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The Moral Standing of
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I

The argument of *Just and Unjust Wars* has been criticized in a number of ways, most of them overtly political in character, as if in paraphrase of Clausewitz's famous maxim: writing about war is a continuation of writing about politics. . . .¹ That is not an entirely false maxim; indeed, it contains, as will be apparent below, unavoidable truth. And yet it is the purpose of a *theory* of just war to produce principles that, however they apply in this or that case, cannot be conscripted permanently into the service of any particular political creed or of any state or party. They are critical principles, and they open all states and parties to moral criticism. The principles I have put forward are of this sort, and I am less concerned—at least in this journal—to defend the casuistic judgments through which they were worked out than the overall structure of the argument.

But there is one set of criticisms to which I want to respond here because it does raise deep questions about the overall structure. Four writers, in substantial reviews or articles, have adopted the same position, developed it in somewhat different ways, arrived at a common conclusion: that *Just and Unjust Wars*, despite its putative foundation in a theory of individual rights, is ultimately "statist" in character. "The rights of states, and not the rights of individuals," says Wasserstrom, "come in the end to enjoy an exalted, primary status within the moral critique of aggression."² The book, says Doppelt, "furnishes

1. Michael Walzer, *Just and Unjust Wars* (New York, 1977).

2. Richard Wasserstrom, *Harvard Law Review* 92 (December 1978): 544.

a rhetoric of morality in international relations which places the rights of de facto states above those of individuals."³ Beitz and Luban, while trying to suggest what an alternative morality might look like, make similar arguments.⁴ The criticism of these writers rests in places upon a misreading of my own position, but it rests more largely upon significant philosophical disagreements about the nature of political life. And so it is worth pursuing.

The immediate issue is the doctrine of non-intervention, a feature of *jus ad bellum*, the part of the theory that explains the criminality of aggressive war. Wasserstrom, Doppelt, Beitz, and Luban all argue that the theory as I have formulated it (1) protects states that should not be protected against foreign intervention and (2) does so on grounds that are either inadequate or incoherent. The theory has, on their view, conservative implications, and what it conserves is the authority or sovereignty of illegitimate, that is tyrannical, regimes. They, on the other hand, are more open, given certain qualifications about proportionality, to an activist and interventionist politics aimed at overthrowing such regimes and maximizing the enjoyment of individual rights. This is not a line of criticism that I anticipated with any clarity. My own worries had a different focus: I thought the theory might be too permissive with regard to secessionist movements and foreign support for such movements. Hence, in responding now, I shall have to enlarge upon the argument of the book, and at one or two points, indicated below, I shall have to amend or qualify the argument. But the basic position remains intact. The state is presumptively, though by no means always in practice, the arena within which self-determination is worked out and from which, therefore, foreign armies have to be excluded.

II

The real subject of my argument is not the state at all but the political community that (usually) underlies it. And I will compound my

3. Gerald Doppelt, "Walzer's Theory of Morality in International Relations," *Philosophy & Public Affairs* 8, no. 1: 26.

4. Charles R. Beitz, "Bounded Morality: Justice and the State in World Politics," *International Organization* 33: 405-424; David Luban, "Just War and Human Rights," *Philosophy & Public Affairs* 9, no. 2: 161-181.

putative conservatism by saying at the outset that that community rests most deeply on a contract, Burkeian in character, among "the living, the dead, and those who are yet to be born." It is hard, therefore, to imagine the assembly at which it was ratified. Contract, as I wrote in the book, is a metaphor. The moral understanding on which the community is founded takes shape over a long period of time. But the idea of communal integrity derives its moral and political force from the rights of contemporary men and women to live as members of a historic community and to express their inherited culture through political forms worked out among themselves (the forms are never entirely worked out in a single generation). I shall describe later on, with several examples, how these individual rights are violated when communal integrity is denied, even if the denial is benevolent in intention.

The members of the community are bound to one another. That is Luban's "horizontal" contract, and it constitutes the only form of political obligation.⁵ There is no "vertical" or governmental contract—at least, not one that is mutually binding. Though the community requires a government, it is not the case that the citizens are bound to the government to defend it against foreigners. Rather, the government is bound to the citizens to defend them against foreigners. That is what it is for, or one of the things it is for. The citizens defend one another and their common life; the government is merely their instrument. But sometimes this instrument is turned against the citizens: perhaps it still defends them against foreigners, but it also constrains and represses their common life; it denies their civil liberties; it imposes religious uniformity; it blocks attempts at self-help against political or economic oppression. It is a tyrannical government. Now it is the claim of my four critics, if I understand them correctly, that such a government, because it has no standing with its own people (no moral claim upon their allegiance), has no standing in international society either. It is an outlaw government, without rights, or it is simply an ugly government, with something less than the usual complement of rights, subject to attack by anyone capable of attacking it and altering (for the better) the conditions of its rule. That is a large claim, for countries with tyrannical governments make up the

5. Luban, p. 167.

greater part of international society. But it is a false claim—false not only in the law, as the law currently stands, but false morally too, for reasons I shall come to below. The international standing of governments derives only indirectly from their standing with their own citizens. The derivation is complex because it is mediated by foreigners and because foreigners are not confronted (as citizens are) by a naked government, but by a state.

The state is constituted by the union of people and government, and it is the state that claims against all other states the twin rights of territorial integrity and political sovereignty. Foreigners are in no position to deny the reality of that union, or rather, they are in no position to attempt anything more than speculative denials. They don't know enough about its history, and they have no direct experience, and can form no concrete judgments, of the conflicts and harmonies, the historical choices and cultural affinities, the loyalties and resentments, that underlie it. Hence their conduct, in the first instance at least, cannot be determined by either knowledge or judgment. It is, or it ought to be, determined instead by a morally necessary presumption: that there exists a certain "fit" between the community and its government and that the state is "legitimate." It is not a gang of rulers acting in its own interests, but a people governed in accordance with its own traditions. This presumption is simply the respect that foreigners owe to a historic community and to its internal life. Like other presumptions in morality and law, it can be rebutted and disregarded, and what I have called "the rules of disregard" are as important as the presumption itself. So long as it stands, however, the boundaries of international society stand with it. This first presumption entails a second: that if a particular state were attacked, its citizens would think themselves bound to resist, and would in fact resist, because they value their own community in the same way that we value ours or in the same way that we value communities in general. The general valuation is, of course, crucial to the argument, but I won't stop to defend it until I am in a position to consider alternatives. In any case, it is the expectation of resistance that establishes the ban on invasion.

The obligation of citizens to fight for the state is something very different from the expectation that they will in fact fight. The expecta-

tion arises, or ought to arise, from the mere existence of a state, any state—with important exceptions to which I will come later. The obligation arises from the existence of a state of a certain sort, shaped to the requirements of moral and political philosophy. Now, this particular state is of that sort, or not; the obligation is real, or it isn't. These are questions open to argument, and foreigners, even foreign officials, are free to argue that the citizens of a particular state have no such obligations, and then to make further arguments about consent, freedom, participation, and so on. But they are not free to act on such arguments and go to war against a state whose citizens are not (so the foreigners think) bound to fight. They cannot claim that such states are literally indefensible. For as long as substantial numbers of citizens believe themselves bound and are prepared, for whatever reasons, to fight, an attack upon their state would constitute aggression. And again, foreigners are required (with exceptions . . .) to assume the belief and the preparedness, whether the obligation is real or not.

In a footnote in *Just and Unjust Wars*, I wrote that “the question of when territory and sovereignty can rightly be defended is closely connected to the question of when individual citizens have an obligation to join the defense.” Doppelt takes this sentence to say that the citizens of a *sovereign* state, whatever its character and whatever their convictions about its character, are bound to fight on its behalf.⁶ I meant only to suggest, as I went on to say, that both questions “hang on issues in social contract theory” (and to point readers to the arguments that I put forward in *Obligations*). But the sentence is misleading. In fact, a state whose citizens are not bound to fight may still find citizens ready to fight against an invading army, and it can hardly be doubted that these citizens (with exceptions . . .) have a right to fight and that the invaders are guilty of aggressive war. If no citizens come forward, or if they immediately surrender, then the state simply isn't defended. And then the invasion is a lesser crime than the crime we commonly call aggression, or it isn't a crime at all.⁷

6. Doppelt, p. 14.

7. This claim parallels the argument in *Just and Unjust Wars* (p. 330) about non-violence. If citizens choose civil rather than military resistance, then the criminality of the aggressor is diminished, for he has evidently not forced them to fight, risk their lives, and die for their rights. If the invaders are welcomed by a clear majority of the people, then it would be odd to accuse them of any

Nothing in my book was meant to suggest that citizens are bound to one another to defend tyrannical states (and they certainly are not bound to their tyrants). They are as free not to fight as they are free to rebel. But that freedom does not easily transfer to foreign states or armies and become a right of invasion or intervention; above all, it does not transfer at the initiative of the foreigners.

Hence states can be presumptively legitimate in international society and actually illegitimate at home. The doctrine of legitimacy has a dual reference. It is this dualism to which I referred when I wrote in *Just and Unjust Wars* that intervention is not justified whenever revolution is.⁸ The two justifications do not coincide because they are addressed to different audiences. First, then, a state is legitimate or not depending upon the "fit" of government and community, that is, the degree to which the government actually represents the political life of its people. When it doesn't do that, the people have a right to rebel. But if they are free to rebel, then they are also free not to rebel—because they (or the greater number of them) judge rebellion to be imprudent or uncertain of success or because they feel that "slowness and aversion . . . to quit their old Constitutions," which Locke noted in his *Second Treatise*. That is, they still believe the government to be tolerable, or they are accustomed to it, or they are personally loyal to its leaders. And so arguments about legitimacy in this first sense of the word must be addressed to the people who make up a particular community. Anyone can make such arguments, but only subjects or citizens can act on them.

The second set of arguments concerns the presumptive legitimacy of states in international society. These arguments too can be made by anyone, including subjects and citizens, but they are properly addressed to foreigners, for it is foreigners who must decide whether to intervene or not. They are not to intervene unless the absence of "fit" between the government and community is radically apparent. Intervention in any other case usurps the rights of subjects and citizens. Wasserstrom asks: If the established government already

crime at all. But it is almost certain that such a welcome will be extended only in circumstances that make for the three exceptions that I take up below. And then the invasion will be blameless even before it is welcomed.

8. *Just and Unjust Wars*, p. 89.

deprives subjects and citizens of their rights, how can an attack narrowly aimed at that government add to the deprivation?⁹ But the tyranny of established governments gives rise to a right of revolution, held individually by each subject or citizen, rightly exercised by any group of them, of which they cannot be deprived. When invasions are launched by foreign armies, even armies with revolutionary intentions, and even when revolution is justified, it is entirely plausible to say that the rights of subjects and citizens have been violated. Their "slowness" has been artificially speeded up, their "aversion" has been repudiated, their loyalties have been ignored, their prudential calculations have been rejected—all in favor of someone else's conceptions of political justice and political prudence. But this argument, Wasserstrom and Doppelt claim, suggests a Hobbesian theory of legitimacy: any Leviathan state that is stable, that manages successfully to control its own people, is therefore legitimate.¹⁰ In a sense, that is right. In international society, Leviathan states, and many other sorts of states too, enjoy the rights of territorial integrity and political sovereignty. It has to be said, however, that Hobbes' argument is directed to the subjects of Leviathan, and it is not my intention, not by any means, to recommend its acceptance by that audience.

The first kind of legitimacy is or is likely to be singular in character. The judgments we make reflect our democratic values and suggest that there is only one kind of legitimate state or only a narrow range of legitimacy. Given an illiberal or undemocratic government, citizens are always free to rebel, whether they act on that right or not, and whether they believe themselves to have it or not. Their opinions are not relevant, for whatever they think, we can argue that such a government does not and cannot represent the political community.¹¹ But the second kind of legitimacy is pluralist in character. Here the judgments we make reflect our recognition of diversity and our respect

9. Wasserstrom, p. 540.

10. Wasserstrom, p. 542; Doppelt, p. 16.

11. Hence the Italian nationalist Mazzini was wrong to say (in his opening address to Young Europe in 1847) that "There is no international question as to forms of government, but only a national question." Instead, a simple distinction holds. The philosophical question is indeed international (or transnational or universal), but the political question can only rightly be answered by some national process of decision making.

for communal integrity and for different patterns of cultural and political development. And now the opinions of the people, and also their habits, feelings, religious convictions, political culture, and so on, do matter, for all these are likely to be bound up with, and partly explanatory of, the form and character of their state. That's why states objectively illegitimate are able, again and again, to rally subjects and citizens against invaders. In all such cases, though the "fit" between government and community is not of a democratic sort, there is still a "fit" of some sort, which foreigners are bound to respect.

The confusion of these two kinds of legitimacy, or the denial of the distinction between them, is the fundamental error of these four writers. They insist that the theory of *Just and Unjust Wars* requires me to call tyrannical states legitimate. My actual claim is that foreign officials must act as if they were legitimate, that is, must not make war against them. My critics are uneasy with the politics of *as if*, more uneasy with the presumption that underlies it, and most uneasy, I think, with the pluralism that that presumption mandates. They are committed to the view that the first kind of legitimacy is the only kind, and they are prepared to press international society toward a kind of reiterated singularity—the same government or roughly the same sort of government for every political community. But I won't try to address their positive arguments until I have worked through the cases where I am prepared to allow intervention and until I have indicated the far greater extent of their own allowance.

III

Though the concept of state sovereignty is, as Luban says, "insensitive" to legitimacy in its first sense, it is not insensitive to "the entire dimension of legitimacy," for there is such a thing as an illegitimate state even in international society, and there are cases when sovereignty can be disregarded.¹² These are the rules of disregard as I describe them in *Just and Unjust Wars*.¹³ First, when a particular state includes more than one political community, when it is an

12. Luban, p. 166.

13. The following paragraphs summarize the argument of *Just and Unjust Wars*, pp. 89-108.

empire or a multinational state, and when one of its communities or nations is in active revolt, foreign powers can come to the assistance of the rebels. Struggles for secession or national liberation justify or may justify intervention because in such cases there is no fit at all between government and community, and the state cannot claim, once the rebellion has reached certain proportions, even a presumptive legitimacy. While some citizens will probably feel bound to resist an intervention, it can be assumed that the citizens of the rebellious nation won't resist, and hence military action on their behalf does not count as aggression.

Second, when a single community is disrupted by civil war, and when one foreign power intervenes in support of this or that party, other powers can rightfully intervene in support of the other party. Counter-interventions of this sort can be defended without reference to the moral character of the parties. Hence it may be the case that a foreign state has a right to intervene even when, given certain political principles, that would not be the right thing to do (similarly, the right may exist where intervention isn't the wise or prudent thing to do). Some of my critics object to the neutrality of the rule, but that kind of neutrality is a feature of all the rules of war; without it there could be no rules at all but only permissions addressed to the Forces of Good entitling them to do whatever is necessary (though only what is *necessary*) to overcome their enemies.

Third, interventions can be justified whenever a government is engaged in the massacre or enslavement of its own citizens or subjects.¹⁴ In such cases, the usual presumption is reversed, and we ought to assume either that there is no "fit" between the government and the community or that there is no community. I think that I would

14. For reasons I cannot understand, Doppelt takes me to mean by "enslavement" the "forced resettlement of masses of people" (p. 7), referring to a discussion of Spanish policy in Cuba in 1898. But all that I say about Spanish policy is that it was carried out "with so little regard for the health of the people involved that thousands of them suffered and died" (*Just and Unjust Wars*, p. 102). No, by "enslavement" I mean enslavement: the dictionary definition will do well enough. I offer no examples because, so far as I know, enslavement has never been made the occasion for (even the pretext for) a military intervention. Hence Doppelt's reference to the American South (p. 20) is otiose. Slaves are not to be conceived of as participants in any social or political process of self-determination.

now add to massacre and enslavement the expulsion of very large numbers of people (not simply the retreat of political opponents after a revolution or the transfer of populations that sometimes follows upon national liberation struggles—though these can be brutal enough). The example of Bangladesh which I used in the book to suggest the meaning of massacre may also be used to suggest the meaning of expulsion. The Indian intervention might as easily have been justified by reference to the millions of refugees as by the reference to the tens of thousands of murdered men and women. The purpose of stressing these extreme forms of oppression is, of course, to rule out intervention in cases of “ordinary” oppression. By democratic standards, most states throughout human history have been oppressive (and illegitimate), but those are not necessarily or usually the standards by which they are judged among their own people. On the other hand, we can always assume that murder, slavery, and mass expulsion are condemned, at least by their victims.

I will consider now some examples suggested by my critics—and first, the example of South Africa, referred to briefly by Wasserstrom and more extensively by Doppelt.¹⁵ It is important to both these writers to assimilate the treatment of blacks in South Africa to the category of ordinary oppression so that they can challenge the limits set by the three exceptions. But politically active blacks do not, in fact, talk about their own situation in this manner. Their arguments fall readily into the structure of the theory I have presented; they claim that South Africa is an exceptional case in two different ways.¹⁶ (1) They describe black South Africans as near-slaves, virtual slaves, in-effect-slaves, and true (for the moment at least) to the logic of that description, they call for measures short of military intervention—economic boycott, for example. But it would not, I think, be an unreasonable extension of the argument to hold that, from a moral standpoint, in-effect-slaves (if that description is accurate) and legal slaves count in the same way and that foreign intervention on behalf of either is justifiable.¹⁷ (2) They describe the struggle of black South

15. Wasserstrom, p. 544; Doppelt, pp. 20, 23-25.

16. I can't refer authoritatively here to any body of South African literature; my reference is to arguments made in leaflets and at political meetings in the United States.

17. It is a problem, of course, that even ordinary oppression can be and

Africans as a struggle for national liberation. This is especially plausible since it parallels the official position of the South African government: that blacks are a separate nation and that they are not entitled to full citizenship in the Republic of South Africa. The policy of apartheid turns internal revolution into national liberation, even though the actual separation of the races is not such as to make possible a black secession. And so it opens the possibility of external support for the subject people. I would guess that if such support ever takes military forms, it will be defended in one or another of these two ways.

But South Africa is a stalking horse for a larger argument which is better examined in a case where my critics would permit intervention and the theory of *Just and Unjust Wars* would prohibit it. Consider secondly, then, the recent revolution in Nicaragua, which Luban treats in some detail.¹⁸ The *Sandinista* struggle in Nicaragua extended over many years and culminated in two periods of civil war, the first of which (in August and September of 1978) resulted in a defeat for the rebels. The fighting was resumed in the summer of 1979, and the Somoza government was overthrown. What happened in the months between the two military campaigns usefully illustrates the meaning of self-determination under conditions of political oppression. During that time, the rebels regrouped, re-armed (with some outside help) and, what is most important for us, negotiated a significant broadening of the revolutionary "front." In the course of those negotiations, they were required to commit themselves in fairly explicit ways as to the character of the regime they hoped to establish. Now, had there been a foreign intervention at the time of the first campaign, aimed at rescuing the rebels from defeat, as Luban believes there should have been, this internal process of bargaining and commitment would have been cut short. And then the character of the new regime would have been determined by the intervening state together with whatever faction of rebels it chose to

commonly is described in the language of enslavement—as in the Marxist phrase "wage slavery." But that only suggests the importance of drawing a line that protests internal political and social processes (not against philosophical criticism or domestic resistance and revolution but only) against military intervention.

18. Luban, pp. 170-171.

support. It is my claim that such an intervention would have violated the right of Nicaraguans as a group to shape their own political institutions and the right of individual Nicaraguans to live under institutions so shaped. Wasserstrom is wrong, then, to say that this individual right comes to nothing more than the right to live in "a civil society of almost any sort."¹⁹ It is, in this case, the right to live in a civil society of a Nicaraguan sort.

But what if the *Sandinistas*, facing defeat in September 1978 had asked for foreign military intervention? Can the right of revolution transfer at the initiative of the revolutionaries? It does exactly that in the case of a national liberation struggle, when the revolutionaries are themselves, in a sense, at war with foreigners and are assumed to have the support of their own people. But in the case of revolution and civil war, no such assumption is possible. In principle, revolutionaries who enjoy the active and visible support of a clear majority of their own people can invite foreign armies to intervene on their behalf. But I do not believe that revolutionaries are ever in that position until they are well beyond the point where they need foreign help. All that they need then is that there be no help for the government. The case that Mill envisioned in his essay on non-intervention is more realistic: a group of rebels fighting for the freedom of the people and claiming their passive support, hard-pressed militarily, asks for the help of some foreign state. The rebels, Mill argued, must mobilize their own (putative) supporters, not some alien army.²⁰ Only a popular mobilization will pave the way for the establishment of a free government. I would add that only such a mobilization, which makes foreign assistance superfluous, could also make it justifiable.

In practice, the request for foreign help is an admission of domestic weakness. It is probably for that reason that the *Sandinistas* never asked for help (except for equipment to match what the government was receiving or had received). They thought themselves to have, or they thought themselves capable of achieving, majority support. And they were "unrealistic" in the same way I am, according to Wasserstrom. "It is surprisingly unrealistic to suppose that a modern state cannot control its citizens effectively without their genuine con-

19. Wasserstrom, p. 542.

20. See the discussion of Mill's argument, *Just and Unjust Wars*, pp. 87-91.

sent.”²¹ The *Sandinistas* believed, at the least, that the Somoza government could not control its citizens against their active opposition. They wanted their own victory to build upon and reflect that opposition, that is, to be a popular victory. And that is what foreigners should want too, if they are committed to Nicaraguan self-determination.

In most civil wars, it just isn't possible to determine whether the government or the rebels (or which faction among the rebels) has majority support. Most citizens hide if they can, or profess to support whatever forces control the territory in which they live, or try to guess who will win and join the winners as early as possible. And then, the right of revolution can't and doesn't transfer to foreigners, whatever invitations are offered. Foreign states can't join a civil war, when no other states have joined, simply because they admire the principles of the party that has invited them in or even because they believe that that party would, under ideal conditions, win a free election. If they intervene successfully, the party on whose behalf they have intervened will certainly win the elections, but the conditions will not be ideal. In any case, they have no right to make their own principles or their own beliefs definitive for other people.

But if the eventual outcome, writes Doppelt, “reflects nothing but the balance of internal military might, I see no more reason for calling this process one of ‘self-determination’ . . . than I do for denying that it is self-determination on the mere basis that foreign troops have played some role in it.”²² In fact, however, there is no such thing as a bare “balance of internal military might.” Armies and police forces are social institutions; soldiers and policemen come from families, villages, neighborhoods, classes. They will not fight cohesively, with discipline, or at length unless the regime for which they are fighting has some degree of social support. A civil war is the sign of a divided society. As an extended insurrection indicates popular support for the rebels (that's why the Viet Cong, despite the claims of the United States Government, could not have been sustained entirely from North Vietnam), so an extended resistance to insurrection indicates popular support for the government. That support may be ignorant, passive,

21. Wasserstrom, p. 542.

22. Doppelt, p. 13.

bewildered; it may reflect nothing more than the people's "slowness and aversion" to change. Still, no foreigner can rightly override it. Of course, the actual outcome of a particular struggle will also reflect factors "irrelevant from a moral point of view." There is no way to guarantee the "right" result. But foreign troops are more irrelevant than any local factor, for their strength depends upon the character of their own government and community, their historical traditions, loyalties, and so on, and bears no relation at all to the history and culture of the people whose fate they are determining.

I am inclined to doubt that the issues raised in the last few paragraphs are, in any simple sense, empirical issues. At any rate, they are not susceptible to empirical resolution. We have no reliable indices of popular sentiment in time of civil war. For more or less similar reasons, it is virtually impossible to judge the strength or likely endurance of some established tyranny. There is no point at which foreigners can point to a tyrannical regime and say, "Self-determination has clearly failed; there is nothing to do but intervene." For revolution often comes unexpectedly, as it came to the Iran of the Shah, a sudden upsurge of previously invisible political currents. Intervention denies the political significance of such currents or it denies their moral significance. These are not denials that can be empirically justified. They are instead principled denials of self-determination itself—because it is too slow or too costly, or because its outcome is not foreknown, or because the likely outcome is thought to be unattractive. Underlying all such reasons, however, there must be some alternative principle. The alternative figures only implicitly in Doppelt's article; it is called "reform intervention" by Beitz;²³ Luban provides its formulas; and Wasserstrom gives it an appropriate theoretical label: "the utilitarianism of rights."²⁴ This principle poses a radical challenge to communal integrity, and I want now to consider it in some detail.

23. Beitz, p. 413.

24. The notion of a "utilitarianism of rights" was first formulated by Robert Nozick in *Anarchy, State, and Utopia* (New York, 1974), p. 28. Nozick goes on to argue, on Kantian grounds, that rights must be understood as constraints on action rather than as goals of a maximizing politics. Though I don't share his views as to the substance of a rights theory, the same conception of its structure underlies my own position in *Just and Unjust Wars*.

IV

It is easiest to begin with Luban's formulas, the most important of which is simply this: "A just war is (i) a war in defense of socially basic human rights (subject to proportionality). . . ." ²⁵ Socially basic rights include security rights, against tyrannical governments as well as against foreign invaders, and subsistence rights. Luban would not justify a war fought for the sake of democracy or social justice, though Doppelt and Beitz apparently would. ²⁶ Still, this is a far-reaching license. Or something more than a license: since socially basic rights "are the demands of all of humanity on all of humanity," it might be Luban's view that we are bound to fight all the just wars we are able to fight—up to the point of exhaustion and incapacity. Then "the utilitarianism of rights" would have the same consequence as ordinary utilitarianism, leaving us no time to ourselves. But I won't pursue this line of argument.

If rights don't require us to intervene, however, then it is difficult to see why they should be called rights (in Luban's sense) or why Luban should object to my own argument, which would also permit interventions against governments that murdered or starved their own people. I suspect that he is reaching for a wider permissiveness—as the others certainly are—not only against governments that violate his list of rights, narrowly conceived, but against all repressive governments and against all governments that are or seem to be indifferent to the poverty of their people. Hence, the phrase "in de-

25. Luban, p. 175.

26. I am not sure, however, that Beitz means to defend *military* intervention. Reviewing a book on war, he certainly seems to do so. But in his own book, he introduces a similar argument by saying that he wishes "to bracket the case of military intervention" and talk only of "policies of interference that . . . fall short of the actual use of violence" (*Political Theory and International Relations*, Princeton, 1979, p. 72). For myself, I was concerned in *Just and Unjust Wars* only with military intervention, but the arguments I constructed do rule out any external determination of domestic constitutional arrangements (as an example below will suggest). I don't, however, mean to rule out every effort by one state to influence another or every use of diplomatic and economic pressure. Drawing the line is sure to be difficult, but the precise location of the line is not at issue here, for all my critics, with only the possible exception of Beitz, are ready for "the actual use of violence" in other people's countries, in order to do them good.

fense of rights," though technically correct, is politically misleading. Since these are rights that people don't, in the relevant cases, enjoy and may not know themselves to have, the actual purpose of just wars might be better described: to establish or enforce rights, or to maximize their effectiveness, or to enlarge the population for which they are effective. Maximizing rights is very much like maximizing well-being—hence "the utilitarianism of rights"—though with the important proviso that the maximization can be pursued only up to a certain point by military force. But any extra enjoyment of rights, like any extra well-being, probably wouldn't balance the costs of the fighting anyway.

To whom is this far-reaching license granted? Who is to make the crucial calculations? In principle, I suppose, the license is extended to any and all foreigners; in practice, today, to the officials of foreign states; tomorrow, perhaps, to some set of global bureaucrats acting by themselves or as advisers to and agents of a Universal Assembly. Now, why them? And here a more serious sort of rights argument properly begins. Rights are in an important sense distributive principles. They distribute decision-making authority. When we describe individual rights, we are assigning to individuals a certain authority to shape their own lives, and we are denying that officials, even well-meaning officials, are authorized to interfere. The description of communal rights makes a similar assertion and a similar denial. In the individual case, we fix a certain area for personal choice; in the communal case, we fix a certain area for political choice. Unless these areas are clearly marked out and protected, both sorts of choices are likely to become problematic.

But unless they are democratically made, my critics might argue, political choices are already problematic and can't plausibly count as the free choices of the community. The area within which tyrants, oligarchs, ruling classes, priestly castes, and military cliques make their choices isn't worth protecting. Only liberal or democratic states have rights against external intervention. This claim plays on a (pretended) domestic equivalent: that only the uncoerced choices of minimally rational individuals are protected against intervention. But it is not the sign of some collective derangement or radical incapacity for a political community to produce an authoritarian regime. Indeed,

the history, culture, and religion of the community may be such that authoritarian regimes come, as it were, naturally, reflecting a widely shared world view or way of life. Such views and ways may be wrong or badly conceived; they are not necessarily insane. The authoritarian regime is not, to be sure, freely chosen, but then no set of political institutions is ever freely chosen from the full range of alternatives by a single set of people at a single moment in time. Institutions have histories; they are the products of protracted struggles. And it can't be the case that communities are protected against intervention only if those struggles have a single philosophically correct or universally approved outcome (or one of a small number of correct or approved outcomes). That would not be the same thing as protecting only free individuals; it would be more like protecting only individuals who had arrived at certain opinions, life styles, and so on.

The difference between my own views and those of my critics may be sharpened if we consider a hypothetical case designed to neutralize the proportionality qualification and all the other issues raised by the use of force and to focus exclusively on the question of communal integrity. Imagine, then, a country called Algeria in which a group of revolutionaries come to power pledged to create a democratic and secular state, with equal rights for all citizens. The regime they actually create, or which is created as a result of their struggles with one another, is very different: a military dictatorship and a religious "republic," without civil and political liberties, and brutally repressive, not only because a new political elite has established itself and resists all challenges but also because women have been returned to their traditional religious subordination to patriarchal authority. It is clear, however, that this regime (in contrast to the one the revolutionaries originally had in mind) has deep roots in Algerian history and draws importantly upon Algerian political and religious culture. It is not a democratic regime; its popularity has never been tested in a democratic way; but there can be no doubt that it is an Algerian regime. Now, imagine further that the Swedish government had in its possession a wondrous chemical which, if introduced into the water supply of Algeria, would turn all Algerians, elites and masses, into Swedish-style social democrats. It would wipe out of their minds their own political and religious culture (though it would leave them with

no sense of loss). And it would provide them instead with the knowledge, capacity, and will to create a new regime in which basic security rights, political and civil liberties too, would be respected, women would be treated as equals, and so on. Should they use the chemical? Do they have a right to use it? The force of the argument depends upon the reader's readiness to value Swedish social-democracy far above Algerian "socialism." I assume that valuation, and yet I am certain that the Swedes should not use the chemical. They should not use it because the historical religion and politics of the Algerian people are values for the Algerian people (even though individual Algerians have not chosen their religion and politics from among a range of alternatives) which our valuation cannot override. It may seem paradoxical to hold that the Algerian people have a right to a state within which their rights are violated. But that is, given the case as I have described it, the only kind of state that they are likely to call their own.

Nor would the case be different if there were a democratic political movement or a feminist movement within Algeria. For foreigners cannot judge the relative strength of such movements or allow them to substitute themselves for the people as a whole, not until they have won sufficient support to transform Algerian politics on their own. That may be a long process; it will certainly involve compromises of different sorts; and the movements if and when they win will be different from what they were when they began. All that is Algerian self-determination, a political process that also has value, even if it isn't always pretty, and even if its outcome doesn't conform to philosophical standards of political and social justice.

Individual rights may well derive, as I am inclined to think, from our ideas about personality and moral agency, without reference to political processes and social circumstances. But the enforcement of rights is another matter. It is not the case that one can simply proclaim a list of rights and then look around for armed men to enforce it. Rights are only enforceable within political communities where they have been collectively recognized, and the process by which they come to be recognized is a political process which requires a political arena. The globe is not, or not yet, such an arena. Or rather, the only global community is pluralist in character, a community of nations, not of humanity, and the rights recognized within it have been minimal

and largely negative, designed to protect the integrity of nations and to regulate their commercial and military transactions.

Beitz seems to believe that this pluralist world order has already been transcended and that communal integrity is a thing of the past. In a world of increasing interdependence, he argues, it is an "evident falsity" to claim "that states are relatively self-enclosed arenas of political development."²⁷ Just as no man is an island, so no state is an island—not even Britain, Japan, or Singapore. We are all involved in one another's politics, responsible for one another, and open (it seems) to one another's interventions. I don't know what evidence might be presented for this view, what sorts of comparisons might be drawn with what previous historical periods. Perfect self-enclosure has probably never existed. Relative self-enclosure seems to me an evident truth. Anyone doubting it would have to account on psychological grounds for the enormous importance colonial peoples attach to their recently won independence and the enormous importance revolutionary groups attach to the seizure of power in their own political communities. In fact, psychological explanations are quite unnecessary. Political power within a particular community remains the critical factor in shaping the fate of the members. Of course, that fate (like all fates) is shaped within political and economic limits, and these can be more or less narrow; there are some states with relatively little room for maneuver. And yet, even economically dependent states, locked into international markets they can't control, can dramatically alter the conditions of their dependence and the character of their domestic life. Surely the histories of Yugoslavia since World War II, of Cuba since 1960, and of Iran over the last two years, suggest strongly that what actually happens within a country is a function, above all, of local political processes. An internal decision (or an internal revolution) can turn a country around in a way no decision by another country, short of a decision to invade, can possibly do.

So the political community with its government, that is, the state, is still the critical arena of political life. It has not been transcended, and there are two important reasons, I think, for hesitating a long time before attempting the transcendence. The first reason is pru-

27. Beitz, pp. 422-423.

dential. If the outcome of political processes in particular communal arenas is often brutal, then it ought to be assumed that outcomes in the global arena will often be brutal too. And this will be a far more effective and therefore a far more dangerous brutality, for there will be no place left for political refuge and no examples left of political alternatives.

The second reason has to do with the very nature of political life. Politics (as distinct from mere coercion and bureaucratic manipulation) depends upon shared history, communal sentiment, accepted conventions—upon some extended version of Aristotle's "friendship." All this is problematic enough in the modern state; it is hardly conceivable on a global scale. Communal life and liberty requires the existence of "relatively self-enclosed arenas of political development." Break into the enclosures and you destroy the communities. And that destruction is a loss to the individual members (unless it rescues them from massacre, enslavement, or expulsion), a loss of something valuable, which they clearly value, and to which they have a right, namely their participation in the "development" that goes on and can only go on within the enclosure. Hence the distinction of state rights and individual rights is simplistic and wrongheaded. Against foreigners, individuals have a right to a state of their own. Against state officials, they have a right to political and civil liberty. Without the first of these rights, the second is meaningless: as individuals need a home, so rights require a location.

V

My own argument is perhaps best understood as a defense of politics, while that of my critics reiterates what I take to be the traditional philosophical dislike for politics. This dislike is most readily recognized in utilitarian argument, commonly addressed to real or imaginary bureaucrats. But it is also apparent among rights theorists, whenever the enforcement of rights is assigned to authorities who stand outside the political arena or who are allowed (or required) to act even in the absence of prior consent. Some such assignment, I don't doubt, is necessary even to my own argument, as the three exceptions suggest, and so it might be said that the question is only

where to draw the line between external (bureaucratic or military) enforcement, on the one hand, and political decision-making, on the other. But I suspect that the disagreement goes deeper than that formulation allows. It has to do with the respect we are prepared to accord and the room we are prepared to yield to the political process itself, with all its messiness and uncertainty, its inevitable compromises, and its frequent brutality. It has to do with the range of outcomes we are prepared to tolerate, to accept as presumptively legitimate, though not necessarily to endorse. "For Walzer," writes Doppelt, states that possess the collective right of sovereignty "may violate the individual rights of all or some group of [their] citizens."²⁸ No, I do not give out permissions of that sort; obviously, I oppose all such violations. But I don't believe that the opposition of philosophers is a sufficient ground for military invasion. Perhaps, indeed, like Prince Hamlet, we are born to set things right, but we do that, or try to do it, by making arguments, not by summoning up armies.

28. Doppelt, p. 25.