Schmitt, Carl, *The Concept of the Political*. New Brunswick, 1976.

--, *Glossarium 1947-1951* (Berlin, 1991).

Sellars, K. *The Rise and Rise of Human Rights*. Gloucestershire: Sutton Publishing, 2002.

Shute, S., and Hurley S., eds. *On Human Rights*. New York: Basic Books, 1993.

Smith, W. "Anticipating a Cosmopolitan future." *International Politics* 44 (2007).

Stanton, K. "Pitfalls of Intervention: Sovereignty as a Foundation for Human Rights." *Harvard International Review* 16, no. 1 (1993): 16-27.

Stein, M. "Unauthorized Humanitarian Intervention," *Social Philosophy and Policy Foundation* 21, no. 1 (2004):14-38.

Tan, Kok-Chor. "Cosmopolitan Impartiality and Patriotic Partiality." *Global Justice and Global Institutions*. Edited by Daniel Weinstock. Calgary, Alberta: University of Calgary Press, 2007.

Taylor, C. *Human Agency and Language*. Cambridge: Cambridge University Press, 1985.

--. *The Malaise of Modernity*. Concord, Ont: Anansi, 1991.

Teson, F. *Humanitarian Intervention: An Inquiry into Law and Morality, 2nd Edition*. Transnational Publishers: Irvington, New York, 1997.

"The Truth about Rajmonda", CBC Television, September 8, 1999
www.cbc.ca/national/pgminfo/kosovo3/-rajmonda.html

'*Toward Perpetual Peace*' and Other Writings on Politics, Peace, and History. Edited by Kleingeld, P. New Haven: Yale University Press, 2006.

Uvin, P. *Aiding Violence: The Development Enterprise in Rwanda*. West Hartford, CT: Kumarian Press, 1998.

Vincent, R.J. *Non-Intervention and international orde*. NJ: Princeton University Press, 1974.

Walzer, Michael. *Just and Unjust Wars*. New York: Basic Books, 1992.

--, "The Moral Standing of States: A Response to Four Critics." *Philosophy and Public Affairs* 9 (1980): 209-229.

--. "The Argument about Humanitarian Intervention" in *Ethics of Humanitarian Intervention*. Edited by Meggle, G. Ontos/Verlag: Frankfurt, Lancaster, 2004.

--. *Thick and Thin: Moral Argument at Home*. Notre Dame: University of Notre Dame Press, 1994.

West, R. *Black Lamb and Grey Falcon*. London: Penguin Books, 1940.

Wheeler, N. *Saving Strangers: Humanitarian Intervention in International Society*. Oxford: Oxford University Press, 2000.

Williams, H. *Kant's Political Philosophy*. Oxford: Basil Blackwell, 1983.

Woodward, S. *Balkan Tragedy: Chaos and Dissolution After the Cold War*. Washington, D.C.: The Brookings Institute, 1995.

Zimmerman, W. Interview by David Binder, "US policy makers on Bosnia admit errors in opposing partition in 1992", *The New York Times*, 29 August, 1993.