The principle of absolute sovereignty may have been consigned to history, but a strong presumption against foreign intervention seems to have been left in its stead. On the dominant view, only massacre and ethnic cleansing justify armed intervention, these harms must be already occurring or imminent, and the prudential constraints on war must be satisfied. Each of these conditions has recently come under pressure. Those looking to defend the dominant view have typically done so by invoking international peace and stability, or the value of communal self-determination. But the internal aspect of legitimacy has been overlooked in all of this. If a government insists on defending the human rights of foreigners, it must also be sure not to violate the rights of its own citizens in the process. I argue that the current presumption against humanitarian intervention cannot be substantially relaxed for internal reasons, or given the obligations that states owe to their own constituents.
On Altruistic War and National Responsibility: Justifying Humanitarian Intervention to Soldiers and Taxpayers

Introduction

The principle of absolute sovereignty may have been consigned to history, but a strong presumption against foreign intervention seems to have been left in its stead. The dominant view was formalised by the International Commission on Intervention and State Sovereignty (ICISS) in its 2001 report, The Responsibility to Protect. The report sets out a list of conditions that must be satisfied before armed intervention becomes a legitimate option. First, there must be “large scale loss of life” or ethnic cleansing (the “just cause threshold”). These harms must be already occurring “or imminently likely to occur”.¹ And the prudential constraints on war (last resort, proportionality, reasonable prospect of success) must all be satisfied.² Henceforth I will refer to these simply as the ICISS threshold criteria.

According to the view put forward in The Responsibility to Protect—and shared by a majority of applied philosophers, jurists, and the international community³—it is necessary to:

isolate from the full range of internationally ratified human rights the subset of rights whose neglect or violation is so morally perturbing or reprehensible that no state within whose boundaries they go unrespected could justifiably invoke its claims to sovereignty, should it ever choose to do so, against corrective intervention from without (Evans 2002: 135).

But not everyone agrees that a special set of “sovereignty-trumping” rights needs to be set apart. According to Fernando Teson, intervention is justified, at least in principle, to protect any of the human rights “now recognised by international law” (Teson 1995: 91). In a similar vein Charles Beitz contends that there is no robust distinction between Rawls’ “human rights proper” - to personal security, the means of subsistence, liberty from slavery, and to equal treatment under the law - and the remainder of the rights that appear in the international legal lexicon. Therefore a state must honour the full complement of rights and liberties to enjoy the protection that sovereignty affords (Beitz

---

¹ The humanitarian justification for the 2003 invasion of Iraq was rejected by Human Rights Watch on the grounds that it failed to live up to this criterion (Roth 2004). Saddam Hussein’s most heinous crimes—those which coalition leaders invoked to justify their actions, such as the gassing of the Kurds—occurred in the 1980’s. The purpose of humanitarian intervention, however, must be to rescue the victims of massacre, not to avenge them.

² These are referred to in the ICISS report as “precautionary principles”, but I will use the term “prudential conditions” in keeping with the terminology that I have used elsewhere.

³ For more on the consensus around this threshold, see Dobos (2007).
2001). It is not enough to merely refrain from massacre and ethnic cleansing. The requirement that the rights abuses be ongoing or imminent has also come under some pressure. Teson argues that on this standard, “all that mass murderers would have to do to avoid being overthrown is to speed up the executions… The most efficient mass murderers are immune to intervention” (Teson 2005: 14-15). For Teson, ex post facto humanitarian intervention can also be justified.

Those looking to defend the ICISS threshold (or something like to it) have typically tried to resist these pressures by appealing to international peace and stability, or the value of communal self-determination. But the internal dimension of legitimacy has been overlooked in all of this. A humanitarian intervention is externally legitimate if it can be justified to the people that it affects outside of the state prosecuting it: its intended beneficiaries, the international community, and so on. The debate over altruistic war has revolved almost exclusively around this aspect of legitimacy. But if a government insists on defending the human rights of foreigners, it must also be sure not to violate the rights of its own citizens in the process. To borrow from Robert Jackson, any decision on humanitarian intervention must “pay final respects to national responsibility” (Jackson 1994: 123). A humanitarian intervention is internally legitimate if it can be justified to the people that it affects within the acting state. In this paper, I will try to show that the current presumption against humanitarian intervention cannot be substantially relaxed for internal reasons, or given the obligations that states owe to their own constituents.

Traditional solutions to the problem of internal legitimacy: National self-interest and democratic authorisation

What is the state’s raison d’être? Why does it exist? According to both Hobbes and Locke, it is to ensure the security and wellbeing of the people that bring it into existence via the social contract; to protect them from the perils and “inconveniences” inherent in the State of Nature. We each submit to the authority of the state in return for this service. On the “fair play” and “gratitude” accounts of political obligation, it is nothing besides the performance of this function that gives the state its licence to promulgate and enforce laws. Because we benefit from the state’s activities, we are obliged to obey its directives by way of requital. Benefaction is what gives the state its “right to rule”. The attraction of this view is that it “puts government in its place”; the state is justified “because it serves the interests of its people and for no other reason”. The advent of this conception represented a radical break with the past, when states were seen as the property of dynastic families whose interests they were to serve (Buchanan 1999: 75).

But as Allen Buchanan points out, there is a tension between this understanding of the state and the practice of humanitarian intervention. When a government uses public funds to defend the rights of foreign nationals instead of advancing the interests of its own people, it would appear to transgress the terms of the social contract so conceived. On the face of it, it seems that a government cannot engage in humanitarian intervention without infringing the fiduciary rights of its own citizens in the process.4

4 The fact that a state has signed an international agreement committing itself to engage in humanitarian intervention under certain circumstances has no bearing on this. If it is morally impermissible for a state to
But this is too quick. Today it is generally accepted that secondary motives of a political, economic, or strategic nature do not necessarily disqualify an intervention from being classified as “humanitarian”. And clearly, where a humanitarian intervention is motivated partly by national self-interest, the state prosecuting it cannot be charged with acting in excess of its authority. If a state is empowered to obtain optimal conditions for its citizens, then a course of action that is expected to further this end falls squarely within the parameters of the state’s mandate. The fact that it is also expected to benefit foreigners, as a means to or a side effect of this, is immaterial.

At this point one might be tempted to interject that even where humanitarian intervention is expected to serve the national interest, there will often be some alternative course of action that would prove even more domestically advantageous. This may very well be true. But it is important to remember that when we empower a statesperson, we authorise him to use the state’s resources in whichever way best serves the national interest in his judgment (Pennock 1979: 316). The state is not merely a delegate whose role is to transmit the direct instructions of its principals or authors. It is what Joel Feinberg refers to as a “free agent”: “an expert hired to exercise his professional judgment on behalf of, and in the name of, his principal” (Feinberg 1968: 675). Edmund Burke eloquently captured the role of the political representative in his speech to the electors of Bristol:

… to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinion high respect… It is his duty to sacrifice his repose, his pleasures, his satisfactions, to theirs… But, his unbiased opinion, his mature judgement, his enlightened conscience, he ought not to sacrifice to you; to any man, or to any sett of men living… Your Representative owes you, not his industry only, but his judgement; he betrays, instead of serving you, if he sacrifices it to your opinion (Burke 1774).

And the specifics of how the national interest is to be advanced are of no consequence. Columnist Charles Krauthammer argues that since a statesperson is nothing more than a “trustee” who “spends the blood and treasure of others”, her freedom of intervention is limited to cases where it is “strategically necessary”, or in the national interest. Curiously, Krauthammer goes on to explain that if an armed intervention is necessary to protect sea lanes or chromium mines that are of value to the intervening state, then it is morally and politically acceptable. On the other hand if the decision to intervene is based on “international law, world public opinion, and the public sentiments of our (the USA’s) allies”, it is not (Krauthammer 1985: 11).

But couldn’t an intervention advance the national interest by improving the state’s relations with—and winning it the respect of—its friends, allies, and even its enemies?

engage in humanitarian intervention, it cannot validly commit itself to doing so. As Spinoza says “… no sovereign can keep promises to the detriment of his state without committing a sin; for if he sees any promise he has made to be turning out to the disadvantage of his state, he can only keep it by breaking his pledge to his subjects, although the latter is a pledge which binds him most strictly…” (Spinoza 1958: 141).
Developing a positive international reputation is clearly advantageous in terms of national security and also tends to facilitate economic growth. Furthermore, as Joseph Nye observes, “if a state can make its power legitimate in the eyes of others, it will encounter less resistance to its wishes” (Nye 1990: 182). Responsiveness to international law and world opinion would therefore seem to be recommended by an enlightened, far-sighted national self-interest.

Where there are national interests at stake, then, humanitarian intervention cannot be said to involve a deviation from the terms of the social contract. It is worth noting that if one happens to subscribe to the descriptive variant of political realism, this concession makes internal legitimacy a non-issue.

According to prescriptive (or normative) realism, states ought to make decisions based exclusively on considerations of the national interest. A corollary of this is that moral considerations ought not to be given a place in political decision making at the international level. According to the descriptive realist, by contrast, states as a matter of fact are motivated exclusively by national self-interest (Orend 2006: 224). Appeals to ideology and values in politics are mere rhetoric, concealing the pursuit of power which is at the root of every decision taken in the international arena. Some see this as being determined by human nature, which “stands outside of history and cannot be transcended” (Dunne and Schmidt 2001: 147). Since humans are naturally self-seeking, it is to be expected that this will be reflected in their political institutions. For “structural” realists, it is the anarchical nature of the international system - the absence of an overarching government capable of enforcing rules of peaceful cooperation – that explains why international politics is necessarily power politics. The absence of a world government makes for a hostile environment in which states are forced to seek “power after power” in order to ensure their own survival (Hobbes 1985: 161). Some descriptive realists go so far as to suggest that states cannot act morally (Orend 2000). If this is right, then the internal objection to humanitarian intervention is purely academic.

This, however, is an empirical claim whose verity I am not in a position to judge. Hence I will proceed on the assumption that humanitarian intervention is sometimes purely motivated or disinterested. Only in these cases can it be said to involve a deviation from the state’s domestic responsibilities. To this we can add that some such deviation is morally problematic only in the absence of democratic approval. Prominent realist George Kennan suggests that popular support is irrelevant in this connection:

Government is an agent, not a principal. Its primary obligation is to the interests of the national society it represents, not to the moral impulses that individual elements of that society may experience (Kennan 1985/86: 206).

The claim here is essentially that “the function justifying the state places an antecedent constraint on what may be decided by democratic processes” (Buchanan 1999: 76). But I do not see how an intervention can sensibly be said to wrong the people whose resources it relies on if they contribute willingly. Consider a stockbroker that enters into a contract which contains the explicit instruction to invest his client’s money only in Australian
companies. Should the broker then turn around and buy stocks in Walmart or British Petroleum, we would say that he has breached his client’s trust. But we would not say this if, subsequent to the signing of the contract, the broker had managed to convince his client of the advantages of investing abroad, obtained his consent, and then invested his money in foreign companies. An agent who oversteps the terms of his original mandate with his author’s blessing does him no harm.

**Enforcing the duty of assistance**

But even where there is neither a democratic mandate nor a coincident national-interest rationale, a state that goes to war to defend the rights of foreign nationals can still, I think, leave the rights of its own citizens intact. I take it that to compel someone to do his duty is not to infringe his rights. Hence if there are circumstances under which we are morally obliged to make our collective resources available for the defence of human rights beyond our borders, it is permissible for our government to use our resources to this end, even against our will. It is only when we are not under any obligation to render assistance that our government’s intervention gives us grounds for complaint, for in these cases we are compelled to make a sacrifice that we have every right to refuse. The all important question, then, is this: under what circumstances are the taxpaying citizens of one country obliged to pay for disinterested humanitarian intervention into another?

For John Rawls, what we owe to outsiders is non-aggression and fidelity to treaties, but also some degree of positive assistance. Specifically, there is an obligation to remove the burdens which prevent societies from becoming “well-ordered”. Now a well-ordered state honours a narrowly circumscribed set of “human rights proper”, including the right to personal security, to the means of subsistence, liberty from slavery, personal property, and to equal treatment under the law. But it need not respect freedom of speech and association, freedom of religion, and the right to democracy. It follows that we are only obliged to ensure that persons beyond our borders enjoy this “special class of urgent rights”, not that they enjoy all of the rights guaranteed in liberal democracies (Rawls 1999: 79).

In a similar vein, Henry Shue argues that a “default” duty to prevent and punish rights violations comes into effect when “fundamental” or “basic” rights are at stake: rights that are “essential to the enjoyment of all other rights”, such as the right to life, adequate sustenance, and freedom from slavery (Shue 1996: 74). However, he goes on to state that:

> there are cases in which some interest is important enough that everyone should have a duty not to deprive anyone of it, but not important enough that when someone violates his duty not to deprive, some other category of person should have a default duty to step in either to prevent or to punish the duty-violating deprivation. Some matters are presumably worth one whack but not worth two whacks (Shue 1999: 2-3).

I assume that Shue is referring here to the remainder of the non-basic political, social, and economic rights that have been ratified by the international community.
Michael Walzer follows suit. The right not to be massacred, enslaved or subjected to ethnic cleansing, is supported by a right to be rescued from these atrocities says Walzer; a positive right against foreigners that are in a position to intervene. But when it comes to free speech, freedom of religion, freedom of movement and the like, Walzer denies “that there are agents beyond the state who are obligated to enforce or implement these rights if states default” (Walzer 2007: 261-62).

The consensus seems to be that absolute deprivation and basic human rights violations activate a duty of foreign aid, but that there is no obligation to ensure that foreigners enjoy the full range of rights and liberties. If this is correct, then we are not obliged to pay for the defence of social and political rights in other countries. Accordingly, we have a prima facie right that our government not deviate from its responsibility of advancing the national interests in order to engage in what Sean Murphy has dubbed the “new breed” of humanitarian intervention, where the rights defended are “largely political in nature” (Murphy 1996: 110).

Of course exceptions may arise in cases where the denial of social and political rights is something for which we are partially responsible. The governments that we vote into office sometimes trade with authoritarian regimes, bankrolling the oppression of their subjects. Our companies are permitted to sell arms to these regimes, enabling them to efficiently put down resistance movements (Pogge 2002: 142). And most developed states have not only legally authorised their firms to bribe corrupt foreign officials; they have even allowed them to deduct the bribes from their taxable revenue (Pogge 2001: 333). All of this facilitates the oppression of people beyond our borders, and there may be cases in which we are so deeply implicated that we acquire a duty to shoulder the costs of intervention to undo the damage. Nothing that I have said precludes this. But to maintain that there is a natural obligation to defend social and political rights—one that obtains independently of such special circumstances—seems to overstate the requirements of positive morality.

Even if it is true, then, that only liberal democratic states are morally immune from outside intervention, as the likes of Teson and Beitz maintain, “national responsibility” threatens to make this academic. Internal considerations seem to rule out intervention for the sake of a wider range of social and political rights.

National responsibility and the prudential constraints on war

It is for similar reasons that the prudential constraints on war cannot be relaxed. Suppose that the intended beneficiaries of a humanitarian intervention support it overwhelmingly, despite the fact there is only a slim hope of success. They are prepared to take the risk and to sustain the costs of failure, even if this means intensified oppression and brutality at the hands of their government. To maintain that intervention is prohibited regardless, because it fails to satisfy the success principle, may look like a case of “superstitious rule-worship”. Are people not at liberty to gamble with their own lives? Looking at things purely from an external perspective, we seem to have no good reason for insisting that the
success principle be satisfied in such cases, even if it is usually morally necessary. Again, however, once the domestic obligations of the intervening state are factored into the equation, it becomes clear why the success principle cannot be set aside even in these rare cases.

We have established that individuals who are compelled to finance a humanitarian intervention are not wronged when they are simply being forced to discharge a pre-existing moral obligation. But some such obligation can arise only when there is reason to believe that intervention would actually be effective in preventing human rights violations. A people need not part with their resources for the sake of purely symbolic gestures of goodwill and solidarity with the oppressed. Likewise, they need not sacrifice millions or even billions of dollars simply to bring a tyrant to justice for past atrocities. For internal reasons, intervention must be limited to the prevention of human rights violations, not their punishment, and there must be a reasonable prospect of success.

The obligations that states owe to their military personnel I think further reinforce the ICISS threshold requirements. A professional soldier may have freely taken on an inherently dangerous role, but he can still reasonably and legitimately expect that he will only be put in harm’s way for the sake of objectives that it is worth risking human life to achieve. This is not so much a fiduciary obligation owed to armed servicemen and women qua employees, as it is a natural obligation owed to them simply as members of the moral community. It is essentially a duty not to devalue their lives. Now if we think that the denial of social and political rights is not serious enough to put taxpayers under a duty to finance a humanitarian intervention, it is difficult to see how it can be worth risking human life. And to waste a soldier’s life on a humanitarian operation that is predictably futile is the most blatant way of devaluing it.

It is important to point out that popular approval has no bearing on these considerations. If an intervention cannot be reconciled with the moral status of the soldiers deployed, it is internally illegitimate irrespective of whether it is democratically authorised. David Luban insists that “if the folks back home will not tolerate even a single casualty in an altruistic war, then avoiding all casualties becomes a moral necessity” (Luban 2002: 86). And so Luban preoccupies himself with trying to convince the “folks back home”. He points out that wars of self-interest are not typically fought to repel would-be conquerors, but rather to defend strategic or economic interests: to secure trade routes, access to raw materials etc. They are not fought for national survival, but to enable citizens to “continue to be able to gas up their SUV’s at a comfortable price” (Luban 2002: 87). This is surely no more compelling a reason for war than the need to prevent crimes against humanity. And since we are willing to compromise the safety of our troops for such trivial national interests, we really should be willing to put them at risk for the sake of human rights.

Indeed, humanitarian intervention does need to be justified to the “folks back home” in so far as their tax dollars pay for it. But although this is necessary, it is not sufficient. Humanitarian intervention also needs to be justified to the armed servicemen and women sent to carry it out. Luban, by saying nothing of this, reduces military personnel to simply another kind of public resource.
Moral Damage

I have tried to show that even if the ICISS threshold requirements do not need to be met for external reasons, as a rule they remain necessary for internal legitimacy. But before moving on, it is worth pointing out that if these conditions *are* in fact necessary for external legitimacy, as per the dominant view, then the harm that a state inflicts on its own citizens by failing to honour them is arguably even further compounded. For a government could be accused of compromising its citizens *morally* by waging an invasion that is externally unjust.

By electing a government, citizens empower an agent to act in their name and on their behalf. What affect does this have on their moral status in the event that this government wages an externally unjust intervention? Joel Feinberg tells us that an agent’s acts “are binding on [his] principal as if he had done them himself” (Feinberg 1968: 675). Taking this at face value would seem to imply that where an agent acts in a harmful manner within the scope of his specified duties, his guilt simply transfers to his author as if the author had himself engaged in the harmful conduct. But this will not do. Moral guilt is not the sort of thing that admits of being transferred from one party to another, since one of its necessary components is a guilty mind or “mens rea”.

But there are other ways for citizens to be morally compromised by the wrongdoing of their government. A number of contemporary philosophers subscribe to the notion of “moral taint”: the idea that an individual can be blemished by immoral actions which he is not responsible for, simply in virtue of his relationship to the guilty party. Writes Gregory Mellema:

> The wrongful acts of one’s spouse, sibling, or co-worker sometimes appear to strike at our moral integrity in a way that goes far beyond embarrassment or damage to our reputation. We feel a type of moral involvement in these acts that is hard to explain with the categories and concepts of traditional moral philosophy (Mellema 1997: 80).

And even if citizens aren’t directly contaminated by the immoral actions of their government in any such way, they are at least liable to *become* morally damaged. Consider a bank manager that hires a teller to deposit customers’ cash into their accounts. Soon the teller begins to steal from clients, putting part of every deposit into his own pocket. Despite being aware of what is happening, the manager does not terminate the teller’s employment or take steps to prevent any further theft, say due to laziness or indifference. The manager is certainly culpable for his employee’s crime, not simply because he was in a position to stop it (as a regular customer might also have been), but because he had independently assumed a duty to do so by employing the guilty party.

One might say that democratically active citizens are in an analogous position; they assume a responsibility for the actions of their government by electing it. If an elected government is using its power to violate the rights of some third party (the society
targeted by an unjust invasion), then the authors of this government have a duty to revoke its authority or to at least take steps to prevent further wrongdoing. Should they fail to do so, they become complicit in their government’s crimes.

**On the internal case for isolationism**

In what remains I want to address the prospect that I have actually understated the extent to which a government’s domestic obligations limit its freedom to wage humanitarian wars. One might insist that these obligations not only preclude us from moving beyond the currently accepted threshold, but in fact demand that we retreat back in the direction of the absolute non-interventionism that characterised European relations following the Treaty of Westphalia in 1648.

I suspect that classical realists would adopt this view. Given that there is no world government capable of compelling states to observe rules of peaceful cooperation, says the realist, it is inevitable that states will seek “power after power” to bolster their own security. In this setting, a nation that occupies itself with anything other than its own aggrandizement exposes itself to prey by allowing potential aggressors to acquire a relative advantage in terms of position and resources, which can then be converted into a military advantage. This is a risk that no nation is obliged to take; we cannot be duty-bound to put our own collective survival in jeopardy. Therefore, no political community is ever obliged to use its resources philanthropically, from which it follows that no state can ever legitimately compel its citizens to do so.

There is another way of reaching this conclusion. I have in mind Richard Miller’s argument for the principle of patriotic partiality. Every country is governed by its own “terms of self-advancement” says Miller. The life prospects of some citizens are seriously adversely affected by the enforcement of these restrictions. Thus even in the most advanced societies one finds concentrated poverty, homelessness, and so on. Because we each contribute to the imposition of these constraints, (by participating in democratic decision making, paying taxes etc.), we each have a duty to help compensate those whose life prospects are so damaged. We discharge this responsibility through tax-financed aid. Since we do not impose terms of self-advancement on people outside of our own country, the same obligations do not extend across national boundaries. With this Miller concludes that “until domestic arrangements have done as much as they can… to eliminate serious burdens of domestic inequality of life prospects” – a goal he thinks is a long way off even in affluent countries – “there should be no significant sacrifice of this goal in order to help disadvantaged foreigners” (Miller 1998: 210). In other words, citizens can always legitimately demand (indeed must demand) that money spent rendering assistance to foreigners be spent instead improving the lot of their own disadvantaged countrymen.

And Miller’s position seems to be resistant to the kinds of exceptions introduced earlier. I conceded that we might acquire a duty to defend the social and political rights of foreigners where we are causally implicated in the denial of those rights. But even in these cases Miller is adamant that our compatriots have first dibs, so to speak. This, he says, is because national institutions have a far greater impact on an individual’s life
prospects than do international institutions. Thus even where foreigners do have a prima facie right to be compensated for the baneful effects of our dealings with them, the duty to compensate our compatriots takes priority.

On the classical realist argument, then, duties of foreign aid need not be fulfilled since discharging them in the absence of an overarching sovereign power is prohibitively risky. On Miller’s argument, by contrast, the duty of foreign aid is simply buried under the duty of patriotic compensation. Both yield the same conclusion, however, which is that governments must not use public funds to render assistance to foreigners.

To this one might add that a state’s bond with its military personnel also requires that it abstain from (disinterested) humanitarian intervention entirely. The question of whether military conscription is justified continues to generate discussion (Galston 2003; Fullinwider 2003). I do not intend to weigh into the debate here, but simply to sketch the arguments usually relied upon by those who see conscription as morally legitimate, and to tease out their implications.

There are two main approaches. The first derives the state’s right to conscript from its right to wage defensive war. If a state is legitimate, the argument goes, then it must have a right to defend itself against external attack, and this right is compromised unless the state is able to force its citizens to fight. The second approach appeals to the principle of fairness. Those who fight for their country are exposed to severe physical and psychological harm. Those who do not fight enjoy the benefits made possible by the fighting of their compatriots—security, freedom from occupation—without shouldering any of the costs, which is unfair (Coady 2008: chapter 11). Thus conscription is permitted in the name of distributive justice.

Though I do not find either approach entirely persuasive, this can be set aside for present purposes. The point that I want to draw attention to is simply this: The justification for conscription is based on the state’s right to self-defence, and the benefits that citizens enjoy by virtue of the state’s exercise of that right. This surely imposes constraints on how conscripted soldiers may be used. If my state is justified in forcing me to fight because it has a right to defend the community, then I can only be legitimately compelled to fight in defence of the community, and not for the human rights of foreigners. The manner in which conscription is justified seems to rule out using conscripts for humanitarian purposes.

But what about professional soldiers who join the armed forces of their own free will? Again, the case can be made that their deployment in any disinterested humanitarian mission is a violation of their rights. Martin Cook, professor of philosophy at the U.S Airforce Academy, describes the “implicit moral contract” between a state and its armed forces as follows:

---

5 Miller does seem to want to allow for some exceptions: “[patriotic] priority does not totally exclude support for foreign aid in the presence of relevant domestic burdens”. But he fails to elaborate. (1998: 210).
The military contract obliges military personnel to run grave risks and to engage in morally and personally difficult actions. They do these things on the basis of the implicit promise that the circumstances under which they must act are grounded in political leadership’s good faith judgment that the defense of sovereignty and integrity of the nation (or, by careful extension, the nation’s vital interests) require their action (Cook 2000: 62).

The crucial point here is that members of the armed forces agree to fight and die for their country and its interests, not for the human rights of foreigners. And so regardless of whether a soldier is deployed to protect foreign nationals from genocide, or to deliver democracy and free speech, he is treated inconsistently with his autonomy and moral status.6

Each of these arguments, however, is seriously flawed. The realist’s claim that the high-cost/risk proviso is perpetually in effect at the international level may have had some purchase during the Cold War, but it clearly no longer does. And the notion that we owe our compatriots compensation for the damage that our coercive “terms of self-advancement” do to their life prospects needs to be heavily qualified, at the very least. Surely, compensation is not owed for coercive interference that is morally justified. And in a society where the laws are reasonably just, this condition would seem to have been met. Ryan Pevnick puts it another way: “coercion requires justification when it reduces available options or expresses disrespect”. But the coercion of a just state is not objectionable in either of these ways. Pevnick explains that a just state “coerces citizens in order to provide a framework in which they can pursue respective conceptions of the good life”. In other words, the state’s promulgation and enforcement of law is geared towards enhancing the freedom of its citizens, not reducing it. Such coercion does not need to be justified by economic redistribution, says Pevnick, “it is justified by its results (the creation of a just basic structure) and its respectful rationale” (Pevnick 2008: 401-02).

Furthermore, the claim that humanitarian intervention is prohibited by the implicit moral contract between the state and its armed forces is equally unpersuasive. Firstly, not all modes of contemporary warfare put the lives of soldiers at significant risk. The Kosovo intervention, for instance, relied entirely on high altitude bombing that did not return a single NATO casualty for the entire duration of the conflict. Now troops sent to fight in some such “riskless” or “post-heroic” humanitarian mission could still complain that “this was not part of the deal” if Cook’s account of the soldier-state contract is accurate. Nevertheless, I do not think that they can complain of being treated inconsistently with their moral status.7

Coming to the aid of people in grave danger is in some cases simply the minimally decent thing to do, whether or not one has committed himself to doing it through a voluntary

---

6 As Mickey Kaus puts it, “is it fair to ask someone who volunteered to die for America to die for Father Aristide?” (Kaus 1994: 61). Kaus does not endorse this view of the soldier-state contract. Here he is simply describing the position taken by fellow columnist Michael Kinsley.

7 The term “riskless war” is taken from Kahn, 2002. “Post-heroic” war is taken from Luttwak 1995.
Whether an act of rescue does count as minimally decent will depend on a number of factors, most obviously the probability of success and the risk to oneself. If one lacks the necessary training and equipment to render effective assistance, refusing to attempt a rescue may not be objectionable. Likewise if the risk to oneself is great. But none of this applies to highly-trained, well-equipped soldiers deployed on a humanitarian operation where force protection is taken to near pathological levels. Refusing to cooperate here, where the prospect of success is high and the threat to oneself insubstantial, seems to fall well below the standard of minimal decency. A state that sends its troops to fight a “riskless” humanitarian war against their will thus simply compels them to do what morality requires of them, and this does not strike me as being inconsistent with their moral status, irrespective of the content of their implicit contract.

In any case Cook’s account of the contract is rather implausible. What the soldier implicitly consents to cannot be radically at odds with what it is reasonable for him to expect. Many armed servicemen and women do indeed seem to feel that they’ve signed up to serve the national interest exclusive of the national conscience, but there is certainly nothing in their explicit contract that gives this impression. Moreover, humanitarian intervention has by now become commonplace, at least among certain western states. Some of the most recent engagements of the Australian Defence Force, for example, include Operation Astute, aimed at restoring peace in East Timor, Operation Anode, geared towards a similar end in the Solomon Islands, peace-keeping operations in Sudan, and of course the “rehabilitation and reconstruction” of Iraq. Can one join the ranks of some such force, in full awareness of its history and policy of humanitarian intervention, and then protest that this was not what he or she signed up for? Cook admits that the soldier-state contract is undergoing a transformation that would see it become more accommodating to humanitarian intervention. “The growing world culture of communication and global awareness” he says, is working “a change in the moral foundations of military officership” (Cook 2004: 52). I am inclined to say that this change has already taken place.

---

8 Jovana Davidovic (2008) introduces the concept of minimal decency to the humanitarian intervention debate.
9 To be sure, “riskless” methods of warfare can sometimes be prohibited on independent grounds. Many have argued that the NATO bombing of Yugoslavia fell short of the principles of jus in bello, which require that civilian casualties be minimised even if this means endangering the lives of troops. But it is important to note that this is a contingent rather than an essential feature of riskless war; one which is slowly but surely being addressed by advances in military technology.
10 So far, more than 2000 active-duty U.S. soldiers, sailors, Marines and airmen have signed an online Appeal for Redress calling for the withdrawal of troops from Iraq (http://www.appealforredress.org/). Interviews with several of the signatories suggest that Cook’s account of the soldier-state contract resonates with at least some members of the armed forces. “Lisa” of the U.S Air Force, having “joined up two weeks after [turning] 17 because [she] wanted to save American lives”, now feels that “our troops have no reason for being there”. “Sergeant Gary” signed up while still in junior high school on the pretence that Saddam “was a threat to America”. The evidence to the contrary led Gary to sign the Appeal. See Cooper 2006.
11 To be sure, some of these do not technically count as humanitarian interventions on the prevailing definition, according to which an intervention necessarily takes place without the consent of the target state. (Australian forces have been invited by the governments of Timor-Leste and the Solomons).
I do not pretend that these arguments are fatal to the view that disinterested intervention is prohibited by internal considerations. But I hope to have at least shown that this position rests on rather contentious premises. By contrast the weaker position—that the domestic obligations of states demand that humanitarian intervention conform to the threshold criteria listed in the ICISS report—invokes only widely accepted, intuitively plausible premises.

**Conclusion**

Typically, the current threshold constraints on armed intervention are defended by appeal to external factors: the rights and interests of the target state and its subjects, and of the international community more generally. But I have argued that the domestic obligations of states reinforce the imperative to honour these constraints. Hence even if the external obstacles to relaxing the current standard were to give way, national responsibility would still preclude any further weakening of the presumption against humanitarian intervention. For internal reasons, the range of rights whose abuse justifies intervention cannot be expanded, the prudential constraints cannot be suspended, and punitive intervention cannot be admitted. Having said this, however, states need not retreat into an inflexible non-interventionist position on account of their domestic obligations either. A government’s duty to honour the trust of its constituents does not restrict its freedom to defend the rights of foreigners any more than it is already restricted under the dominant view.¹²

**REFERENCES**


¹² I would like to thank Igor Primoratz and Andrew Alexandra for their helpful comments and suggestions on an earlier version of this paper.


